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International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

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

Date: 23 February 2011

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IN TRIAL CHAMBER II

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

Registrar: **John Hocking**

Judgement of: **23 February 2011**

PROSECUTOR

v.

VLASTIMIR ĐORĐEVIĆ

PUBLIC JUDGEMENT
WITH CONFIDENTIAL ANNEX

VOLUME I of II

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I. INTRODUCTION

1. The Accused, Vlastimir Đorđević is charged in the Indictment with crimes allegedly committed between 1 January 1999 and 20 June 1999 against Kosovo Albanians in Kosovo. The Indictment, as ultimately amended, alleges that forces of the Federal Republic of Yugoslavia ("FRY") and Serbia carried out acts which resulted in the deportation of approximately 800,000 Kosovo Albanian civilians. It is alleged in particular that forces of the FRY and Serbia systematically shelled towns and villages, burned homes and farms, damaged and destroyed Kosovo Albanian cultural and religious institutions, murdered Kosovo Albanians, and sexually assaulted Kosovo Albanian women. Specific actions of this nature are alleged to have taken place between March and May 1999 in a number of towns and villages in 14 municipalities of Kosovo. The Indictment further alleges that forces of the FRY and Serbia murdered hundreds of Kosovo Albanian civilians and other persons taking no active part in the hostilities. Appended to the Indictment are lists of 840 allegedly murdered persons who are known by name. These allegations support five counts of crimes against humanity and war crimes, namely deportation, forcible transfer, two counts of murder, which is charged as a war crime and as a crime against humanity, and persecutions.

2. The Indictment charges the Accused, at the time Assistant Minister of the Ministry of Internal Affairs of Serbia ("*Ministarstvo Unutrasnjih Poslova*" or "MUP") and Chief of the Public Security Department ("*Resor Javne Bezbednosti*" or "RJB") of the MUP, with individual criminal liability under Article 7(1) of the Statute of the Tribunal for planning, instigating, ordering, or otherwise aiding and abetting in the planning, preparation, or execution of the alleged crimes. The Accused is also charged under Article 7(1) of the Statute for his alleged participation in a joint criminal enterprise ("JCE"), the purpose of which is alleged to have been the modification of the ethnic balance in Kosovo in order to ensure continued Serbian control over the province. It is alleged that this purpose was to be achieved by criminal means consisting of a widespread or systematic campaign of terror and violence that included deportation, forcible transfer, and persecutions directed at the Kosovo Albanian population during the Indictment period. The Accused is alleged to have contributed to this JCE by, *inter alia*, directing and exercising effective control over the RJB personnel and other members of the forces of the FRY and Serbia in Kosovo, by taking a lead role in the planning, instigating, ordering and implementation of the program of concealment by members of the RJB of the crime of murder, by incorporating volunteers into the MUP, by failing to report and to investigate crimes and by arming non Kosovo Albanian civilians in Kosovo while disarming the residents of villages which were of predominantly Albanian ethnicity.

3. The Accused is also charged with criminal liability under Article 7(3) of the Statute, as a superior, in his capacity as Assistant Minister of the MUP and Chief of the RJB, over MUP units deployed in Kosovo.

4. The Accused was initially indicted together with Nebojša Pavković, Vladimir Lazarević, and Sreten Lukić by an indictment confirmed on 2 October 2003. On 8 July 2005 the case against the Accused, Nebojša Pavković, Vladimir Lazarević, and Sreten Lukić was joined with the case against Milan Milutinović, Nikola Šainović, and Dragoljub Ojdanić who were also charged with the same alleged crimes. On 26 June 2006 the case against the Accused was severed from the proceedings against Milan Milutinović, Nikola Šainović, Dragoljub Ojdanić, Nebojša Pavković, Vladimir Lazarević, and Sreten Lukić because the Accused was still at large. The trial in the latter proceedings commenced on 10 July 2006. A Judgement was delivered on 26 February 2009.

5. Having been arrested on 17 June 2007 in Montenegro and transferred to The Hague, at his further initial appearance on 16 July 2007 the Accused pleaded not guilty to all counts in the Indictment.

6. As discussed in detail in the Judgement that follows, forces of the FRY, in particular forces of the Army of the FRY ("*Vojska Jugoslavija*" or "VJ"), and forces of the Republic of Serbia, in particular forces of the MUP of Serbia, were engaged in Kosovo in 1998 and 1999. The Chamber will refer to the specific forces involved in an operation when the identity of these forces is known from the evidence. Where there is insufficient evidence regarding which specific forces of Serbia or FRY were involved, or where members of both Serbian and FRY forces participated in a specific operation, the Chamber will usually refer to these forces as Serbian forces. A reference to Serbian forces, therefore, should be understood as a reference either to Serbian or FRY forces, or to forces of both Serbia and the FRY.

7. Throughout the Judgement the Chamber has referred to locations by their names in both Serbian and in Albanian. Where these names are different in the two languages, the name of each location appears in the text in Serbian/Albanian, in the order in which names of locations are listed in the Indictment. Where the name of a location in Serbian is the same as in the Albanian language, this name appears only once.

8. A number of documents admitted into evidence, which originate in the MUP of Serbia or in the VJ refer to activities of Kosovo Albanian terrorists or Kosovo Albanian terrorist forces. The Chamber has received detailed evidence regarding only one such force engaged in armed activities in Kosovo in the period relevant to the Indictment, the Kosovo Liberation Army ("KLA"). Therefore, the reference to KLA in this Judgement should be understood also as a reference to

Kosovo Albanian armed individuals described in MUP or VJ documents as Kosovo Albanian terrorists.

9. Finally, a number of witnesses in this trial gave evidence with one or more protective measures. Where the Chamber has considered that citing directly the name or the pseudonym of a witness, in the context of the specific evidence, may reveal the identity of this witness, the Chamber has chosen to omit the references to this evidence from the public Judgement. These references are nevertheless included in the Confidential Annex to this Judgement.

II. CONSIDERATIONS REGARDING THE EVALUATION OF EVIDENCE

10. In the present Judgement, the Chamber is to determine the innocence or the guilt of the Accused in respect of each of the five counts of the Indictment. Article 21(3) of the Statute enshrines the presumption of innocence to which the Accused is entitled. This presumption places on the Prosecution the burden of establishing the guilt of the Accused, a burden which remains on the Prosecution throughout the entire trial. In respect of each count charged against the Accused, the standard to be met for a conviction to be entered is that of proof beyond reasonable doubt.[1] Accordingly, the Chamber has determined in respect of each of the counts charged against the Accused, whether it is satisfied beyond reasonable doubt, on the basis of the whole of the evidence, that every element of that crime charged in the Indictment, including each form of liability, has been established. In so doing, in respect of some issues, it has been necessary for the Chamber to draw one or more inferences from facts established by the evidence. Where, in such cases, more than one inference was reasonably open from those facts, the Chamber has been careful to consider whether any inference reasonably open on those facts was inconsistent with the guilt of the Accused. If so, the onus and the standard of proof requires that an acquittal be entered in respect of that count.[2]

11. The Chamber has weighed and evaluated the evidence presented by the parties. The nature of the case is such that the Chamber has been faced with a large amount of evidence, which is sometimes characterised by contradictions and inconsistencies.

12. The Chamber would emphasise that the mere admission of evidence in the course of the trial has no bearing on the weight which the Chamber has subsequently attached to it.

13. The Chamber further observes that the more than 10 years that have passed since the events alleged in the Indictment, would have, in all likelihood, affected the powers of recall of the witness.

14. Many of the witnesses called to give evidence in this trial have previously given evidence relevant to the same events in the trial in this Tribunal against Milan Milutinović et al, and in the trial against Slobodan Milošević. There were times where the evidence of a witness in the present trial differed from an account given in the proceedings against Milan Milutinović et al or in the proceedings against Slobodan Milošević, or in proceedings in other jurisdictions, or where the witness's oral evidence differed from a prior statement or testimony of the witness. It has been recognised that "it lies in the nature of criminal proceedings that a witness may be asked different

[1] Rule 87(A) of the Rules provides, in its relevant part: "[...] A finding of guilt may be reached only when a majority of the Trial Chamber is satisfied that guilt has been proven beyond reasonable doubt".

questions at trial than he was asked in prior interviews and that he may remember additional details when specifically asked in court".[3] Nevertheless, such differences in the accounts of a witness call for careful scrutiny when determining the weight to be given to the evidence of a witness. Some of this evidence will be reviewed in more detail later in this Judgement.

15. The Chamber received evidence from a number of witnesses who were residents of or present in towns and villages where the events in the Indictment are alleged to have taken place. With respect to some of these witnesses the Chamber observed a prevailing tendency to deny any knowledge about any activities of the KLA in Kosovo or KLA presence in certain areas. Each such case required careful assessment. There were a few such witnesses whose evidence the Chamber accepted as truthful. Other such witnesses were not accepted as honest or reliable. However, in many cases in the end the Chamber was satisfied that the evidence of the witness was otherwise honest and reliable, but the Chamber was not able to rely on the denial of the witness about knowledge of KLA activities or presence.

16. The Chamber also received the evidence of former or current members of the Serbian forces who were involved in or present during events alleged in the Indictment or were involved in related events. The evidence of some of these witnesses left the Chamber with the clear impression that they were seeking to minimise or misrepresent their own involvement or the involvement of their associates, or of elements of Serbian forces, in the events alleged in the Indictment, or to exculpate their own behaviour or the conduct of Serbian forces. Because of this the Chamber has not been able to accept their evidence, or aspects of it, as truthful and reliable. Of course, each such case required careful assessment.

17. The Chamber also received the evidence of former or current employees of the MUP of Serbia on issues of material importance to the case against the Accused. In the course of the evidence of some of these witnesses it became apparent that on certain issues their evidence before the Chamber was in material aspects different from what these witnesses had testified in trials of other accused before this Tribunal, or in a prior written statement or testimony. The Chamber formed the view that the oral evidence of some of these witnesses in this case had been influenced by their loyalty to their former superior. The Chamber has considered this factor when weighing and assessing the credibility of their evidence.

18. Despite the difficulties identified above, after having carefully reviewed and weighed all the evidence, the Chamber has been able to make findings on the facts in this case sufficient for it to be

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[2] *Čelebići* Appeal Judgement, para 458.

able to reach a decision on the guilt or innocence of the Accused on each of the five counts alleged in the Indictment. As will be seen, the Chamber has accepted some evidence notwithstanding the presence of contradictory or inconsistent evidence. At times the Chamber has rejected evidence despite the presence of other consistent evidence. At times the Chamber has been persuaded it should accept only part of the evidence of a witness while rejecting other parts. In each of these cases the Chamber has acted in light of the other evidence on the issue and only after very careful scrutiny of the witness and the evidence.

[3] *Naletilić* Trial Judgement, para 10; *Limaj* Trial Judgement, para 12; *Mrkšić* Trial Judgement, para 14. *See* also *Vasiljević* Trial Judgement, para 21.

III. CONTEXT

19. The crimes charged in the present Indictment are alleged to have been committed in 1999 in Kosovo, at the time a province in the south-west of the Republic of Serbia. The Republic of Serbia was then one of the constituent republics of the FRY. Today the Former Yugoslav Republic of Macedonia ("FYROM") is to the south of Kosovo, the Republic of Montenegro and the Republic of Albania are to the west.

20. In early 1998 Kosovo had a population of approximately 2.1 million of which an estimated 83 per cent were of Albanian ethnicity, approximately 10 per cent were of Serb ethnicity, and about seven per cent were of other ethnic groups, including Roma.[4]

21. Under the Constitution of the Socialist Federal Republic of Yugoslavia ("SFRY") of 1974 Kosovo had the status of an autonomous province within the Republic of Serbia and enjoyed a certain degree of autonomy and self-management.[5] The Constitution of SFRY of 1974 provided further for some linguistic rights for people in autonomous provinces, including the right to instruction in their own language.[6] The Constitution of the Socialist Republic of Serbia of 1974 also declared Kosovo an autonomous province[7] and provided for the right of Kosovo Albanians to education in their own language[8] and for the use of languages other than Serbo-Croatian before public authorities.[9] It allowed further for the possibility for the autonomous provinces to have their own administrative and executive organs and to pass legislation on issues not governed by republican law.[10] Based on these constitutional provisions, Kosovo had its own institutions, including a regional assembly and government, a Supreme Court, a separate police, and a central bank.[11] Kosovo was represented in the Assembly of Serbia[12] and in the SFRY Presidency.[13]

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4 Exhibit P983, p 1. According to an official census conducted in Kosovo in 1981, Kosovo's population in 1981 was approximately 1.6 million of whom 77 per cent were Kosovo Albanians, 13 per cent were Kosovo Serbs, and 10 per cent were of other ethnicity, Frederick Abrahams, Exhibit P738, Statement of 24 January 2002, p 4. In 1991 another official census was carried out but most of the Kosovo Albanians did not take part in it, Helge Brunborg, T 6114; Exhibit P983, p 1; Frederick Abrahams, Exhibit P738, Statement of 24 January 2002, p 4. The Federal Statistical Office of the FRY, based on projections from the 1981 census estimated the total population of Kosovo in 1991 to be 1,956,000, of which 82 per cent were Kosovo Albanians, 10 per cent ethnic Serbs, and 10 per cent other ethnicities, Exhibit P983, p 1. The Federal Statistical Office estimated further that in 1997 Kosovo had a *de jure* population of 2,188,000, and a *de facto* population (after taking into account migration) of 2,166,000, Exhibit P983, p 1. The Federal Statistical Office's estimate for mid 1998 was that Kosovo has a *de jure* population of 2,222,000, Exhibit P983, p 1. This is consistent with UNHCR estimates according to which, in March 1998, Kosovo had a *de jure* population of 2,188,817, Exhibit P983, p 2.

5 *See* Exhibit D902, Articles 1, 2, 4, 248, and 258.

6 Exhibit D902, Articles 171 and 246.

7 Exhibit D130, Articles 1, 291-293.

8 Exhibit D130, Article 147.

9 Exhibit D130, Article 240. *See* also Xhafer Beqiraj, T 4839.

10 Exhibit D130, Articles 293, 294.

11 Veton Surroi, T 247; Frederick Abrahams, Exhibit P738, Statement of 24 January 2002, p 5; Mahmut Halimi, T 2932.

22. In March and April 1981 student protests took place in Priština/Prishtinë,[14] the capital of the province, during which protesters sought that Kosovo be given the status of a republic within the Yugoslav federation.[15] The demonstrators clashed with the police and a state of emergency was declared.[16] Joint security forces comprising members from all republics of the SFRY were sent to Kosovo.[17] In the following years inter-ethnic relations deteriorated.[18] Kosovo Serbs and members of other minorities were subjected to attacks. A number of Kosovo Serbs moved out of Kosovo, partly as a result of such attacks, and partly for economic reasons. [19]

23. On 24 March 1987, Slobodan Milošević, at the time head of the League of Communists of Serbia, delivered a speech at a rally for Kosovo Serbs held in Kosovo Polje/Fushë Kosovë. A phrase of this speech, "No one should dare to beat you", was broadcast often on Serbian television.[20]

24. At approximately the same time the Presidency of Serbia set up a task force to draft a proposal to amend the Constitution of Serbia.[21] The amendments were adopted by the Assembly of Serbia in February 1989.[22] The effect of these amendments was seen by Kosovo Albanians as restricting the autonomy of Kosovo.[23] Their adoption by the Assembly of Serbia triggered protests in Kosovo, strikes, including a strike of the workers at the Trepča Mines, and calls for the resignation of officials in Serbia.[24] In response to the protests, the SFRY Presidency adopted special measures which were supported by a declaration of the SFRY Assembly.[25] SFRY authorities assumed responsibility for the police in Kosovo.[26] On 23 March 1989 the Kosovo

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12 Ibrahim Rugova, Exhibit P286 (*Milošević* transcript), T 4300-4301; Vukašin Jokanović, T 13139.
13 Frederick Abrahams, Exhibit P738, Statement of 24 January 2002, p 5; Vukašin Jokanović, T 13139.
14 Adnan Merovci, Exhibit P416, para 4; Vukašin Jokanović, T 13145-13146.
15 Ibrahim Rugova, Exhibit P286 (*Milošević* transcript), T 4303-4304; Vukašin Jokanović, T 13145-13146.
16 Ibrahim Rugova, Exhibit P286 (*Milošević* transcript), T 4303-4304; Vukašin Jokanović, T 13145-13148; Adnan Merovci, Exhibit P416, para 4. On Ibrahim Rugova's evidence eight protesters were killed and hundreds were arrested, Ibrahim Rugova, Exhibit P286 (*Milošević* transcript), T 4310.
17 Ibrahim Rugova, Exhibit P286 (*Milošević* transcript), T 4303-4304; Vukašin Jokanović, T 13146-13147. *See* also Adnan Merovci, Exhibit P417 (*Milutinović* transcript), T 8566.
18 Vukašin Jokanović, T 13148-13149.
19 Frederick Abrahams, Exhibit P738, Statement of 24 January 2002, p 5; Vukašin Jokanović, T 13149; Vukmir Mirčić, T 13232.
20 Frederick Abrahams, Exhibit P738, Statement of 24 January 2002, p 5; Adnan Merovci, Exhibit P416, para 5.
21 Vukašin Jokanović, T 13152.
22 Vukašin Jokanović, T 13153-13155.
23 Exhibit P8, p 1; Ibrahim Rugova, Exhibit P285, p 2. The amendments took away the capacity of the Kosovo's Assembly to veto amendments to the constitution of Serbia and gave Serbia's Supreme Court the power to decide on extraordinary legal remedies, Vukašin Jokanović, T 13161, 13168-13169, 13202, 13222.
24 Frederick Abrahams, Exhibit P738, Statement of 24 January 2002, p 5; Ibrahim Rugova, Exhibit P285, p 2; Vukašin Jokanović, T 13156.
25 Exhibit D905; Vukašin Jokanović, T 13157, 13192-13195, 13216.
26 Vukašin Jokanović, T 13192. *See* also Frederick Abrahams, Exhibit P738, Statement of 24 January 2002, p 6; Ibrahim Rugova, Exhibit P285, p 2.

Assembly voted to accept the proposed changes to the Constitution of Serbia.[27] On 28 March 1989 the constitutional amendments were promulgated in the Official Gazette of Serbia.[28]

25. In December 1989 elections were held in Serbia including Kosovo.[29] Following the elections the political situation remained unstable. In January 1990 delegates from Slovenia and Croatia walked out of the Congress of the League of Communists of Yugoslavia,[30] which significantly weakened the League of Communists and, for many, heralded the collapse of the single-party system and the disintegration of Yugoslavia.

26. On 2 July 1990 members of the Kosovo Assembly purported to declare that Kosovo was an independent entity within Yugoslavia, equal to other republics.[31] This declaration was made outside the building of the Assembly as the speaker of the Assembly did not allow the delegates to enter the building.[32] Following these events the Assembly of Serbia passed a law which disbanded the Kosovo Assembly.[33] The functions of the Kosovo Assembly were taken over by the Assembly of Serbia and the Executive Council of the Kosovo Assembly.[34]

27. In early July 1990 Kosovo Albanian radio and television stations were closed down and radio and television broadcasting in the Albanian language was discontinued.[35] The main Kosovo Albanian newspaper "Rilindja"[36] and some other Kosovo Albanian newspapers, were also closed down.[37]

28. On 28 September 1990 the Assembly of Serbia promulgated a new constitution which made the statute making powers of the Kosovo Assembly subject to the authority of the Assembly of

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27 Ibrahim Rugova, Exhibit P286 (*Milošević* transcript), T 4190-4191; Vukašin Jokanović, T 13161, 13166-13167; Veton Surroi, T 248, 306-307; Frederick Abrahams, Exhibit P738, Statement of 24 January 2002, p 6. The evidence differs as to the circumstances in which these amendments were passed. Veton Surroi, Ibrahim Rugova and Frederick Abrahams testified that members of the Kosovo Assembly were pressured to vote in favour of the amendments and that armoured vehicles and tanks were present in front of the Assembly. (Veton Surroi, T 248; Ibrahim Rugova, Exhibit P286 (*Milošević* transcript), T 4190-4192) Vukašin Jokanović denied this. (Vukašin Jokanović, T 13172-13173, 12177-13179, 13212) This discrepancy is of no relevance to the allegations in the present case.

28 Exhibit P8.

29 Vukašin Jokanović, T 13180-13181.

30 Vukašin Jokanović, T 13181.

31 Ibrahim Rugova, Exhibit P285, p 2; Ibrahim Rugova, Exhibit P286 (*Milošević* transcript), T 4193; Vukašin Jokanović, T 13183; Frederick Abrahams, Exhibit P738, Statement of 24 January 2002, p 6.

32 Veton Surroi, T 255; Ibrahim Rugova, Exhibit P285, p 2; Ibrahim Rugova, Exhibit P286 (*Milošević* transcript), T 4193; Vukašin Jokanović, T 13197, 13183.

33 Vukašin Jokanović, T 13186, 13198. *See* also Ibrahim Rugova, Exhibit P285, p 2; Ibrahim Rugova, Exhibit P286 (*Milošević* transcript), T 4192.

34 Vukašin Jokanović, T 13199.

35 Ibrahim Rugova, Exhibit P286 (*Milošević* transcript), T 4197; Fuad Haxhibeqiri, Exhibit P1068, p 2; Fuad Haxhibeqiri, T 6974; Vetton Surroi, T 249-250. Three Kosovo Albanian radio stations were also closed during this time, Fuad Haxhibeqiri, Exhibit P1068, p 3.

36 Ibrahim Rugova, Exhibit P286 (*Milošević* transcript), T 4197; Fuad Haxhibeqiri, Exhibit P1068, p 3.

37 Fuad Haxhibeqiri, Exhibit P1068, p 3; Fuad Haxhibeqiri, T 6976.

Serbia and which formally revoked the autonomous status of Kosovo.[38] The Constitutional Court of Kosovo was abolished and the Constitutional Court of Serbia was empowered to rule on the conformity of Kosovo's "statutes", the province's highest legal enactments, with the Constitution of Serbia.[39] Following the revocation of Kosovo's autonomous status, its governing bodies were dissolved.[40] Kosovo lost the control over its police force and territorial defence and these institutions were subordinated to the authorities in Belgrade.[41] The Serbian language became the official language to be used in written communications,[42] although the amendments also provided for the provincial constitution to determine which languages should be equal in official and public use in the territory of the province.[43]

29. In the years following the revocation of Kosovo's autonomous status inter-ethnic relations in Kosovo and the economic situation in the province deteriorated significantly. Many Kosovo Albanians lost their jobs. Some were dismissed, others left after being asked to sign declarations of loyalty to Serbia.[44] In 1990 and 1991 most Kosovo Albanians left state institutions. This problem was particularly serious in the Ministry of Interior[45] and in the judicial bodies.[46] Evidence suggests that by 1993, some 150,000 Kosovo Albanian workers in Kosovo had lost their jobs.[47] Parallel to this, incentives such as housing benefits were given to Serbs to encourage them to move to Kosovo.[48] These events led to many Kosovo Albanians leaving Kosovo.[49] Some evidence puts the figure of those who left the province over the seven years following the revocation of Kosovo's autonomy at approximately 350,000.[50]

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38 Frederick Abrahams, Exhibit P738, Statement of 24 January 2002, p 6; Vukašin Jokanović, T 13204-13206.
39 Vukašin Jokanović, T 13207-13209; Mahmut Hallimi, T 2932.
40 Mahmut Halimi, T 2932; Ibrahim Rugova, Exhibit P286 (*Milošević* transcript), T 4191-4192, 4332.
41 Ibrahim Rugova, Exhibit P286 (*Milošević* transcript), T 4191-4192, 4332.
42 Exhibit P8, p 22, Amendment XXVII; Bajram Bucaliu, Exhibit P825, pp 2-3; Bajram Bucaliu, Exhibit P826 (*Milošević* transcript), T 2046-2047; Veton Surroi, T 252.
43 Exhibit P8, p 22, Amendment XXVII; Vukašin Jokanović, T 13166.
44 Ibrahim Rugova, Exhibit P285, p 3; Ibrahim Rugova, Exhibit P286 (*Milošević* transcript), T 4193; Fuad Haxhibeqiri, Exhibit P1068, p 2; Fuad Haxhibeqiri, T 6978-6980; Sabit Kadriu, Exhibit P515, p 4; Mehmet Mazerkaj, T 3863; Adnan Merovci, T 2203.
45 Đorđe Kerić, T 7813.
46 Judges and prosecutors in Kosovo were gradually removed from their positions in the period 1989 to 1992. After 1992, one of the conditions to be appointed as a judge was explicit formal expression of loyalty to the State of Serbia, Mahmut Halimi, T 2934.
47 Ibrahim Rugova, Exhibit P286 (*Milošević* transcript), T 4194-4195.
48 Exhibit P5, pp 1-2, 4; Sabit Kadriu, Exhibit P515, p 4. A law requiring the prior approval of the authorities before real estate could be sold was passed. Some evidence suggests that this was applied in a discriminatory manner, non-Albanians not being given approval to sell their property to Kosovo Albanians, Adnan Merovci, Exhibit P417 (*Milutinović* transcript), T 8509-8513; Veton Surroi, T 251, 317. *See* also Frederick Abrahams, Exhibit P738, Statement of 24 January 2002, p 7. Nothing in the evidence suggests that Kosovo Albanians were denied permission to sell their property to non-Albanians.
49 Sabit Kadriu, Exhibit P515, p 4.
50 Frederick Abrahams, Exhibit P738, Statement of 24 January 2002, p 7.

30. One of the main political parties in Kosovo, the Democratic League of Kosovo ("LDK"), was formed on 23 December 1989.[51] Ibrahim Rugova was elected president of the LDK.[52] LDK advocated a policy of non-violent resistance to the authorities in Serbia.[53] It supported the view that Kosovo should have the status of a republic within the Yugoslav federation while it continued to exist[54] and be independent if the federation ceased to exist.[55] LDK's position was that independence should be achieved by peaceful, diplomatic, and democratic methods and violence should not be used.[56] In October 1991 the LDK formed a so-called "government" for Kosovo which mainly operated abroad. The party developed structures in many towns and villages and enjoyed strong support among the Kosovo Albanian population.[57] On 24 May 1992 Ibrahim Rugova was elected president of Kosovo. No official contacts were established with Belgrade.[58]

31. In the early 1990s a curriculum which reduced studies in Albanian history and culture and increased studies in Serbian history was introduced in primary schools in Kosovo. Kosovo Albanian teachers refused to follow this curriculum.[59] In 1990 and 1991, and in the following years Albanian language elementary and high schools were closed.[60] In response, the LDK set up a parallel unofficial system of education.[61] Classes were given in the Albanian language in private facilities and with the support of private funds.[62] The issue became a matter of international concern.[63] On 1 September 1996 an agreement was signed by the President of Serbia, at the time Slobodan Milošević and Ibrahim Rugova, with the purpose of enabling Kosovo Albanian children and teachers to return to public schools.[64] However, the agreement was not implemented and until

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51 Adnan Merovci, Exhibit P416, para 11.
52 Ibrahim Rugova, Exhibit P285, p 2.
53 Adnan Merovci, Exhibit P416, para 12; Frederick Abrahams, Exhibit P738, Statement of 24 January 2002, p 7.
54 Ibrahim Rugova, Exhibit P285, p 2; Adnan Merovci, Exhibit P416, para 12.
55 Adnan Merovci, Exhibit P416, para 12.
56 Ibrahim Rugova, Exhibit P286 (*Milošević* transcript), T 4195.
57 Ibrahim Rugova, Exhibit P285, p 3; Ibrahim Rugova, Exhibit P286 (*Milošević* transcript), T 4199.
58 Adnan Merovci, Exhibit P416, para 18.
59 Frederick Abrahams, Exhibit P738, Statement of 24 January 2002, p 6.
60 Ibrahim Rugova, Exhibit P286 (*Milošević* transcript), T 4198-4199; Xhafer Beqiraj, Exhibit P805 (*Milošević* transcript), T 3514-3515, 3518; Xhafer Beqiraj, T 4812, 4823-4824; Veton Surroi, T 253, 254. *See* also Halit Berisha, Exhibit P599 (*Milutinović* transcript), T 3629; Exhibit P606.
61 Xhafer Beqiraj, Exhibit P805 (*Milošević* transcript), T 3514-3515, 3518; Xhafer Beqiraj, T 4812, 4823-4824; Ibrahim Rugova, Exhibit P286 (*Milošević* transcript), T 4199; Veton Surroi, T 253, 254. *See* also Frederick Abrahams, Exhibit P738, Statement of 24 January 2002, p 6.
62 Xhafer Beqiraj, Exhibit P805 (*Milošević* transcript), T 3514-3515, 3518; Xhafer Beqiraj, T 4812, 4823-4824; Ibrahim Rugova, Exhibit P286 (*Milošević* transcript), T 4199; Mehmet Mazrekaj, T 3863; Saranda Bogujevci, T 1905-1906.
63 Veton Surroi, T 260; Exhibit P265.
64 Exhibit P266; Ibrahim Rugova, Exhibit P285, pp 5-6; Ibrahim Rugova, Exhibit P286 (*Milošević* transcript), T 4207-4213; Adnan Merovci, Exhibit P416, para 27; Adnan Merovci, Exhibit P417 (*Milutinović* transcript), T 8427; Adnan Merovci, T 2204; Veton Surroi, T 262-263; Sefget Zogaj, T 3436. The agreement was negotiated by an Italian Catholic organisation, *Communita di San Egidio*, and became known under the name of San Egidio Agreement, Adnan Merovci, Exhibit P416, para 27.

the end of the conflict in 1999 instruction to Kosovo Albanian children was mainly through the parallel system of education.[65]

32. In 1993 Kosovo Albanians who had previously worked in the police force in Kosovo purported to set up a ministry of defence as a mechanism to defend against the possibility of attacks by Serbian police or army forces. The Serbian police responded immediately and arrested a number of the people involved.[66] By 1995 most of the members of this mechanism were in official detention or had fled the country.[67]

33. In November and December 1995 international negotiations took place in Dayton, Ohio, USA, which concluded with the signing of the General Framework Agreement for Peace in Bosnia and Herzegovina on 14 December 1995. The situation in Kosovo was not addressed in these talks or in the subsequent agreement. This led many Kosovo Albanians to believe that their policy of non-violent approach was not bringing results.[68] In early 1996 the first organised violence against Kosovo Serb civilians and police took place. Violent attacks on Serbian police continued throughout the summer and autumn of 1996.[69] Between June 1994 and June 1997 there were incidents involving explosions and arson in Priština/Prishtinë, buildings were destroyed or blown up. Kosovo Serbs began moving out of Kosovo.[70] Human rights groups documented incidents of arbitrary detentions and abuses of Kosovo Albanians by the Serbian police.[71]

34. In the late summer and autumn of 1997 non-violent student protests took place. The protesters demanded implementation of the educational agreement which had been signed by Slobodan Milošević and Ibrahim Rugova in 1996, but not implemented.[72] On 1 October 1997 the police intervened at a rally in Priština/Prishtinë using tear gas and beating a large number of Kosovo Albanian students.[73]

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65 Adnan Merovci, Exhibit P417 (*Milutinović* transcript), T 8493; Adnan Merovci, T 2204-2205. *See* also Exhibit D2 and Veton Surroi, T 330, testifying about a meeting between representatives of the European Commission and the Ministry of Education of 6 August 1998 aimed at encouraging the normalisation of the educational system in Kosovo.

66 Ibrahim Rugova, Exhibit P285, p 5; Ibrahim Rugova, Exhibit P286 (*Milošević* transcript), T 4206-4207; Frederick Abrahams, Exhibit P738, Statement of 24 January 2002, p 7. *See* also Momir Stojanović, T 11691-11692.

67 Ibrahim Rugova, Exhibit P285, p 5; Ibrahim Rugova, Exhibit P286 (*Milošević* transcript), T 4206-4207.

68 Veton, Surroi, T 257; Frederick Abrahams, Exhibit P738, Statement of 24 January 2002, p 8.

69 Frederick Abrahams, Exhibit P738, Statement of 24 January 2002, p 8. *See* also Veton Surroi, T 257; Velibor Veljković, T 7100, 7108, testifying about an attack against the Suva Reka/Suharekë police station which took place in 1997.

70 Đorđe Kerić, T 7813.

71 Frederick Abrahams, Exhibit P738, Statement of 24 January 2002, p 8.

72 Baton Haxhiu, Exhibit P992, p 3; Baton Haxhiu, Exhibit P994 (*Milutinović* transcript), T 6071.

73 Baton Haxhiu, Exhibit P992, pp 3-4; Baton Haxhiu, Exhibit P993 (*Milošević* transcript), T 5408; Baton Haxhiu, Exhibit P994 (*Milutinović* transcript), T 6077.

35. While the Kosovo Liberation Army ("KLA") came into existence in the mid 1990s,[74] it was largely unknown until late 1997, although some evidence suggests that it was associated with attacks on the Serbian police and civilians which took place in the summer and autumn of 1996.[75] In 1996 and 1997, taking advantage of weakened border control in Albania, the KLA managed to bring weapons and other equipment from Albania across the border into Kosovo.[76] The KLA's actions intensified in 1997 and especially towards the end of 1997.[77] On 28 November 1997 uniformed KLA members appeared in public for the first time in the town of Lauša/Laushë, Srbica/Skenderaj municipality, at the funeral of a teacher who had been killed by the police.[78] The structure and organisation of the KLA will be discussed later in this Judgement.[79]

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74 *See* Momir Stojanović, T 11692, testifying that the name "KLA" was mentioned for the first time in December 1994.

75 Frederick Abrahams, Exhibit P738, Statement of 24 January 2002, p 8. *See* also Veton Surroi, T 257.

76 Momir Stojanović, T 19691; Momir Stojanović, Exhibit D723 (*Milutinović* transcript). T 19692-19695, 19700.

77 Veton Surroi, T 257-258; Danica Marinković, T 12916-12920; Exhibit D853, p 2; Danica Marinković, Exhibit D854 (*Milutinović* transcript), T 23500-23501; Exhibit D892.

78 Veton Surroi, T 257-258, 267; Fred Abrahams, Exhibit P738, Statement of 24 January 2002, p 9. *See* also Baton Haxhiu, Exhibit P993 (*Milošević* transcript), T 5408.

79 *See infra*, paras 1537-1577.

IV. STRUCTURE OF THE SERBIAN FORCES INVOLVED IN KOSOVO IN 1999

A. The Ministry of the Interior (MUP)

36. At times relevant to the Indictment the Ministry of the Interior of Serbia (*Ministarstvo Unutrasnjih Poslova*) ("MUP") functioned under the Law on Ministries of 5 February 1991.[80] Its mandate was to perform the duties of state administration in relation to the protection and security of the state, the protection of human lives, safety of persons and property, the prevention and detection of crimes and the capture of the perpetrators and their transfer to the applicable authorities, the maintenance of public order, as well as, *inter alia*, border crossing control, the monitoring of the movements in the border area, citizenship and identity cards and passports.[81] In essence it performed the police function of the Republic of Serbia.

37. On 15 April 1997, Vlajko Stojiljković was appointed as Minister of the Interior,[82] a post he maintained throughout 1998 and 1999.[83] Stojiljković committed suicide on the steps of the Federal Parliament in Belgrade in 2002.[84] By the formal structure established by the Law on State Administration[85] and the Law on Internal Affairs,[86] the Minister of the Interior, as head of the MUP, was accountable for the entire work and functioning of the MUP and represented the Ministry vis-à-vis all other state organs. In his capacity as Minister, Stojiljković was a member of the government of the Republic, as well as, and at the same time, the Deputy Prime Minister.[87]

38. The government, at the proposal of the Minister, appointed assistant ministers in the MUP for a four-year term of office.[88] Vlastimir Đorđević had been appointed as Assistant Minister of the interior by decision of the government of the Republic of Serbia issued on 11 September 1996.[89] Some nine months later, on 4 June 1997, Radomir Marković, Stojan Misić, Obrad Stevanović and Petar Zeković were appointed as further assistant ministers, each with responsibility for identified fields of authority.[90] At that time, Marković was given authority over Crime Police Affairs and Analysis and Information Technology; Mišić was given authority over Administration for Foreigners, Administrative and Legal Affairs, Fire-prevention Police and Communication Affairs;

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80 Exhibit P68, Article 5; Exhibit D933, p 4.
81 Exhibit P59; Exhibit D933, p 4.
82 Exhibit D938.
83 Exhibit P688, p 3; Exhibit P770, p 3; Exhibit P85, p 1.
84 K84, T 2019; Časlav Golubović, T 1732-1733.
85 Exhibit P69, *see* Article 43.
86 Exhibit P66, *see* Article 7.
87 Vlastimir Đorđević, T 9401.
88 Exhibit D933, p 35.
89 Vlastimir Đorđević, T 9395; Exhibit D394.

Stevanović was given authority over affairs relating to police administration and the operations centre, the secondary school and college of internal affairs and the police academy; and Zeković was given authority over affairs relating to the Administration for Joint Affairs and the Board and Lodging Administration.[91] The sixth assistant minister in 1998 and 1999 was Nikola Ćurčić, deputy chief of the State Security Department (*Resor Državne Bezbednosti*) ("RDB") and Director of the Security Institute.[92]

39. The MUP consisted of two primary elements, the Public Security Department (*Resor Javne Bezbednosti*) ("RJB") responsible for maintaining public order and the RDB responsible for maintaining state security and responding to threats to the state.[93]

40. On 30 May 1997, Stojiljković assigned the Accused Vlastimir Đorđević, at the time the chief of the Police Administration,[94] to the post of "Acting Chief" of the RJB.[95] By a decision of Minister Stojiljković on 27 January 1998 Đorđević was appointed as Chief of the RJB.[96] Momčilo Stojanović had the position of Assistant Chief of the RJB.[97] Đorđević held the post of Chief of the RJB until 30 January 2001, when he was appointed as counsellor to the minister and member of a coordination body for the south of Serbia.[98] Article 54 of the Rules of Internal Organisation of the MUP provides that "Departments shall be controlled by chiefs of departments".[99] Hence, as the rule provides, the RJB as a whole functioned under the control of the Accused.[100] The Chamber therefore accepts that at all times material to the Indictment Đorđević exercised *de jure* control over the RJB.

1. Public Security Department (RJB)

41. The RJB was tasked, *inter alia*, with the protection of life, the personal security of citizens and their property, crime prevention and detection, maintaining public law and order, traffic and road security, controlling the state border crossings, monitoring movements and stopovers within

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90 Exhibit P263. *See* also Vlastimir Đorđević, T 9408-9409, 9410.
91 Exhibit P263. *See* also Vlastimir Đorđević, T 9408-9409, 9410.
92 Exhibit D208.
93 *See* Exhibit P357, Article 1; Exhibit P1349; Exhibit D933, p 6.
94 Vlastimir Đorđević, T 9392-9393; Exhibit D393, pp 14-16.
95 Vlastimir Đorđević, T 9396, 9768; Exhibit D395.
96 Vlastimir Đorđević, T 9396, 9768, 9771; Exhibit D396; Exhibit D933, p 36.
97 Exhibit D99, p 1; Exhibit P1044, p 1; Exhibit P1055, p 3.
98 Vlastimir Đorđević, T 9396-9397, 9768, 9771; Exhibit D396; Exhibit D397; Exhibit D398; Exhibit P85; Exhibit P694, p 1.
99 Exhibit P357, Article 54.
100 Vlastimir Đorđević, T 9788, 9817, 9823-9824.

the border zone, and citizen's personal identification documents.[101] In the MUP headquarters in Belgrade, the most important organisational units of the RJB were the Crime Police Administration, headed by Dragan Ilić[102] and the Police Administration, headed by Assistant Minister Obrad Stevanović.[103] In addition, the following organisational units existed: Traffic Police Administration, Operations Centre, Border Police, Foreign Nationals and Legal Affairs Administration, Fire Prevention Police Administration, Communications Administration, Analysis Administration, Information Technology Administration, General Services Administration and Board and Lodging Administration.[104]

42. Vlastimir Đorđević testified that Assistant Ministers made proposals to the Minister with respect to matters within their fields of authority and conveyed the Minister's orders and requests down the line.[105] In a similar vein, Stojan Mišić, Assistant Minister in charge of alien affairs, travel documents, firefighting and communications,[106] gave evidence that the job of an Assistant Minister was to put proposals to the Minister, and to implement such proposals if approved by the Minister. Thus, in his explanation, the Assistant Ministers in any case acted on the Minister's orders or instructions in undertaking specific measures.[107] An Assistant Minister, therefore, was immediately subordinate to the Minister, who issued their assignments.[108] According to Vlastimir Đorđević, in marked contrast to the customary system of hierarchy and responsibility within the MUP, each Assistant Minister was responsible directly to the Minister for the functioning of particular sections within the RJB, which "diminished" Đorđević's role as head of the RJB.[109] Thus, despite his role as chief of the RJB, Đorđević maintained that he was not in the position to issue orders to any of the other Assistant Ministers; only the Minister could do this.[110] Mišić testified in similar terms that the Assistant Ministers "cannot issue assignments to each other".[111] Moreover, in Mišić's explanation, Assistant Ministers did not have "individual original authority to issues any measures to the organizational units" of the RJB which could "only be done by the Minister himself".[112]

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101 Exhibit P357, Article 1. *See* also Vlastimir Đorđević, T 9434; Exhibit D933, p 6.
102 Ljubinko Cvetić, T 6667. The Crime Police Administration was responsible for "preventing and detecting crime, finding and capturing perpetrators of crimes and bringing them before competent organs". Exhibit P357, Article 26.
103 Ljubinko Cvetić, T 6594; Aleksandar Vasiljević, T 5683. The Police Administration was responsible for "order and organisation and provid[ing] professional assistance to police units of the Secretariat in carrying out operative and preventive police tasks, public law and order, and all police tasks carried out as work in the security sector". It also directly organized and carried out the tasks of preparing the reserve force. Exhibit P357, Article 27.
104 Exhibit P357, Article 13; Exhibit D933, p 7.
105 Vlastimir Đorđević, T 9409-9410.
106 Stojan Mišić, T 14008.
107 Stojan Mišić, T 14010-14011.
108 Stojan Mišić, T 14012.
109 Vlastimir Đorđević, T 9410-9411, 9418; *see* also Exhibit P1474, pp 1-2.
110 Vlastimir Đorđević, T 9418, 10024.
111 Stojan Mišić, T 14012.
112 Stojan Mišić, T 14011.

43. The Chamber is not able to accept that by allocating the Assistant Ministers various areas of responsibility, this somehow reduced the authority of Đorđević or altered his high-ranking position in the MUP. It notes that pursuant to a Decree of 6 July 1997 – whereby Đorđević was promoted to the highest attainable rank within the MUP of Colonel-General and Stevanović and Marković were each promoted from Major-General to Lieutenant-General,[113] Đorđević became at that point the highest ranking MUP officer.[114] By 4 December 1998, Radomir Marković, who was appointed as Chief of the RDB, was also promoted to the same rank as Đorđević, *i.e.* Colonel-General.[115] It is the evidence of Đorđević that his higher rank did not make him superior to those with lower ranks, suggesting that is a "completely different subject".[116] The Chamber is not convinced by this unsupported assertion. It would appear clear both from his rank and his position as head of the RJB, that the three other Assistant Ministers within the RJB were subordinate officers to Đorđević. He remained the superior of them. The principle of hierarchy was well-respected throughout the MUP structure, as it needed to be in order for the MUP to function effectively as a large organisation. Within this structure, the head of the RJB - the largest organisational element within the MUP - was the most important office after the Minister. Aleksandar Vasiljević referred to Đorđević as "the number 2 man in MUP".[117] The Chamber notes that any limitation to Đorđević's power by reason of the allocation of an area of responsibility to another Assistant Minister would only arise were there is an overlap between the specific responsibility of another Assistant Minister and the general authority of Đorđević as Chief of the RJB. There is no evidence to support the idea that this was the case. Indeed, quite contrary to this, the appointment of the other Assistant Ministers in June 1997 did not in any way inhibit Đorđević's power and authority, which alone demonstrates that his authority as head of the RJB was not affected by the existence of other Assistant Ministers.

44. The Chamber is not persuaded that the Assistant Ministers were as lacking in authority as suggested by Đorđević and Mišić. Leaving aside their interrelationship, the Assistant Ministers were the most senior officials in the MUP, with only the Minister above them. Far from being a powerless position, this status indicates great power. Notably, each of the Assistant Ministers held a high rank (either Lieutenant-General or Major-General) within the Ministry, while Đorđević, the Chief of the RJB, and Marković, the Chief of the RDB, were Colonel-Generals. While, under the established legal system, ultimate authority lay with the Minister, this does not require that no other senior official within the MUP had the power to make any decisions. The MUP was a vast

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113 Exhibit D421.
114 Exhibit P49, Article 2; Vlastimir Đorđević, T 9770. *See* also Stojan Mišić, T 14073.
115 Exhibit D208.
116 Vlastimir Đorđević, T 9770-9771.
117 Aleksandar Vasiljević, T 5933. *See* also K87, T 14162.

organisation. To vest sole decision-making authority with the Minister, with the Assistant Ministers limited to making proposals, particularly at a time of national emergency, makes no sense whatsoever in terms of legal structure, practical management and normal government functioning. The Chamber finds that the Assistant Ministers held high ranking posts in the MUP and were responsible for their particular fields of authority. It does not accept that this allocation of responsibility had the effect of diminishing Đorđević's authority as head of the RJB.

45. Within the Border Police Administration, there were border police stations at border crossings in the Republic of Serbia.[118] The border police had their headquarters at five locations in Kosovo: the Airport in the municipality of Priština/Prishtinë, and the border crossings at Vrbnica/Vërmicë in the municipality of Prizren, Cafa Prušit in the municipality of Đakovica/Gjakovë, and Đeneral Janković and Doganović in the municipality of Uroševac/Ferizaj.[119]

(a) Secretariats for Internal Affairs (SUPs)

46. The tasks of the MUP were performed on the ground by Secretariats of the Interior (SUPs) established in local areas throughout Serbia.[120] SUPs had responsibility for the security situation in the geographic area for which they were established.[121] There were 33 SUPs altogether in the territory of the Republic of Serbia, all of which were subordinate to the RJB.[122] Of these, in 1998-1999, there were seven SUPs in Kosovo.[123]

47. The seven SUPs in Kosovo during the Indictment period were as follows:

- Priština/Prishtinë SUP, covering the municipalities of Glogovac/Gllogoc, Kosovo Polje/Fushë Kosovë, Lipljan/Lipjan, Obilić/Obiliq, Podujevo/Podujevë and Priština/Prishtinë,[124] headed by Boško Petrić (until 16 April 1999) and Bogoljub Janićević (from May 1999);[125]

- Kosovska Mitrovica/Mitrovicë SUP, covering the municipalities of Vučitrn/Vushtrri, Zvečan/Zvecan, Zubin Potok, Kosovska Mitrovica/Mitrovicë, Leposavić/Leposaviq and

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118 Exhibit P357, Article 18(2).
119 Exhibit D933, p 9.
120 Exhibit P357, Article 12; Exhibit D933, p 8.
121 Exhibit P357, Article 12; Ljubinko Cvetić, T 6751; Exhibit D933, p 9.
122 Ljubinko Cvetić, T 5691, 6598.
123 Exhibit P357, Article 3; Exhibit P1056; Exhibit P1038, p 5; Exhibit D933, p 8.
124 Exhibit P357, Article 3.
125 Zarko Braković, T 4092; Zarko Braković, Exhibit P759, para 1; Exhibit D61; Vlastimir Đorđević, T 9735-9736.

Srbica/Skenderaj,[126] headed by Ljubinko Cvetić (until 16 April 1999) and Vucina Janicević (from 16 April 1999);[127]

- Peć/Pejë SUP, covering the municipalities of Istok/Istog, Klina/Klinë and Peć/Pejë,[128] headed by Boro Vlahović;[129]

- Đakovica/Gjakovë SUP, covering the municipalities of Đakovica/Gjakovë and Decane/Dečani,[130] headed by Dragutin Adamović (in 1998) and Milan Kovačević (in 1999);[131]

- Prizren SUP, covering the municipalities of Prizren, Orahovac/Rahovec, Suva Reka/Suharekë and Dragaš/Dragash,[132] headed by Miloš Vojnović;[133]

- Uroševac/Ferizaj SUP, covering the municipalities of Kačanik/Kaçanik, Uroševac/Ferizaj, Štimlje/Stime and Štrpe/Shtërpcë,[134] headed by Bogoljub Janićević (until April 1999) and Bozidar Filić (from May 1999);[135]

- Gnijilane/Gjilan SUP, covering the municipalities of Vitina/Viti, Gnjilane/Gjilan, Kosovska Kamenica/Kamenicë and Novo Brdo/Novobërdë,[136] headed by Dušan Gavranić.[137]

48. The SUP chiefs were directly subordinate to Vlastimir Đorđević.[138] Đorđević, as head of the RJB, had the right to make proposals on the appointment or dismissal of SUP chiefs. However, in his evidence he suggested that, in practice, the Minister did not consult him on these appointments. In support of this Đorđević identified some appointments as having been made by Stolijković without consulting him.[139] Other evidence discloses that Đorđević issued orders for the assignment or dismissal of SUP chiefs, such as the decision of 15 April 1999 concerning the cessation of Ljubinko Cvetić's function as the SUP chief for Kosovska Mitrovica/Mitrovicë.[140] Đorđević sought to maintain, however, that this was only done on the authority of, and instructions

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126 Exhibit P357, Article 3.
127 Ljubinko Cvetić, T 6590; Exhibit P78.
128 Exhibit 357, Article 3.
129 Exhibit P1037.
130 Exhibit 357, Article 3.
131 Nike Peraj, T 1289-1290; Vlastimir Đorđević, T 10123; Milan Đošan, T 11445.
132 Exhibit 357, Article 3; 6D2, T 12189.
133 6D2, T 12190.
134 Exhibit 357, Article 3.
135 K86, T 5117; Exhibit D133; *see* also Vlastimir Đorđević, T 9735-9736.
136 Exhibit 357, Article 3.
137 Exhibit D38; Exhibit P1037.
138 Stojan Mišić, T 14075.
139 Vlastimir Đorđević, T 9423-9425; Exhibit D400, Decision by the Minister dated 4 June 1997 on the appointment of Branko Djurić as Chief of SUP in Belgrade which Đorđević claims was made without consulting him (Vlastimir Đorđević, T 9428-9429); Exhibit D38, Decision dated 17 December 1996 by the Minister assigning Dusan Gavranić as the chief of Gnijilane/Gjilan SUP, which Đorđević claims was made without consulting him; *see* also Vlastimir Đorđević, T 9429-9430.

given to him by, the Minister. He supported his contention that he lacked power in this regard by pointing out that unlike the previous chief of the RJB (Radovan Stojicić), who was deputy minister (and could thereby exercise the power of the Minister in his absence), Đorđević was an Assistant Minister, and could therefore only "assist" the Minister. As such, in contrast to a deputy minister, Đorđević maintained that he did not have the power by the terms of his own office to make appointments or dismissals.[141] For reasons already given, the Chamber is not persuaded by this explanation. It is non-sensical that the Minister would need to approve every assignment or dismissal of SUP chiefs, when this clearly fell within the purview of the chief of the RJB. It is also inconsistent with the "single authority principle" cited in the report of Defence expert Radomir Milašinović, which notes that, pursuant to this principle, "the RJB chief was the only immediate superior of administration chiefs in the MUP headquarters and of SUP chiefs (...). Consequently, the SUP chiefs and administration chiefs in the MUP headquarters were directly responsible only to the RJB chief, who in turn was directly responsible for his work and work of the units and personnel that were part of the Department only to the minister".[142] As chief of the RJB, Đorđević was also able to order a SUP chief to set up groups or commissions to deal with certain issues, pursuant to Article 10 of the Rules on the Internal Organisation of the MUP.[143]

49. The SUP chief commanded operations in his geographic area of responsibility.[144] As discussed in detail below, in terms of the anti-terrorist actions and operations in Kosovo from June 1998 and in 1999, the SUPs in Kosovo were commanded by the MUP Staff in Priština/Prishtinë, which coordinated and planned operations.[145]

50. The SUPs were composed of Municipal Departments/Sectors of the Interior (*Odelenja Unutršnjih Poslova*) ("OUPs") and local police stations.[146] In Gnjilane/Gjilan, there was an OUP in the municipalities of Vitina/Viti and Kosovska Kamenica/Kamenicë, and a police station in the municipality of Novo Brdo/Novobërdë. In Đakovica/Gjakovë, there was an OUP in the municipality of Decane/Deçan. In Kosovska Mitrovica/Mitrovicë, OUPs existed in the municipalities of Vučitrn/Vushtrri, Leposavić/Leposaviq and Srbica/Skenderaj, and police stations in the municipalities of Zvečan/Zveçan and Zubin Potok. In Peć/Pejë, there were OUPs in the municipalities of Istok/Istog and Klina/Klinë. In Prizren, OUPs were in the municipalities of Dragaš/Dragash, Orahovac/Rahovec and Suva Reka/Suharekë. In Priština/Prishtinë, OUPs existed in the municipalities of Glogovac/Gllogoc, Kosovo Polje/Fushë Kosovë, Lipljan/Lipjan,

[140] Exhibit P77. Vlastimir Đorđević, T 9430-9432, 9485; *see* also T 9433 and Exhibit P79.
[141] Vlastimir Đorđević, T 9432.
[142] Exhibit D933, p 21.
[143] Vlastimir Đorđević, T 9467; Exhibit P357, Article 10.
[144] K25, Exhibit P340-A, pp 20-21.
[145] K25, Exhibit P340-A, p 20.

Obilić/Obiliq and Podujevo/Podujevë. In Uroševac/Ferizaj, there was an OUP in the municipality of Kačanik/Kaçanik, and police stations in the municipalities of Štimlje/Shtime and Štrpce/Shtëpcë.[147]

51. The OUPs and police stations directly performed tasks related to internal affairs in their geographic area of responsibility, except where a Secretariat had its headquarters, in which case the Secretariat directly performed the tasks.[148] The OUPs were responsible for conducting internal affairs and ensuring personal and property security of the public in the relevant area of responsibility, as well as preventing and solving crimes, finding and capturing perpetrators of crimes and bringing them before the competent authorities, and maintaining public law and order.[149] OUPs, within SUPs the territorial jurisdiction of which had a state border, also had border-related tasks and were required to have a Group for Border and Administrative Affairs.[150] Each OUP consisted of a police station, with or without branch police stations, a Section or Group for Crime Prevention and an Administration Section or Group.[151] They reported to the SUPs, which remained responsible for the work of the OUPs and police stations.[152]

52. While each separate unit or department of the MUP was responsible for its own line of work, the system provided for them to work in an inter-related and coordinated way to ensure the unity of the MUP as a whole.[153] Accordingly, the MUP would adopt an annual work programme establishing the annual tasks, duties and activities of the Ministry, in particular, related to current security-related tasks stemming from the work programmes of the Government, and the SUPs were required to adopt their own annual work plans in conformity with this.[154] Ultimate responsibility to the government and the legislature for the manner in which the MUP performed its duties lay with the Minister.[155]

53. From 5 April 1996, active police forces were issued blue camouflage uniforms with a shoulder insignia showing the word "policija".[156] Older uniforms – those issued before

146 Exhibit P357, Article 4; Exhibit P1038, p 5; Ljubinko Cvetić, T 6746; Đorđe Kerić, T 7755.
147 Exhibit P357, Article 4.
148 Exhibit P357, Article 5.
149 Exhibit P357, Articles 36 and 47.
150 Exhibit P357, Article 47.
151 Exhibit P357, Article 36.
152 Exhibit P357, Article 12.
153 Exhibit P357, Article 7; Exhibit D933, pp 7-8.
154 Exhibit P357, Article 61.
155 Exhibit P66, Article 7.
156 Ljubinko Cvetić, T 6700-6701; Karol Drewienkienkiewicz, Exhibit P996, para 26; K86, T 5121-5122; K73, T 1514; K25, Exhibit P342 (*Milutinović* transcript) T 4665; Exhibit P327 (photograph no 7 depicts "policija" insignia).

5 April 1996 – were solid blue and had an insignia showing the word "milicija".[157] The older uniforms were worn regularly by reserve police throughout the Indictment period because there was an insufficient number of the new style.[158] Evidence of witnesses indicates that sometimes regular police also wore the old solid blue uniforms.[159] Combat vests were also worn by police during the Indictment period; although not all police were issued with them.[160] These were often dark blue or black, however, regular MUP often wore green combat vests with their blue uniforms as there were not enough blue/black to go around.[161]

54. Descriptions provided by some witnesses and the Chamber's assessment of photographic evidence indicates (a) while the camouflage uniform of the police is usually described as blue, being a camouflage pattern, it could be seen by some people or in some light conditions to be predominantly black or grey, and (b) while the older solid blue uniform was a dark shade of navy blue it could appear to be a shade of black in some light conditions.[162]

55. Headwear of the regular police included helmets and dark blue baseball-style caps, with MUP insignia on the front.[163] Evidence suggests that police sometimes wore unauthorised attire, such as "Rambo-style caps and bandannas".[164]

56. The local MUP routinely carried side arms and, on occasion, long-barrel arms too.[165] These included CZ 99 pistols (a short-barrel weapon) and M-70s (automatic rifles).[166] The MUP did not have heavy artillery or tanks.[167]

(b) Special Police Units (PJPs)

57. Special Police Units (*Posebne Jedinice Policije*) ("PJPs") were established pursuant to Article 6 of the Rules on Organisation of the MUP[168] by the former Minister of the Interior, Zoran

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157 Ljubinko Cvetić, T 6700-6701; Karol Drewienkienkiewicz, Exhibit P996, para 26; K25, Exhibit P342 (*Milutinović* transcript) T 4665; K73, T 1514; K86, T 5122; Exhibit P327 (photograph no 6 depicts "milicija" insignia).

158 Ljubinko Cvetić, T 6700-6701.

159 Baton Haxhiu, T 6231; Hysni Berisha, Exhibit P587 (*Milutinović* transcript), T 4017-4018; Hazir Berisha, T 4640; Agim Jemini, Exhibit P637(*Milutinović* transcript), T 4269, 4272; Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2822, 2955.

160 K73, Exhibit P331-A, para 13.

161 K73, Exhibit P331-A, para 13; Exhibit P334 (photograph depicts units wearing blue MUP uniforms and green combat vests).

162 *See* Exhibit P1311, pp 1, 5, 6, 8, 9, 10, 11.

163 *See* Exhibits P316 and P1311, p 9 (photographs depicting local MUP wearing baseball style caps and helmets). *See* also the descriptions of police by Emin Kabashi, Exhibit P424, p 4; Emin Kabashi, Exhibit P425 (*Milutinović* transcript), T 2047; K14, Exhibit P1325, p 4; Merita Dedaj, Exhibit P1030, p 4.

164 Exhibit P85, p 3.

165 John Crosland, Exhibit P1201 (*Milutinović* transcript), T 9761.

166 K86, T 5120.

167 John Crosland, Exhibit P1400, paras 16 and 36.

168 Exhibit P357, Article 6.

Sokolović, on 1 August 1993, to carry out "special security tasks" in regular circumstances and in the case of a state of emergency, with an emphasis on "combat tasks and interventions in the case of serious breaches of public law and order".[169] Such tasks included the "detection, arrest and destruction" of rebel and sabotage and terrorist groups or individual members thereof. To carry out such complex security and combat tasks, the PJP units were to be developed into "mobile, rapid, technically well-equipped and professionally trained and drilled units armed with state-of-the-art weapons".[170]

58. Members of PJPs were recruited from among active and reserve policemen in the SUPs, and other Ministry employees,[171] on the basis of age,[172] a stable mental and physical state, and "a strong sense of patriotism, courage, endurance and perseverance, [and] high moral qualities".[173] To encourage a good selection of recruits, PJP members were paid extra.[174] Once a person was on the roster of PJP members, they underwent a special training specific to the task to which they were assigned.[175] 15 PJP detachments were established, five of which were headquartered in Belgrade, and two each in Novi Sad, Priština/Prishtinë, Užice, Kragujevac and Niš.[176] The detachments were formed according to the "assembly principle", or on an *ad hoc* basis, except for the 21st Detachment which was a permanent force within the Belgrade SUP.[177] Therefore, when they were not so engaged, PJP members would perform ordinary police duties.[178] Thus, K25 generally served as a regular policeman except for those occasions when he was assigned to a PJP detachment.[179]

59. Each PJP detachment consisted of four to seven police companies, including support platoons.[180] There were between 500-600 men in each detachment, while each company within the detachment was composed of around 150-180 men.[181] A squad, the smallest unit in a detachment, comprised eight men: a commander, a sniper, a machine-gunner, a grenade-launcher operator, and four riflemen.[182]

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169 Exhibit P58, para 2; Exhibit P1360, pp 1 and 3. *See* also Vlastimir Đorđević, T 9447-9448; Ljubinko Cvetić, T 6603; Exhibit D933, pp 10-12.
170 Exhibit P1360, pp 3-4.
171 Exhibit P58, para 4; Exhibit P1360, p 2.
172 The age limit was 35 years of age, or 45 years in the case of officers. Exhibit P1360, p 2.
173 Exhibit P1360, p 2.
174 Exhibit P58, para 6; Exhibit P1360, p 6.
175 Vlastimir Đorđević, T 9449.
176 Exhibit P58, para 1; Exhibit P1360, p 1.
177 Exhibit P1360, p 1.
178 Zarko Braković, Exhibit P759, para 12.
179 K25, Exhibit P340-A, p 2; K25, Exhibit P342, T 4723.
180 Exhibit P1360, p 1.
181 K79, Exhibit P1260, T 9585; K25, Exhibit P340-A, p 7.
182 Exhibit P1360, pp 1-2.

60. The Police Administration of the RJB, headed by Obrad Stevanović,[183] was responsible for calling up PJP members (once a decision to engage a PJP detachment had been taken by the Minister or a person authorised by him: *see* below) and arranging for training and equipment. This entailed issuing a dispatch to SUPs to mobilise a company.[184] The SUPs would report back to the responsible department within the Police Administration when they had carried out the mobilisation order.[185] SUPs thus provided men and logistical support to PJP units[186] and implemented training programs drawn up by MUP headquarters for PJP units when they were not on detachment duty.[187] In principle, PJP units carried out their assignments in the SUP area to which they were attached, but they could also operate in the territory of other SUPs if required.[188] Commanders of PJP units were members of the SUP Collegium.[189]

61. Pursuant to the decision of 1 August 1993 which established the PJPs, the mobilising and engaging of PJPs could be done on orders of the Minister and, when approved by the Minister, also on orders of the Chief of the RJB.[190] It was the evidence of Vlastimir Đorđević that he never received any authority from the Minister "to use any part of any PJP to be sent out on any mission whatsoever".[191] This is blatantly incompatible with the documentary evidence that, as Chief of the RJB, Đorđević issued dispatches deploying PJP units throughout the Indictment period.[192] It also stands in contrast to the evidence of Ljubinko Cvetić, Chief of the Kosovska Mitrovica/Mitrovicë SUP, that it was usually the Chief of the RJB, *i.e.* Vlastimir Đorđević, who made the decisions to engage PJP units.[193] The Defence sought to distance Đorđević's role in the engagement of PJP units by emphasising that the dispatches signed by Đorđević were merely implementing decisions made by the Minister at the Collegium,[194] and that the "[p]lanning, management and engagement of the units" sent to Kosovo were the responsibility of the MUP Staff.[195] The Defence essentially characterises the role of the Chief of the RJB in respect of mobilising the PJPs as merely secretarial, responsible solely for issuing dispatches for the engagement of units for which he made no decision and carried no responsibility. The Chamber firmly rejects this characterisation. The evidence clearly indicates that as Chief of the RJB, Đorđević was authorised by the Minister during the

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183 Exhibit P263; Vlastimir Đorđević, T 9818; Ljubinko Cvetić, T 6594; Aleksandar Vasiljević, T 5683.
184 Vlastimir Đorđević, T 9453-9454.
185 Vlastimir Đorđević, T 9456. *See* Exhibits P1191, P1192, P1193, P1194, P1195, P1196, P1197, P1198, P1199.
186 Vlastimir Đorđević, T 9453-9454; Ljubinko Cvetić, T 6603, 6662, 6696.
187 Ljubinko Cvetić, T 6698; Exhibit P1045, p 36.
188 Exhibit P1360, p 4.
189 Exhibit P689, p 8.
190 Exhibit P58, para 2; Exhibit P1360, p 5. *See* also Ljubinko Cvetić, T 6604, 6607; Vlastimir Đorđević, T 9453, 9459.
191 Vlastimir Đorđević, T 9459.
192 Exhibits P131; P132; P137; P138; P139; P346; P1182; P1183.
193 Ljubinko Cvetić, T 6604.
194 Defence Final Brief, paras 246-247.
195 Defence Final Brief, para 248.

relevant period to make decisions on engaging the PJP forces. Even if the ultimate decision-making about their engagement lay with the Minister and occurred at the Collegium, this does not dispose of the authority and responsibility for these units by the Chief of the RJB. The Chief of the RJB could also give approval to the PJP commander to issue orders to subordinate officers in the PJPs and request the execution of certain tasks even if PJPs had not been assembled.[196]

62. Further down the chain of command, the conduct of the PJPs on the ground during operations fell within the exclusive authority of the PJP commander.[197] The commander of the PJPs remained accountable to the Minister or to "an individual authorised by him", in the Chamber's finding as explained above, to the Chief of the RJB, *i.e.* Vlastimir Đorđević.[198] In joint MUP-VJ operations, the actual deployment and manoeuvring of units on the ground was theoretically done by the VJ operational commander, with the assistance of the PJP command.[199] However, as discussed below, issues in respect of re-subordination of MUP units to VJ command in Kosovo in 1999 meant that, in practice, PJP units often operated outside the formal command of the VJ.[200]

63. In 1998 and 1999, PJP units in Kosovo included the 122nd and 124th Intervention Brigades and the 23rd, 35th, 36th, 37th, 73rd, 85th and 86th PJP Detachments.[201] The 122nd Intervention Brigade was an amalgamation of the 21st and 22nd PJP Detachments. The 124th Intervention Brigade came into being on 18 June 1998 pursuant to a decision of Minister Stojiljković,[202] before which it was the 24th PJP Detachment.[203] The following day, 19 June 1998, the Accused issued a letter to all the SUPs instructing them to implement the Minister's decision.[204] In Kosovo, each SUP had at least one PJP, while the Priština/Prishtinë SUP had two.[205]

64. Between July 1998 and 24 March 1999, the PJP normally wore blue tiger-stripe camouflage uniforms in Kosovo.[206] Those uniforms had "Milicija" stitched onto the sleeve of the jacket and

196 Exhibit P1360, p 5.
197 Exhibit P1360, p 5; Ljubinko Cvetić, T 6604-6605.
198 Exhibit P1360, p 5.
199 Zarko Braković, Exhibit P759, para 21.
200 *See infra*, paras 261-264.
201 Exhibit P764, pp 2-3; Exhibit P345, pp 2-7; Exhibit P974; Exhibit P1392; Zarko Braković, T 4124; Ljubinko Cvetić, T 6603-6604.
202 Exhibit P257.
203 Zarko Braković, Exhibit P759, p 2; Zarko Braković, T 4083, 4088, 4091-4092.
204 Exhibit P132; Vlastimir Đorđević, T 9461.
205 Zarko Braković, Exhibit P759, para 9.
206 K79, Exhibit P1260 (*Milutinović* transcript), T 9588-9589.

shirt.[207] From 24 March 1999, the PJP wore green camouflage uniforms.[208] The green camouflage uniforms incorporated several shades principally of green and brown.[209] The lighter shades of green have occasionally been described by witnesses as yellow.[210] The Chamber notes that obviously there was a period from 24 March 1999 when some PJP would have still worn the old uniform as it would not have been practical for all PJP units to be re-equipped on the one day. PJP wore a unique insignia on the upper sleeve of their green camouflage uniforms, upon which were the letters PJP.[211] The opposite sleeves carried images of the Serbian flag.[212] The green camouflage uniforms did not carry the "Milicija" insignia of the earlier, blue uniforms.[213] PJP units often wore green or black combat vests with their uniforms.[214] Once the green camouflage uniforms were introduced, the PJP combat vests read "Policija" across the back.[215] Some PJP units wore rank insignia; Junior Corporal's, for example, wore two V's on their shoulder.[216]

65. Headwear worn by the PJP included helmets and camouflage green baseball-style caps with insignia on the front.[217]

66. On occasion, during the Indictment period, some PJP removed their insignia and other items of their standard uniform. Despite this, it remained possible to identify PJP on account of their weaponry, vehicles and professional demeanour.[218] PJP equipment was more upmarket than that of the regular MUP police and included Gore-Tex boots.[219] On occasion, the PJP carried out patrols in armoured personnel carriers (APCs).[220] More regularly, PJP would use an armoured UAZ

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207 K79, Exhibit P1260 (*Milutinović* transcript), T 9588-9589; K25, Exhibit P342 (*Milutinović* transcript) T 4664; John Crosland, Exhibit P1400, para 7; Exhibit P327 (photograph no 6 depicts "milicija" insignia); P325 (photograph no 6 depicts PJP in their older blue uniforms. The "milicija" insignia is visible on the right side of the image).

208 K79, Exhibit P1260 (*Milutinović* transcript), T 9588-9589; K25, Exhibit P341-A (*Milošević* transcript) T 7845; K25, Exhibit P340-A, p 20; K86, T 5120; Žarko Braković, Exhibit P759, para 7.

209 K79, Exhibit P1260 (*Milutinović* transcript), T 9588-9589; K86, T 5120; Exhibit P831 (lower right image depicts the green camouflage worn by PJP forces).

210 K25, Exhibit P342 (*Milutinović* transcript) T 4674.

211 John Crosland, Exhibit P1400, para 7; Žarko Braković, Exhibit P759, para 7; K25, Exhibit P341-A (*Milošević* transcript) T 7845; K86, T 5122; Exhibit P327, p 2 (image no 13 depicts PJP insignia). The Chamber notes that witnesses Braković and K25 recall that PJP wore their insignia on the right sleeve. Having considered all the evidence before it, however, the Chamber is satisfied that PJP insignia was in fact worn on the left sleeve at times.

212 Žarko Braković, Exhibit P759, para 7. The Serbian flag is three equal horizontal bands of blue, white and red.

213 K79, Exhibit P1260 (*Milutinović* transcript), T 9588-9589.

214 K79, Exhibit P1260 (*Milutinović* transcript), T 9598-9590; K25, Exhibit P342 (*Milutinović* transcript), T 4665, T 4674.

215 K79, Exhibit P1260 (*Milutinović* transcript), T9590; K25, Exhibit P342 (*Milutinović* transcript), T 4665.

216 K25, Exhibit P340-A, p 4.

217 *See* Exhibit P335 (photograph depicting PJP members wearing baseball-style caps with insignia on the front); K73, T 1511.

218 John Crosland, Exhibit P1400, paras 7, 13.

219 John Crosland, Exhibit P1400, para 7.

220 John Crosland, Exhibit P1400, para 34.

vehicle,[221] armed with an M-84 7.9 millimetre machine gun,[222] model 110 trucks, Pinzgauers, and civilian trucks.[223] In terms of personal weaponry, the PJP often carried AK-47s,[224] automatic Zastava rifles and semi automatic CZ pistols.[225]

67. The PJP were instructed on the use of weapons by the VJ. The list of weapons they were trained to use included infantry mines, anti-personnel mines, mortars of 60 and 80 (or 82) millimetre calibre, the Browning 12.7 millimetre machine gun, the PAT anti-aircraft gun, the WASP hand held rocket launcher and the Zolja rocket launcher.[226]

68. Operational Pursuit Groups ("OPGs") were a sub-unit of the PJPs, which comprised specially trained persons from PJP units.[227] The MUP Staff issued a decision establishing the OPGs in December 1998.[228] Pursuant to this decision, every SUP in the territory of Kosovo should allocate 10 to 15 men to the OPGs who would undergo special training.[229] OPGs operated as a rapid reaction force when the main PJP unit of a SUP was occupied.[230] OPGs were organized at the level of municipalities, and often performed "mopping-up" operations to eliminate remaining terrorists.[231] OPGs had a commander within the SUP to which it was attached. Goran Radosavljević, Assistant Head for Special Operations of the MUP Staff, was the head of the OPGs and led their training.[232]

69. The evidence does not suggest that the select OPG units had a uniform distinct from that worn by the regular PJPs, although as Ljubinko Cvetić indicated, they were better equipped than the PJP.[233] Aleksandar Vasiljević observed that they wore leather pouches around their necks in which to store stolen money and objects.[234]

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221 "UAZ" refers to the Russian-made all-terrain vehicles.
222 K25, Exhibit P341-A (*Milošević* transcript) T 7836.
223 K25, Exhibit P340-A, p 13.
224 Žarko Braković, Exhibit P759, para 7.
225 K25, Exhibit P340-A, p 13.
226 K25, Exhibit P340-A, p 3; K25, Exhibit P341-A (*Milošević* transcript) T 7814; K25, Exhibit P342 (*Milutinović* transcript), T 4755.
227 Zarko Braković, Exhibit P759, para 11; K86, T 5118 (closed session); Ljubinko Cvetić, T 6605; Exhibit D933, p 12.
228 K86, T 5118; Ljubinko Cvetić, T 6605.
229 Ljubinko Cvetić, T 6605.
230 Zarko Braković, Exhibit P759, para 11.
231 Aleksandar Vasiljević, T 5733.
232 Zarko Braković, Exhibit P759, para 11; Ljubinko Cvetić, T 6605-6606.
233 Ljubinko Cvetić, T 6605.
234 Aleksandar Vasiljević, T 5734.

(c) Special Anti-Terrorist Unit (SAJ)

70. The Special Anti-Terrorist Unit (*Speciljalna Antiteroristička Jedinia*) ("SAJ") was a special elite unit within the RJB tasked specifically with anti-terrorist operations.[235] Like the PJP, the SAJ was established by the former Minister of the Interior, Zoran Sokolović, on 5 April 1996 pursuant to Article 6 of the Rules on Organisation of the MUP.[236] It originally comprised three anti-terrorist units: the Belgrade SAJ unit, the Priština/Prishtinë SAJ unit, and the Novi Sad SAJ unit.[237] In late December 1998, the Minister of the Interior of the time, Stojiljković, disbanded the Novi Sad unit.[238] This had the effect of reducing the operational capacity of the SAJ by around 30 per cent, or 100 men.[239]

71. During the Indictment period, the Commander of the SAJ at the MUP Headquarters in Belgrade was Živko Trajković.[240] The Commander of the Belgrade unit was Zoran Simović, aka Tutinać,[241] and the Commander of the Priština unit was Radoslav Stalević.[242]

72. According to Zoran Simović, the decision to employ the unit could be made only by the Minister of the Interior but this was done in practice via the chief of the sector, *i.e.* Vlastimir Đorđević.[243] The operational commander of an SAJ unit was the unit commander. The SAJ commander, Trajković, would decide which unit to entrust with a certain task, *i.e.* whether that would be the SAJ Belgrade or Priština/Prishtinë.[244] Simović gave evidence that, ordinarily, since the SAJ was part of the RJB, Trajković reported to Đorđević.[245] However, following the establishment of the MUP Staff in Priština/Prishtinë in July 1998, Trajković reported to the head of the MUP Staff.[246] Furthermore, it was his evidence that from this time, the SAJ did not receive assignments from Đorđević but from the MUP Staff in Priština/Prishtinë.[247] As the Chamber has found elsewhere, the establishment and functioning of the MUP Staff did not affect the authority of Đorđević over the units subordinate to him in the RJB, but operated as a body used to coordinate and plan anti-terrorist operations in Kosovo. In this light, it is unsurprising that the SAJ would have received assignments from the MUP Staff, rather than from Đorđević directly, from July 1998.

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235 Exhibit P357, Article 6; Ljubinko Cvetić, T 6601; Vlastimir Đorđević, T 9462; Radislav Stalević, T 13840; Zoran Simović, T 13573; Exhibit D933, p 12.
236 Exhibit D401.
237 Zoran Simović, T 13570-13571, 13605.
238 Vlastimir Đorđević, T 9694; Radislav Stalević, T 13774; Zoran Simović, T 13579.
239 Zoran Simović, T 13580. *See* also Exhibit P86, p 1; Exhibit D442, p 1.
240 Živko Trajković, T 9056; Exhibit P57; Ljubinko Cvetić, T 6599; Radislav Stalević, T 13767-13768; Zoran Simović, T 13572.
241 Zoran Simović, T 13569-13570; Radislav Stalević, T 13570, 13573; Goran Stoparić, Exhibit P493, para 48.
242 Radislav Stalević, T 13767; Zoran Simović, T 13572.
243 Zoran Simović, T 13573.
244 Zoran Simović, T 13574.
245 Zoran Simović, T 13604, 13607-13608.
246 Zoran Simović, T 13608.

Moreover, on Simović's evidence, when contemplating the reinforcement of the SAJ with reserve forces, Trajković did not ask the Minister for their deployment through Lukić, but did so through the Accused.[248] Simović's explanation for this was that although the MUP Staff was in charge of operations in Kosovo, the deployment of MUP reserve forces was under the authority of the Ministry.[249] This is further confirmation that the establishment and functioning of the MUP Staff did not diminish or affect the authority of the Accused as Chief of the RJB.

73. The SAJ Belgrade and SAJ Priština/Prishtinë had an identical structure. They were composed of a command and three platoons. Each platoon had three squads.[250] After the disbandment of the Novi Sad unit in December 1998, the SAJ had in total approximately 200 men, 100 in each unit.[251]

74. SAJ members were specially trained, wore distinctive uniforms and insignia, and were equipped with modern weaponry.[252] An SAJ training centre, the 13 *Maj* Centre, was located at Batajnica, near Belgrade.[253] The Belgrade unit was based there.[254] On 23 March 1999, this unit was sent to Kosovo leaving only three or four men at Batajnica in effect as caretakers.[255] The SAJ training centre was bombed by NATO three or four days after the commencement of the NATO bombing campaign on 24 March 1999, resulting in the three to four members of the unit still at Batajnica relocating a few kilometres away from the Centre towards Belgrade.[256] This left the SAJ training centre at Batajnica empty and unguarded; the damage from the bombing was such that the buildings could not be secured.[257]

75. The SAJ did not have its own reserve force. The Police Administration,[258] as the organisational unit of the RJB responsible for the status and readiness of organisational units,[259] thus effectuated replenishment. In March 1999, a few days before the commencement of the NATO bombing campaign, the paramilitary group known as the "Scorpions," that had previously been associated with the RDB, was re-formed and became attached as a reserve unit to the SAJ.[260]

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247 Zoran Simović, T 13597.
248 Zoran Simović, T 13608, 13610-13611.
249 Zoran Simović, T 13608, 13611.
250 Zoran Simović, T 13574.
251 Zoran Simović, T 13574, 13580.
252 Vlastimir Đorđević, T 9464; Exhibit P327, item 12; K73, T 1514-1516 (closed session); K73, Exhibit P332, pp 8, 14; K86, T 5122 (closed session); John Crosland, Exhibit P1400, para 8.
253 K87, Exhibit P1415, para 7.
254 K87, Exhibit P1415, para 5.
255 Zoran Simović, T 13575, 13609.
256 K87, Exhibit P1415, paras 8-9.
257 K87, Exhibit P1415, para 9.
258 Živko Trajković, T 9089; *see* also Zoran Simović, T 13582; *see* also Radislav Stalević, T 13775.
259 Exhibit P357, Article 15.
260 Goran Stoparić, Exhibit P493, paras 9 and 35; Aleksandar Vasiljević, T 5663.

There were some 100 to 150 men in this group.[261] The detailed findings of the Chamber with regard to how the Scorpions came to be attached to the SAJ as a reserve force are discussed in a separate section of this Judgement.[262] However, the Chamber notes at this juncture its finding that the Accused, Đorđević, authorised the replenishment of the SAJ with the Scorpions unit.[263] The Scorpions were issued with SAJ identification papers, received SAJ reservist's salaries,[264] and were issued with the same uniform as that worn by the SAJ, but with the Scorpions patch/insignia on the arm.[265]

76. The SAJ wore green and brown tiger stripe camouflage uniforms and Gore-Tex boots.[266] They wore a unique insignia on the sleeve of their uniforms, on which the letters SAJ were visible in Cyrillic.[267] The letters SAJ were at the bottom of the insignia, and the top carried the word "policija".[268] On the other sleeve was a patch with the emblem of a double-headed eagle with a red shield and the Serb symbol with the four Ss. It also had a sword and a snake and was metallic grey in colour.[269] As was the case with the PJP, some SAJ removed their insignia during the Indictment period. They also wore regular police uniforms on occasion, but it was possible to identify SAJ on account of their weaponry, vehicles and professional demeanour.[270]

77. The SAJ often carried modern Heckler Koch weapons.[271] Towards the end of 1998, SAJ also started to use more heavy weaponry. They attached 12.7 calibre heavy machine guns to their vehicles and utilised 60 millimetre and 82 millimetre mortars.[272]

2. State Security Department (RDB)

78. Pursuant to the Rules of the Internal Organisation of the State Security Department (*Resora Drzavne Bezbednosti*) ("RDB"), the RDB was responsible for the protection of the security of the Republic of Serbia and the FRY and "uncovering and preventing activities directed at undermining or toppling the constitutional order" of Serbia and the FRY.[273] Its tasks comprised "counterintelligence, intelligence, countering extremism and terrorism and other security tasks of

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261 Goran Stoparić, Exhibit P493, para 39.
262 *See infra*, paras 1934-1945.
263 *See infra*, paras 1934-1945. *See* also K92, T 2748; Exhibit P86, p 1; Exhibit D442, p 1.
264 Goran Stoparić, Exhibit P493, paras 13, 18; K92, T 2748.
265 Goran Stoparić, Exhibit P493, para 11, 41; Goran Stoparić, T 2819.
266 John Crosland, Exhibit P1400, para 8; Radislav Stalević, T 13864.
267 John Crosland, Exhibit P1400, para 8; K88, T 1870; K86, T 5122; K25, Exhibit P342 (*Milutinović* transcript), T 4666; K73, T 1515; Exhibit P327, p 2 (image no 12 depicts SAJ insignia).
268 K88, T 1870; K86, T 5122; K25, Exhibit P342 (*Milutinović* transcript), T 4666; K73, T 1515; Exhibit P327, p 2 (image no 12 depicts SAJ insignia).
269 Radislav Stalević, T 13864.
270 John Crosland, Exhibit P1400, para 13.
271 John Crosland, Exhibit P1400, para 9.
272 Živko Trajković, T 9060.
273 Exhibit P1349, Article 2.

the Republic and FRY".[274] RDB Centres were set up in Kosovo in Gnjilane/Gjilan, with a branch in Uroševac/Ferizaj, in Priština/Prishtinë, with a branch in Kosovska Mitrovica/Mitrovicë, and in Prizren, with branches in Đakovica/Gjakovë and Peć/Pejë.[275]

79. While the Minister of the Interior, *i.e.* Vlajko Stoljiljković, was technically in charge of the RDB, President Slobodan Milošević directed and controlled the department through its Chief, Radomir Marković.[276] David Gajić headed the RDB in Kosovo in 1998.[277] On 1 January 1999, he was replaced by Milosav Vilotić.[278]

80. Within the internal organisational units at the RDB headquarters, the Third Administration was in charge of fighting terrorism.[279] The Unit for Special Operations (*Jedinica za Specijalne Operacije*) ("JSO") was a special organisational unit of this Administration, dedicated to "carrying out tasks of a specialised nature", which included direct assault on various objectives.[280] The unit was better equipped, especially in terms of weaponry, than the PJPs.[281] It had a reputation for being a well-trained and capable unit.[282] The head of the JSO was Franko Simatović, aka "Frenki".[283] The operational commander of the JSO was Milan (or Milorad) Ulemek Luković, aka "Legija", Assistant Head for Special Operations of the MUP Staff,[284] who was immediately subordinate to Simatović.[285]

81. Originally, the JSO comprised mainly of former members of a group known as the "Red Berets", which had been formed in 1991, and had been active in the armed conflicts in Bosnia and Herzegovina and Croatia.[286] The JSO continued to wear red berets and came to be known by that name[287] as well as "Frenki's" or "Frenki's men".[288] Although some witnesses occasionally referred

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274 Exhibit P1349, Articles 2-3. *See* also Exhibit D933, pp 6-7.
275 Exhibit P1349, Articles 26, 35-36; Exhibit D933, p 7.
276 Aleksandar Vasiljević, T 5684-5685.
277 Aleksandar Vasiljević, T 5885-5886; Exhibit P57, item 1; Exhibit P886, p 2.
278 Momir Stojanović, T 11786.
279 Exhibit P1349, Article 5; Exhibit D933, p 6.
280 Exhibit P1349, Articles 5, 41-42; John Crosland, Exhibit P1401 (*Milutinović* transcript), T 9761.
281 K79, Exhibit P1260 (*Milutinović* transcript), T 9675; John Crosland, Exhibit P1400, paras 9-10; John Crosland, Exhibit P1403, p 4.
282 K79, Exhibit P1260 (*Milutinović* transcript), T 9676.
283 K79, Exhibit P1260 (*Milutinović* transcript), T 9676; Frederick Abrahams, Exhibit P738, p 11; Mahmut Halimi, T 2956-2957; K90, T 1488-1489; K90, Exhibit P322 (*Milutinović* transcript), T 9314; Nike Peraj, Exhibit P313, para 12; Živko Trajković, T 9061; Momir Stojanović, T 11808; K25, T 1646-1647.
284 Ljubinko Cvetić, T 6599, 6861, 6863; Exhibit P57, p 1; John Crosland, Exhibit P1400, para 11; K88, T 1983.
285 K79, Exhibit P1260 (*Milutinović* transcript), T 9676; Aleksandar Vasiljević, T 5886; Zarko Braković, T 4139, 4195; Exhibit P57; Exhibit P764, p 3; K88, T 1983-1984.
286 Goran Stoparić, Exhibit P493, paras 10 and 12.
287 Goran Stoparić, Exhibit P493, para 11; Goran Stoparić, Exhibit P495 (*Milutinović* transcript), T 701-702; John Crosland, Exhibit P1403, p 4 (photo depicting JSO members in uniform and red berets).
288 K25, Exhibit P342 (*Milutinović* transcript) T 4666-4667; K90, Exhibit P322 (*Milutinović* transcript) T 9314.

to "Frenki's men" as paramilitaries,[289] Momir Stojanović, Head of the Security Section in the Command of the Priština Corps, confirmed that "Frenki's men" in fact referred to a JSO unit. According to his evidence, the unit was based in Dečani/Deçan, above the monastery in Visoki.[290]

82. Goran Stoparić, a former member of the "Scorpions", gave evidence that a number of paramilitary groups formed "satellite" units of the RDB,[291] which the Chamber understands to mean that the groups were not formally part of the RDB, but were paid to take part in RDB operations. In this regard, it notes Stoparić's evidence that when he was based with the Scorpions in Đeletovci in the early 1990s, the group was visited regularly by RDB operatives, who brought with them the equipment needed by the group as well as salaries for each member of the Scorpions contained in envelopes.[292] The group received uniforms from the same factory that supplied the military and the police. Stoparić stated that volunteer paramilitary groups associated in this manner with the RDB included the Scorpions, Arkan's Tigers, the Wolves from Vučjak, the Grey Wolves from near Zvornik, the CSB (Central Security Service) from Doboj, and the Vipers commanded by Gumar.[293]

83. In view of Stoparić's personal involvement with the RDB as a member of the Scorpions from 1991-1995, the Chamber accepts that the Scorpions unit was attached to the RDB at this time. However, the Chamber recalls its finding above that in the time period relevant to the Indictment in this case, the Scorpions were attached to the SAJ of the RJB, rather than to the RDB. With regard to Stoparić's evidence of other "satellite" units of the RDB, the Chamber accepts the evidence of Aleksandar Vasiljević that members of Arkan's Tigers carried RDB identification passes[294] and that they were deployed in Kosovo Polje/Fushë Kosovë.[295] This evidence is confirmed by the notes taken by Vasiljević of a meeting of the Supreme Command held on 17 May 1999 which record Radomir Marković, Head of the RDB, as stating that "volunteers" were "a necessary evil",[296] that Arkan had offered Marković about 100 of his men and that Marković had accepted 30 provided they wore uniforms.[297] The Chamber is satisfied that at least 30 members of Arkan's Tigers were attached to the RDB during the Indictment period.

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289 *See* Nike Peraj, Exhibit P313, paras 12 and 40; Nike Peraj, T 1258-1259. But *see* Nike Peraj, T 1279. John Crosland gave evidence that since members of the units involved in Kosovo including the JSO sometimes wore non-standard kit such as bandannas around their heads, it would not have been surprising for members of this unit to be mistaken as members of paramilitaries. John Crosland, Exhibit P1400, paras 13-14.
290 Momir Stojanović, T 11810.
291 Goran Stoparić, Exhibit P493, paras 7, 10.
292 Goran Stoparić, Exhibit P493, para 13.
293 Goran Stoparić, Exhibit P493, paras 9-10.
294 Aleksandar Vasiljević, T 5669-5670.
295 Aleksandar Vasiljević, T 5668.
296 Exhibit P884, p 1.
297 Aleksandar Vasiljević, T 5681; Exhibit P884, p 1.

84. In Kosovo, the JSO unit operated with PJP forces in the Mališevo/Malishevë area in mid-July 1998, in the areas of Drenica and Jablanica in 1998,[298] in the Gornje Streoc/Strellc i Epërm area in July/August 1998, in Bajgora/Bajgorë, Čičavica/Qiqavica and Kosmač in October 1998,[299] in Istok/Istog, Srbica/Skenderaj and Dečani/Deçan in 1999[300] and in Rogovo/Rogovë in January 1999, among others.[301]

85. The JSO wore a grey-green camouflage uniform, and red berets.[302] The green was notably different from that worn by other units, like the PJP.[303] The JSO often wore good quality protective armour (better than that worn by the regular police) when on an exercise, and slouch-style jungle-hats when on exercise or patrol.[304] As was the case with some PJP and SAJ, units of the JSO removed their insignia during the Indictment period. In addition, they sometimes wore regular police uniforms.[305] JSO units regularly wore, or carried with them, a variety of other head-gear, which could include bandannas, facemasks, cowboy-hats and what was referred to as "Frenki hats", which were camouflage in design and carried the JSO insignia.[306]

86. Some evidence indicates that the JSO, or another special police unit, wore light grey coveralls, with a shoulder patch of red, white and blue in vertical wings or daggers, similar to the PJP insignia.[307] Both Joseph Maisonneuve and Karol John Drewienkiewicz described seeing such uniforms on police, including on the body of a dead policeman, at Rogovo/Rogovë, Đakovica/Gjakovë municipality, on 29 January 1999, where several KLA members had been killed. Drewienkiewicz indicated that the uniform was light grey "tending to blue" coveralls ("like a boiler

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298 John Crosland, Exhibit P1401 (*Milutinović* transcript), T 9762-9763; John Crosland, Exhibit P1400, para 10; K79, Exhibit P1260 (*Milutinović* transcript), T 9677.
299 Exhibit D340, p 10.
300 John Crosland, Exhibit P1400, para 12.
301 Karol John Drewienkiewicz, Exhibit P996, paras 165-166; Karol John Drewienkiewicz, T 6370-6372, 6481.
302 John Crosland, Exhibit P1400, para 9; Exhibit P1403, p 4 (photograph depicts JSO units); K25, Exhibit P340-A, p 20.
303 K25, Exhibit P340-A, p 20.
304 John Crosland, Exhibit P1400, para 9.
305 John Crosland, Exhibit P1400, para 13.
306 K25, Exhibit P340-A, p 20; K90, Exhibit P321, para 47; K90, Exhibit P322 (*Milutinović* transcript), T 9457-9459, 9484; K90, T 1489.
307 Karol John Drewienkiewicz, Exhibit P996, para 166; Karol John Drewienkiewicz, Exhibit P997 (*Milutinović* transcript), T 7799, 8002; Karol John Drewienkiewicz, T 6372, 6481; Exhibit P1008, p 3.

suit"[308]) with "chest webbing",[309] and that the men were better equipped than the regular police.[310] Joseph Maisonneuve gave evidence that some of the MUP forces on the ground in Rogovo/Rogovë wore one-piece grey jump suits.[311] The Chamber finds that this refers to the same uniform as that referred to by Drewienkiewicz as "coveralls".

87. On occasion, the JSO carried out patrols in armoured personnel carriers (APCs).[312] The JSO used Toyota Land Cruisers and pick-up trucks, which were often mounted with 12.7 millimetre heavy machine guns.[313] They carried modern Heckler Koch .556 weapons.[314]

3. Reservists

88. The Law on Internal Affairs of the Republic of Serbia provided for the possibility for strengthening the MUP with conscripts from the reserve force of the Ministry in case of an imminent threat of war or war.[315] The Law provided that only those conscripts who met the requirements for work in the MUP were able to be assigned to the reserve force.[316] These requirements were that a person had not been convicted of a criminal offence and no criminal proceedings were being conducted against them, and for male employees, that they had completed military service or the secondary school of internal affairs, and were under a certain age limit.[317] In addition, police reservists could be called up for certain peace-time duties of the Ministry, in particular, to prevent activities aimed at threatening the security of the Republic, disturbances of law and order and attempts to spread disturbances of public law and order, and in order to provide assistance in the event of general hazards caused by natural disasters.[318] Reservists could be employed in "patrol and beat service, security, work at checkpoints, special operations and tasks, and other activities".[319]

89. Police reservists were civilians with normal civilian jobs when they were not mobilised.[320] They were subject to the same entitlements as regular police officers when employed as

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308 Karol John Drewienkiewicz, Exhibit P997 (*Milutinović* transcript), T 7799.
309 Exhibit P1008, p 3.
310 Karol John Drewienkiewicz, Exhibit P996, para 166; Karol John Drewienkiewicz, Exhibit P997 (*Milutinović* transcript), T 7799.
311 Joseph Maisonneuve, Exhibit P853, T 11172.
312 John Crosland, Exhibit P1400, para 34.
313 John Crosland, Exhibit P1400, paras 9, 38.
314 John Crosland, Exhibit P1400, para 9.
315 Exhibit P66, Article 27, para 1. *See* also Ljubinko Cvetić, T 6739-6740; Vukmir Mirčić, T 13297-13298.
316 Exhibit P66, Article 27, para 2.
317 Exhibit P66, Article 34. The age limit for posts requiring secondary education was 27, and for posts requiring a higher education diploma or university degree was 30. The age limits did not apply to those persons with at least five years experience in performing the duties of an authorized official.
318 Exhibit P66, Article 28, para 1.
319 Exhibit D101, para 3.
320 Ljubinko Cvetić, T 6740.

reservists,[321] and were issued the standard blue uniform of policemen and weapons,[322] although some came to wear the uniforms of units to which they were attached.[323] Local reservists were under the jurisdiction of the local MUP.[324] So the local Serb reservists in Mala Kruša/Krushë-e-Vogël and Velika Kruša/Krushë-e-Madhe all wore a uniform and were armed by the Prizren SUP.[325]

90. In March 1999, a general mobilisation was carried out in Kosovo, activated by the head of the Public Security Department, Vlastimir Đorđević, acting on instructions of the Minister, which resulted in all local reservists being mobilised.[326]

91. Reservists were generally older than police in regular units, and usually wore older – out-dated – solid blue MUP uniforms.[327] One of the reasons reservists wore older uniforms was that there were not enough new ones to go around; regular units received new uniforms before reservists did.[328]

4. Local defence units/Reserve police squads (RPOs)

92. In mid-1998, the local population of non-Albanian ethnicity in Kosovo began to be armed and trained by the VJ and the MUP.[329] The decision to form and arm these local defence units, also called reserve police squads (RPOs), was made by the MUP headquarters in Belgrade, passed down to the MUP Staff, and implemented by the SUPs.[330] RPOs were formed in order to defend Serb villages or enclaves.[331] A dispatch of the Kosovska Mitrovica/Mitrovicë SUP dated 1 July 1998 records that within that SUP, 41 RPOs were organised with a total of 1374 members and that a total of 1000 long-barrelled weapons were delivered to the RPOs.[332] On 10 July 1998, the MUP Staff issued an order on the formation of RPOs and the training of RPO members.[333] An order of the Joint Command[334] of 28 July 1998 set out the structure of local defence planning of populated areas.[335] 54,683 civilians in Kosovo were armed by July 1998, 12,170 of whom were issued arms

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321 Exhibit P66, Article 28, para 3; Ljubinko Cvetić, T 6740-6741; Exhibit D263, p 3.
322 K25, Exhibit P342 (*Milutinović* transcript), T 4738; K86, T 5120 (closed session); K86, T 5121, 5125, 5202 (closed session); Vukmir Mirčić, T 13297.
323 K25, Exhibit P340-A, p 20.
324 K25, Exhibit P340-A, p 18.
325 K25, Exhibit P340-A, p 20.
326 K92, T 2758-2759.
327 John Crosland, Exhibit P1400, para 20; Nike Peraj, T 1208-1209.
328 Ljubinko Cvetić, T 6701.
329 Exhibit P1355; Exhibit P1051; Exhibit P901; Exhibit P1333, p 23; Exhibit P975; Ljubinko Cvetić, T 6719.
330 Ljubinko Cvetić, T 6713.
331 Ljubinko Cvetić, T 6610, 6644, 6671-6672; Exhibit P688, p 7; Vukmir Mirčić, T 12624; Exhibit D933, p 13.
332 Exhibit P1054.
333 Exhibit P1052, p 2.
334 For analysis of the existence and functioning of the Joint Command, *see infra*, paras 224-252
335 Exhibit P1223; Exhibit P1051.

by the MUP, and 34,716 of whom were issued arms by the VJ. The total figure included 7,797 persons who had been issued weapons earlier (after 1990).[336] There were around 255 RPOs in Kosovo by February 1999.[337] In a meeting of the MUP Staff at Priština/Prishtinë on 17 February 1999, Streten Lukić, the head of the MUP Staff, noted that RPOs in nearly all the villages inhabited by Serbs had been activated.[338] He further stated that meetings had been held with all the RPOs, which were attended by MUP General Momčilo Stojanović and Lieutenant-Colonel Blagoje Pesić.[339] The work of the RPOs and their engagement were "assessed as good and aimed at protecting the people, personal and property safety, easing tension and fears of revenge".[340]

93. Members of RPOs did not have the same entitlements as regular MUP personnel, even when they were mobilised[341] and were less trained and less equipped than regular police reservists.[342] While the RPOs were closely connected to the MUP structure, the VJ also was involved, in particular, by training the members.[343]

94. The stated role of the RPOs was to defend their villages, towns and inhabited settlements from attacks of the KLA.[344] The RPOs were not permanently mobilised, but would be activated as needed in the local area.[345] The units had their own commander and deputy commander who would receive specific orders from the commander of the police station in the area.[346] Blagoje Pesić was in charge of the RPOs at the MUP Staff in Priština/Prishtinë.[347]

95. A large number of the VJ Priština Corps and Joint Command orders received in evidence, for example, tasked the "non-Šiptar [*i.e.* Kosovo Albanian] population in KiM", "armed non-Šiptars" or "armed non-Šiptar population" with supporting the MUP forces in "breaking up and destroying *Siptar* terrorist forces".[348] Ljubinko Cvetić affirmed that this occurred in practice.[349] Documentary evidence also confirms this. A report of the 3rd Army Forward Command Post (IKM) dated 2 October 1998 notes that "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

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336 Exhibit P688, p 7.
337 Ljubinko Cvetić, T 6718; Exhibit P1055, p 4; Exhibit D933, p 13.
338 Exhibit P85, p 1.
339 *See* Exhibit P1055.
340 Exhibit P85, pp 1-2.
341 Ljubinko Cvetić, T 6741-6742; Radomir Mitić, T 12624.
342 Ljubinko Cvetić, T 6610.
343 Exhibit P1053.
344 Exhibit P688, p 7; Ljubinko Cvetić, T 6610, 6644, 6671-6672; Radomir Mitić, T 12624.
345 Ljubinko Cvetić, T 6644, 6672; Exhibit P1333, p 23.
346 Ljubinko Cvetić, T 6644, 6671-6672, 6713-6714; Exhibit D933, p 13.
347 Ljubinko Cvetić, T 6688.
348 Exhibit P969, p 1; Exhibit P970, p 2; Exhibit P1382, p 2; Exhibit P766, p 2; Exhibit P767, p 2; Exhibit P350, p 2; Exhibit P961, p 2; Exhibit D104, p 2.

terrorists to be organised".[350] At a meeting of the Collegium of the VJ General Staff of 21 January 1999, it was reported that "bearing in mind the number of people owning or having been distributed weapons, there is a realistic possibility on the Serbian and Montenegrin side of the Serbian population organising itself to offer resistance, and of an increasing emergence of radical forces".[351] The Chamber accepts that RPOs had a role in combat operations in conjunction and coordination with the MUP and the VJ. This role was not always limited to the stated role of the RPOs as is apparent from some orders referred to in the course of the Judgement.

96. RPO members were only authorised to wear police or military uniforms when mobilised and engaged in reserve contingents of the MUP or VJ.[352] In practice, RPO members tended not to wear complete uniforms, but only parts of them.[353] Local Serbian forces also dressed on occasion in black militia uniforms.[354]

97. Weapons, including automatic and semi-automatic rifles, were issued personally to each member of the RPO.[355] Some RPO members took their weapons home when they were not mobilised.[356]

5. Collegium of the Minister

98. Under the governance of the previous Minister of the Interior, Zoran Sokolović, a Collegium had taken place between the Minister and the Chiefs of the RJB and RDB. Concurrently, the Chief of the RJB held his own Collegium, comprising all the heads of the RJB administrations, which met weekly. Thus, during that period, Vlastimir Đorđević attended the RJB Collegium as head of the Police Administration.[357] It is Đorđević's evidence that from the time that Vlajko Stojiljković became Minister, in April 1997, and Đorđević became Acting Chief (May 1997) and then Chief (January 1998) of the RJB, "there was no collegium of the public security"; instead Minister Stojiljković held a Collegium comprising all the heads of the different administrations in the RJB. Significantly, it would have been Đorđević who would open these Collegium meetings and then give the floor to the chiefs of administrations in the RJB. The chiefs of administration would report on the situation of the preceding week and would submit proposals for the following week.[358] Đorđević would add his own comments and the Minister would then close the Collegium by giving

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349 Ljubinko Cvetić, T 6672.
350 Exhibit D340, p 4.
351 Exhibit P902, p 16.
352 Exhibit D111, para 19; Exhibit P771, p 12; Exhibit P345, pp 8-9.
353 Ljubinko Cvetić, T 6610-6611.
354 Lutfi Ramadani, Exhibit P306 (*Milutinović* transcript), T 4285-4286, 4318, 4335; Lufti Ramadani, T 1122-1124.
355 Ljubinko Cvetić, T 6715; Exhibit P976.
356 Vlastimir Đorđević, T 9918; Ljubinko Cvetić, T 6715.
357 Vlastimir Đorđević, T 9412.

guide-lines to the administrations of the RJB and issuing orders as to what tasks should be carried out and who would be involved in them.[359] The conclusions of the Collegium would be sent to all participants of the meeting whose task it then was to implement the conclusions during the following week and report back at the next Collegium meeting.[360] Đorđević "always attended Collegium meetings",[361] except during the period in 1998 when he was on the ground in Kosovo.[362] Those Assistant Ministers of the RJB who could not attend would receive minutes of the meetings.[363]

99. The Collegium of the Minister was "formalised" by way of a decision of Minister Stojiljković of 4 December 1998.[364] Đorđević explained that the Collegium established by this decision was, in all material respects, the same as the previous weekly Collegiums, except that the head of the RDB, Radomir Marković and his deputy, Nikola Ćurčić, attended.[365] No separate Collegiums involving just the RJB administrations were held after this time.[366]

100. There was a marked inconsistency in the evidence given by Defence witnesses as to the extent to which the Collegium discussed and made decisions about the use of MUP forces in Kosovo. Vlastimir Đorđević testified that at these Collegium meetings, Obrad Stevanović, the Chief of the Police Administration informed the Minister about sending police members, equipment and weapons to Kosovo. However, Đorđević insisted that the Minister was never provided with detailed information regarding anti-terrorist and combat activities conducted in Kosovo at Collegium meetings.[367] Similarly, Stojan Mišić gave evidence that the Collegium did not discuss anti-terrorist activity in Kosovo, nor did they receive reports on the implementation of those plans or make any decisions in respect of them.[368] He testified that "not once during the war did we discuss planning, organising and implementation of anti-terrorist activities in Kosovo [...] we also did not consider any reports which had to do with the prevention of terrorism".[369]

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358 Vlastimir Đorđević, T 9413.
359 Vlastimir Đorđević, T 9413-9414, 9416.
360 Vlastimir Đorđević, T 9414, 9416-9417.
361 Stojan Mišić, T 14082.
362 Vlastimir Đorđević, T 10031.
363 Stojan Mišić, T 14084.
364 Exhibit D208; Vlastimir Đorđević, T 9415.
365 Vlastimir Đorđević, T 9415-9416. The full list of attendees were: the Minister, Vlajko Stojiljković, Vlastimir Đorđević, Assistant Minister and Chief of the RJB, Radomir Marković, Assistant Minister and Chief of the RDB, Nikola Ćurčić, Assistant Minister and Deputy Chief of the RDB and Director of the Security Institute, Obrad Stevanović, Assistant Minister, Stojan Mišić, Assistant Minister, Petar Zeković, Assistant Minister, Dragiša Dinić, Assistant Chief of the RDB, Dragan Ilić, Chief of the Crime Police Administration, and Branko Đurić, Chief of the Belgrade SUP, Vlastimir Đorđević, T 9412-9413, 9416; *see* also T 10025, 10026-10027; Stojan Mišić, T 14027; Exhibit D208.
366 Vlastimir Đorđević, T 9416-9417.
367 Vlastimir Đorđević, T 9420.
368 Stojan Mišić, T 14032.
369 Stojan Mišić, T 14054.

101. The Chamber finds it incredible that the Collegium did not discuss or make decisions about the situation in Kosovo in 1998 and 1999, by far the single most pressing security issue facing the MUP and Serbia at the time. Moreover, it was telling in the Chamber's view, that in contradiction to his previous assertions, Mišić also testified that there were "several Collegium meetings where we analyzed the overall security situation and sought adequate solutions",[370] that "on one occasion, the Minister stated at the Collegium that in view of the overall complex security situation, he formed a Staff of the Ministry for Anti-terrorist Activities [...] to deal more effectively with the problem of terrorism"[371] and that "one of the priorities at the Collegium Ministry sessions was the situation in Kosmet[372] [...] the Ministry Collegium would receive requests for logistical support for police forces that were in Kosmet".[373] The Chamber notes that in order for the Collegium to properly consider requests for additional units, re-enforcements, replacements of men and units, and for additional or new types of equipment put to them, the members had to have had knowledge of the operations for which they were required and of the progress of the defensive strategies being followed in order to offer advice about such proposals and their effect and consequences for the MUP. It is not credible that the MUP would have large numbers of men, including key units, regularly and actively engaged in Kosovo, with the army, and yet the Minister's Collegium was not involved or even aware of their activities. Nor does the Chamber accept that no reports were ever received or discussed at the Collegium about the conduct of operations against the KLA or the security situation in Kosovo.

102. Documentary evidence also demonstrates the full extent to which the Collegium members were involved in planning and discussing the MUP operations in Kosovo during the Indictment period. The notes of a meeting of the Minister's Collegium of 14 February 1999, attended by "Rodja" *i.e.* the Accused, "Rade", *i.e.* Radomir Marković, Stojan Mišić, Branko Đurić, Dragan Ilić and Danilo Pantović contained in the notebook of General Obrad Stevanović, in which the Minister referred to the need to develop a plan in response to the eventuality of the entry of NATO forces, were put to Stojan Mišić in court during his evidence.[374] Mišić denied his presence at any such meeting, questioned whether the meeting was ever held, and raised doubts as to the authenticity of the document.[375] The Chamber notes that, while the notebook of Stevanović is not in evidence, very similar sentiments were recorded in the minutes of a consequential meeting, held a few days later on 17 February 1999, of the MUP Staff in Priština/Prishtinë attended by Stojiljković, Marković, Stevanović and the heads of SUPs and of units in Kosovo, which indicate that plans were

370 Stojan Mišić, T 14035.
371 Stojan Mišić, T 14035-14036.
372 "Kosmet" is shorthand for "Kosovo and Metohija".
373 Stojan Mišić, T 14086-14087.
374 Stojan Mišić, T 14099-14100.

discussed to "prevent and thwart the entry of NATO troops" and that "three mopping up operations in the Podujevo, Dragobilja and Drenica areas" were ordered.[376] The Chamber therefore accepts that a meeting took place on 14 February 1999, attended by the Accused, in which the Minister referred to the need to develop a plan in response to the eventuality of the entry of NATO forces. According to the minutes of the 17 February meeting, some 4000 policemen, 70 policemen of the operative group, and 900 police reservists were to be deployed. The minutes further reveal that just three days later, on 20 February 1999, another apparently consequential meeting of the MUP Staff in Priština/Prishtinë was held with police detachment unit commanders for further consultations about their engagement.[377] Further, on the basis of the above, the Chamber is not able to accept the truth of Mišić's denial of any knowledge of a plan of the RJB to prevent the entry of NATO troops into Kosovo.[378]

103. While the Chamber accepts that the Collegium did not undertake detailed planning of specific operations – an activity that was undertaken by the MUP Staff in Priština/Prishtinë (*see* below) – the effect of the accumulation of evidence cited above in regard to key plans on the engagement of MUP units in large scale operations in Kosovo being discussed in meetings of Collegium members confirms, in the Chamber's finding, in conformity with what logic dictates, that Collegium meetings were used by members to discuss and plan MUP engagement in Kosovo during the Indictment period.

6. MUP Staff for Kosovo

(a) Original Staff

104. The Accused, Vlastimir Đorđević, set up the MUP Staff for Kosovo on 11 June 1997[379] pursuant to Article 10 of the Rules on the Internal Organisation of the Ministry of the Interior, which provided that the chief of a department or a secretariat may establish permanent or *ad hoc* staffs, commissions, task forces or other working groups made up of Ministry employees to examine certain issues or carry out more complex assignments which require the combined work of different highly specialised employees, from two or more organisational units within the department and secretariat.[380] In his report, Defence expert Radomir Milašinović noted that unlike military staffs "which were traditionally auxiliary organs of control, the MUP staffs in Kosovo and Metohija

375 Stojan Mišić, T 14099-14100.
376 Exhibit P85; Stojan Mišić, T 14104-14105.
377 Exhibit P85; Stojan Mišić, T 14105.
378 Stojan Mišić, T 14106.
379 Exhibit D402; Exhibit D403; Vlastimir Đorđević, T 9469.

380 Exhibit P357, Article 10; Ljubinko Cvetić, T 6774-6775, 6776; Vlastimir Đorđević, T 9466-9467.

were not auxiliary but organs of control with clearly defined control functions and responsibilities".[381] The tasks of the MUP Staff were to "plan, organise and undertake measures and activities to suppress armed rebellions; prevent and suppress civil disorder; prevent terrorism" and other assignments related to the area of Kosovo.[382] The MUP Staff served in practice as an intermediate level of command between the MUP Headquarters in Belgrade and SUPs in Kosovo.[383] A decision dated 12 June 1997, signed by the Accused Đorđević, set out the members of the Staff and designated the functions of each person.[384] Đorđević testified that although pursuant to the Rules he had authority to issue this Decision on staffing without the approval of the Minister, in practice, he did have the Minister's approval.[385]

105. On 15 January 1998, Đorđević issued a further decision which expanded the mandate of the MUP Staff to include cooperation with the RDB, the VJ, other state organs and organs of local self government. One of its tasks was the prevention and suppression of terrorism in Kosovo.[386] On 23 January 1998, Đorđević mandated the MUP Staff with training PJP and SAJ units to perform security tasks.[387] The decisions issued by Đorđević stated that the MUP Staff was responsible for the performance of its work to the Minister, the Chief of the RJB and officials authorised by them.[388] By a decision of Đorđević of 15 May 1998, the mandate of the MUP Staff was renewed for a year.[389] The decision specified that the Staff leader reported to the head of the RJB and was required to inform him of all significant security incidents, the measures undertaken and the results of those measures.[390]

106. On 11 June 1998, Đorđević issued a decision revising the leaders, deputy leaders and members of the MUP Staff.[391] One of his senior officers, General Sreten Lukić, was appointed as Head of the MUP Staff and the MUP Staff was expanded to 14 members, all of whom were members of the RJB.[392] The decision set down that members would be appointed to the expanded

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381 Exhibit D933, p 25.
382 Exhibit D402, item 2. *See* also Vlastimir Đorđević , T 9469-9470.
383 Ljubinko Cvetić, T 6597. As put in the report of Defence expert Radomir Milašinović "the Staff played the part of an additional organ of control positioned immediately below the level of the RJB chief in the MUP headquarters and immediately above the level of the SUP chiefs in Kosovo and Metohija". Exhibit D933, p 26.
384 Vlastimir Đorđević, T 9470-9472; Exhibit D403.
385 Vlastimir Đorđević, T 9472.
386 Exhibit D404, item 1 and 2.
387 Exhibit P704, p 2. Vlastimir Đorđević, T 9475-9476
388 Exhibit D404, item 2; Exhibit P704, p 2.
389 Exhibit D100; Vlastimir Đorđević, T 9476.
390 Exhibit D100, items 5 and 6.
391 Exhibit P760.
392 Exhibit P760. The members were: Sreten Lukić, assistant chief of the Secretariat in Belgrade for police affairs, as Staff leader; Radoslav Djinović, assistant chief of the SUP in Smelderovo, as Staff deputy leader; Goran Radosavljević, chief of the section for PJP in the SUP Belgrade, as assistant Staff leader for interventions; Žarko Braković, chief of the police department of SUP Priština, as the assistant Staff leader for police affairs; Milutin Vuković, commander of the Mechanised Brigade in Priština, as assistant Staff leader for mechanised units; MiodragRšumović, chief of the Department for the Suppression of Financial Crime, SUP Belgrade, as the

MUP Staff from among the heads of the SUPs in Kosovo and that the Staff should begin work on 1 June 1998 for an initial period of a year.

107. While on 11 June 1997, Vlastimir Đorđević had established a MUP Staff for Kosovo, which created an intermediate level of command between MUP Headquarters in Belgrade including the RJB headed by him, and the SUP chiefs in Kosovo, and which from 15 January 1998 had been required to cooperate, *inter alia*, with the RDB and the VJ, he had no authority as head of the RJB to formally include the RDB in this MUP Staff, or the VJ. The security situation in Kosovo was rapidly worsening and it is evident from the course of events in the first half of 1998 that the FRY and Serbia had to improve the efficiency and competence with which it dealt with the KLA. An obvious measure was to coordinate the anti-KLA activities of the Federal and Republican forces engaged in this role. Within the MUP this involved coordination of the activities of the RJB and the RDB in Kosovo.

(b) Ministerial Staff for the Suppression of Terrorism

108. The cooperation which the Accused could authorise was not sufficient. While a new Head and some strengthening of the MUP Staff was ordered by the Accused on 11 June 1998, it was only the Minister who had the legal power to formally ensure representation of the RDB on the MUP Staff. This he did only five days later, when he issued a decision for the establishment of a "Ministerial Staff for the Suppression of Terrorism", which effectively expanded the membership of the MUP Staff in Kosovo to include the chiefs of the secretariats for internal affairs, centres and branches of the RDB.[393] While in form this was a new staff which superseded the existing Staff, and while the Accused maintained he had not been consulted about this decision, its leader remained Sreten Lukić of the RJB, and most of its composition was unchanged from that put in place by Đorđević just five days earlier.[394] The significant change was the formal inclusion of the state security representatives (the RDB).

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coordinator for financial crime; Novica Zdravković, working in the suppression of financial crime in the Criminal Police Department in the SUP Vranje, as the general crime coordinator; Radovan Vušurević, chief of the Department for Border Police, Aliens and Administrative Affairs of the SUP Novi Sad, as the assistant Staff leader for border police, aliens and administrative affairs; Milan Čanković, providing communications equipment, vehicles and other equipment in the Police Administratino of the Ministry, as the assistant Staff leader for radio communications; Miloš Deretić, chief of the Department of Communications in the SUP Priština, as the assistant head of staff for wire communications; Milorad Rajičić, chief of the Department for Joint Affairs of the SUP Priština, as the assistant Staff leader for quartermaster security; Gojko Čelebić, working in the defence preparations in the Police Department of the SUP Priština, as assistant staff leader for logistics; Dobrašin Krdžić, working in matters of preventive medicine as the assistant Staff leader for medical security; and Raško Milenković, chief of the analysis Department of the SUP Priština, as the assistant Staff leader for surveillance analysis.

393 Exhibit P57.

394 Of the 14 original members of the Staff of 11 June 1998, just four (Braković,Ršumović, Deretić and Čelebić) did not continue to be members in the Ministerial Staff.

109. Under the formal legal structure established pursuant to the Law on the Interior the Public Security Department of the MUP (the RJB), of which the Accused was Chief, was entirely distinct from the State Security Department of the MUP (the RDB) which had its own Chief. Therefore it was not within the authority of the Accused, as Chief of the RJB, to effect coordination of the two arms of MUP or their functioning, even though this was obviously a desirable, if not necessary, development given the threat to the Republic of Serbia posed by the KLA. Hence the power of the Minister, who alone could coordinate the functions of the RJB and RDB, was invoked to take the step which the Accused alone could not take. Within five days of the Accused's decisions about the membership of the MUP Staff in Kosovo, the Minister acted to also include RDB representatives in one single Staff and to formally enable the one body to coordinate the actions of the RJB and RDB in Kosovo. General Lukić of the Accused's RJB continued as chief of the new Staff. For the most part it continued to perform the functions of the earlier MUP Staff but now, with RDB membership, it was able to coordinate within Kosovo both the activities of the RJB and the RDB in combating the threat of terrorism posed essentially by the KLA.

110. Since February 1998 the RJB MUP Staff had been charged by the Accused with cooperating with the RDB. The Minister's Order of 16 June 1998 took this a step further by formally bringing the two distinct organisations together, but only at the level of Kosovo, and only in the role of combating terrorism. Otherwise both RJB and RDB continued to be the two distinct components of the MUP. The Accused continued to hold the office of Chief of the RJB. His subordinate Lukić headed the Ministerial Staff. The Head of the Staff, General Lukić, was required by the decision of 16 June 1998, to report to the Minister about his actions, the actions of the Staff, and the aspects of the security situation under the remit of the staff, which was "to plan, organize and control the work and engagement of organizational units of the Ministry, and also sent and attached units, in suppressing terrorism" in Kosovo, as well as "to plan, organise, direct and coordinate the work of organisational units" of the MUP.[395] No step was taken to limit the powers of the Accused as Chief of the RJB. He continued to hold his office as Chief of the RJB, as did the Chief of the RDB. As with the former MUP Staff, the Ministerial Staff in Kosovo functioned as an intermediary between the Accused (with the MUP Staff in Belgrade) and the SUPs and OUPs in Kosovo.

111. The Defence submits that this decision of the Minister had the effect of cutting Đorđević out of the MUP Staff structure and divesting him from authority in matters related to anti-terrorist activity by MUP units in Kosovo.[396] In his report on the "Position and Role of the Chief of the Public Security Department in the Ministry of the Interior of the Republic of Serbia in Anti-

[395] Exhibit P57, item 2 and 3.
[396] Defence Closing Brief, para 212.

Terrorist Activities in Kosovo and Metohija in 1998 and 1999", Defence expert Radomir Milašinović argued that by this decision, the Minister reduced the authority of the RJB chief by establishing a direct line of subordination with the Staff head, thereby displacing the RJB chief and the RDB chief "from the chain of operational planning, organisation and control of the prevention of terrorism in Kosovo and Metohija".[397] The report further postulates that apart from these special security tasks in the domain of the Ministerial Staff, the jurisdiction and powers of Đorđević as the RJB chief remained unchanged, and that he also had competence in the area of expert and administrative/logistic support to the Staff and the units engaged.[398]

112. The evidence of the Accused and the Defence case really hang on the very weak thread that in the Minister's Decision of 16 June 1998, it is provided that the Ministerial Staff and Lukić as its Chief are to report to the Minister. This, it is concluded, was intended by the Minister, and it had the legal effect to exclude the Accused from his powers and duties as Chief of the RJB in respect of all MUP forces and operations in Kosovo. The Accused's evidence went so far as to suggest this exclusion was absolute and in all respects, although that doesn't take any account of the limitation, in the Minister's Order of 16 June 1998, of the functions of the Staff to anti-terrorist activities. In the Chamber's assessment there are fundamental flaws with this contention. By the Law on the Interior all functions of the MUP are subject to the Minister who has complete responsibility for all of them. The Chiefs of the RJB and the RDB are responsible to the Minister for all that is done in their respective administrations. The most obvious effect and intent of a requirement for the Ministerial Staff to report to the Minister, is to ensure no more than was the standard situation within the MUP, and in most governmental structures in representational governmental systems, *i.e.* the Minister remains the person ultimately responsible and who can intervene and make demands or give instructions as he deems it necessary. The Minister has ultimate control. For the Minister to have full power to control did not require that the intensive support structures of the MUP Administrations at the Belgrade Headquarters be excluded. This Headquarters Staff remains essential for ensuring the effective functioning of most activities. Nor does it require that the Chiefs of the RJB and the RDB be excluded. It would be discordant if this were intended.

113. In fact, the effect of the Defence proposition is that the two most senior officers available to the Minister, the Chiefs of the RJB and the RDB, were deliberately removed from the highest levels of advice and organisation of the Ministry at a time when the greatest level of competence and efficiency was required, and somewhat incongruously, that a Staff which comprises subordinates of the two Chiefs became the sole adviser to the Minister with respect to anti-terrorist activities in

[397] Exhibit D933, pp 28-29.
[398] Exhibit D933, p 29.

Kosovo. Further, in the implementation of his decisions, Defence propositions accept that the Minister would continue to utilize the services of the administration of the RJB, which remained under the authority of the Chief of the RJB. The Staff in Kosovo was dependant for manpower, equipment, finance and all other aspects of administrative support, on the RJB and the RDB administrations in Belgrade. Anti-terrorist activities in Kosovo, while directed in operational detail by the Ministerial Staff there, could not be conducted without the ongoing support and maintenance of the Belgrade Administration. The Defence contention sought unsuccessfully to explain how the MUP could function if the Staff in Kosovo was entirely self contained and independent, answerable only to the Minister himself. The attempts of the Defence to explain how this could function, with the Accused and the Administration in Belgrade responsible only to provide what their subordinates in Kosovo demanded, are manifestly impractical as a matter of administration. Also entirely impractical is the basic contention that the Minister himself would have sole and full responsibility for all aspects of the conduct of the anti-terrorist activities in Kosovo, as well as exercising his normal functions and responsibilities especially during a time of armed conflict. The demands on the Minister's time make this impractical.

114. The only justification for such a structure that is offered is the personal idiosyncrasy of the Minister who wished, it is said, to exercise sole control. No explanation is apparent, or is offered, for the fact that the Chiefs of the RJB and RDB remained in office, functioning otherwise in the full exercise of their power and authority, or that before his 16 June 1998 decision the Minister had been able to involve himself directly in the work of the MUP Staff, and of the RJB, as he felt desirable. Neither is it apparent, nor is it suggested, how the Minister had the time and the capacity to assume full control of the anti-terrorist activities in Kosovo, and to do so utilizing the Headquarters staff of the RJB, but without the coordination or involvement of its Chief who was otherwise still in command of the RJB.

115. This whole contention of the Defence and the Defence expert depends on the thin thread that by his decision of 16 June 1998, the Minister had required the Chief of the Staff to report to the Minister. However, such a requirement is entirely in accord with the whole of the formal legal structure of the MUP. The Minister is the formal point of authority for the Ministry's functions. Reporting at the higher levels is to the Minister. But in normal contexts this does not exclude the senior organisational elements of the Ministry. Rather it embraces them. It merely reflects the ultimate responsibility of the Minister under which the RJB, and its Chief, functions. Much of the activity of the Headquarters administration of the MUP involves receiving and acting on reports and recommendations to the Minister and issuing decisions and orders in consequence. Administrative procedures and the judgement of the more senior Headquarters staff determine where the Minister

needs to be personally informed of, or deal with, an issue. The Minister can give directions about his involvement as he chooses.

116. It is in this context that a suggestion that a requirement to report to the Minister must have been intended, and should be read, as entirely excluding, from the chain of communication and the chain of command, the Minister's most senior advisers, is at once remarkable and lacking in persuasion.

117. For these reasons, and as discussed below, the Chamber does not accept the credibility of the expert report, save to the extent that the facts and opinions presented are confirmed by other credible evidence. The report was compiled sometime in 2008-2009,[399] primarily on the basis of what appeared to be "informal" interviews with around 50 MUP staff, who gave their "impressions" or recollections of the factual situation in 1998 and 1999.[400] These impressions or recollections were often based on or influenced by understandings of the meaning or applicability of legal provisions which were not always properly interpreted, or were relied on as governing what occurred in spite of evidence that MUP structures often acted outside the normal legal framework. Furthermore, with regard to such impressions or recollections about the effects of the establishment of the Ministerial Staff on the extent of Đorđević's authority as chief of the RJB, the Chamber notes that none are supported by documentary evidence. The whole report shows a lack of acknowledged scientific methodology.

118. Moreover, the contention that the establishment of the Ministerial Staff somehow diminished Đorđević's role and participation in decision-making structures of the MUP with regard to the activities of MUP forces in anti-terrorist operations is without any factual foundation. The Chamber takes into consideration, in particular, the fact that Đorđević was often on the ground in Kosovo throughout 1998 and 1999 and played a direct role operationally in the engagement of MUP forces in Kosovo.[401] As noted earlier, he actively participated in Collegium meetings at which anti-terrorist actions were discussed and planned, as well as Joint Command meetings (see below), dealing with the coordination of VJ and MUP forces on the ground in Kosovo. Significantly, there is no evidence to suggest that any of his functions were reduced or limited after the establishment of the Ministerial Staff. The Chamber also recognises that although the practical effect of the establishment of the Staff was that the RDB would be directly represented on the Staff and its operative unit, the JSO, would be more active in Kosovo, the vast bulk of direct MUP

399 Radomir Milašinović, T 14305.
400 Radomir Milašinović, T 14291.
401 *See infra*, paras 359, 398, 1900-1907, 1920-1925.

operations in Kosovo continued to be carried out by the RJB, including PJP and SAJ detachments, for which Đorđević remained responsible.

119. Sreten Lukić, who had been originally appointed by Đorđević, remained the head of the Ministerial Staff in Kosovo, while David Gajić, the Head of the RDB in Kosovo, was appointed as Lukić's deputy. The members of the Staff included JSO Commander Milorad Luković (Legija) the Assistant Head for Special Operations, Živko Trajković the Assistant Head for Special Anti-Terrorist Units, and Goran Radosavljević the Assistant Head for Special Police Units.[402] On 2 October 1998, the Minister appointed General Momčilo Stojanović, Đorđević's deputy as Assistant Chief of the RJB, to the MUP Staff.[403] On 21 May 1999, Colonel Dragan Bozović, Assistant Chief of the Police Administration, was appointed by the Minister as Deputy Head to the Staff.[404] All of these appointments were of persons subordinated in their normal activities to the Accused, Đorđević, as Chief of the RJB or to the Chief of the RDB.

120. As the Staff was formally a creation of the Minister, Đorđević did not have the power to appoint members to the Ministerial Staff.[405] He did, however, make decisions regulating the rights of MUP members who had been assigned to the Staff.[406] For example, pursuant to the Minister's decision to appoint Momčilo Stojanović to the Ministerial Staff, a decision dated 5 October 1998 and signed by Đorđević records the entitlements due to Momčilo Stojanović for performing his tasks in Kosovo as of 15 October 1998.[407] Similarly, Đorđević issued a decision on 21 May 1999 to dispatch Bozović to Kosovo and refers to his entitlements in this capacity.[408] It is significant that a letter dated 28 May 1999 from the Ministerial Staff, signed by its Chief General Sreten Lukić and addressed to Đorđević as Chief of the RJB, contains Lukić's proposal for the termination of appointments and addition of members to the Ministerial Staff as of 1 June 1999.[409] The letter of Lukić was addressed to Đorđević on 28 May 1999. Apparently, in the ordinary processes of administration, on 31 May 1999 there followed a decision of the Minister renewing the Staff for a further year which reflected Lukić's proposal to Đorđević.[410] Đorđević testified that he did not remember receiving this proposal but, if he had, he would have forwarded it to the Minister as he himself was not competent to deal with it.[411] This letter is a telling indication of the understanding at the time of Đorđević's continuing authority and of the handling of this matter within the

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402 Exhibit P57, item 1.
403 Vlastimir Đorđević, T 9483; Exhibit D99; Exhibit P1044; Exhibit P1055.
404 Vlastimir Đorđević, T 9486; Exhibit P259.
405 Vlastimir Đorđević, T 9484, 9486.
406 Vlastimir Đorđević, T 9482, 9484-9485.
407 Vlastimir Đorđević, T 9484-9485; Exhibit P1044.
408 Vlastimir Đorđević, T 9486; Exhibit D405.
409 Exhibit D406.
410 Vlastimir Đorđević, T 9490; Exhibit P67.
411 Vlastimir Đorđević, T 9488-9489; Exhibit D406.

Ministry. Further, a decision signed by Đorđević dated 30 May 1999 terminated the employment of Milan Čanković as a member of the Ministerial Staff.[412] Đorđević sought to explain such matters on the basis that only the Minister could issue decisions on the appointment of someone to the Ministerial Staff, but he could authorize Đorđević to issue a decision on the termination of someone's engagement in Kosovo or a decision regulating employment status relating to salary, for example.[413] These explanations notwithstanding, the documentary evidence cited above affirms, in the Chamber's finding, that Đorđević remained actively engaged in the membership and functioning of the Ministerial Staff in Kosovo throughout 1999.

121. It is the evidence of Vlastimir Đorđević that the Ministerial Staff never reported to him about their work and that he never received any information from them.[414] Stojan Mišić also testified that the Staff's "reporting went directly to the Minister about all anti-terrorist operations and activities".[415] However, other evidence indicates that the Ministerial Staff regularly reported to the MUP Headquarters, including to the Chief of the RJB, as discussed below.[416] According to Đorđević, he was not able to issue any instructions or tasks to the Ministerial Staff; this was solely the prerogative of the Minister. The Staff had qualified people of their own to plan how each operation was to be carried out; "[o]rders and related activities and control over the police units was executed exclusively through the Staff".[417]

122. The Chamber finds that what occurred in fact following the Minister's order of 16 June 1998, emphatically demonstrates that the Accused as Chief of the RJB, and the Chief of the RDB, and their administrations in Belgrade were not excluded. The Accused was included, not excluded, when the Ministerial Staff commenced to function. He also attended meetings in Kosovo and in Belgrade of the Ministerial Staff and other meetings when the anti-terrorist operations were planned and discussed. The administration of the RJB and RDB continued to function in respect of Kosovo. Reports of RJB units, SUPs and OUPs, continued to be made to the MUP Administration in Belgrade and also to the Staff in Kosovo, which itself reported to the RJB Administration in Belgrade headed by the Accused. The Accused was personally and directly involved in matters in Kosovo in the second half of 1998 and in 1999. While the Accused might have had less available time to spend in Kosovo once the NATO bombing campaign of the whole of the FRY commenced on 24 March 1999, he continued to exercise responsibilities for Kosovo.

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412 Vlastimir Đorđević, T 10059; Exhibit P144.
413 Vlastimir Đorđević, T 10059-10060.
414 Vlastimir Đorđević, T 9484.
415 Stojan Mišić, T 14041.
416 *See infra*, para 131.
417 Vlastimir Đorđević, T 9585.

123. The Chamber notes that in keeping with the general usage of witnesses and submissions during the trial, in the remainder of the Judgement it will usually use the description the "MUP Staff", or the "MUP Staff for Kosovo", whether the reference is to the MUP Staff for Kosovo before 16 June 1998, or the Ministerial Staff for the Suppression of Terrorism in Kosovo after 16 June 1998. This usage is convenient for brevity and does not imply any failure to recognise the change in its formal structure which is discussed in the preceding paragraphs.

124. Ljubinko Cvetić, head of the Kosovska Mitrovica/Mitrovicë SUP until mid-April 1999, explained that the MUP Staff, which was established solely for the territory of Kosovo, was a "mid-command" between the MUP in Belgrade and the SUPs in Kosovo.[418] The SUPs reported both to the MUP in Belgrade and to the MUP Staff.[419] All the SUPs in Kosovo and the MUP Staff remained subordinate to the RJB.[420] The authority of the Chief of the RJB over the SUPs, notwithstanding the existence of the MUP Staff, including in relation to combat activities in Kosovo, was demonstrated, *inter alia*, by the way that Special Police Units ("PJPs"), discussed below, were engaged. PJP detachments could only be used by the SUPs if orders were given by the MUP Staff or the Minister to the detachment commander.[421] However, the actual decision to engage PJPs had to be made at the Ministry level, and evidence discloses that it was the Chief of the RJB, *i.e.* Vlastimir Đorđević, who made such decisions.[422] In the Chamber's finding, therefore, the fact that the SUPs received specific commands in terms of their counter-terrorist related actions from the MUP Staff did not affect the normal chain of authority in the MUP, since the MUP Staff was a conduit for the orders and directions of the senior leadership of the MUP in Belgrade, *i.e.* Minister Stojiljković, the Chief of the RJB, *i.e.* Vlastimir Đorđević, and the Chief of the RDB, *i.e.* Radomir Marković. The MUP Staff, discussed below, provided a useful coordination body for operations to be implemented by SUPs in their various areas of responsibility, but did not interrupt or affect the authority of Đorđević over the SUPs.

7. Reporting system within the MUP

125. The reporting system of the MUP during the period of the Indictment was governed by the Instructions on Information and Reporting, issued on 23 December 1994[423] as updated on 19 April 1996.[424] The Instructions set out the basic rule that information and reporting on security-related events and developments as well as on the execution of tasks was to be ensured by urgent

[418] Ljubinko Cvetić, T 6590, 6597; Exhibit P78.
[419] Ljubinko Cvetić, T 6597.
[420] Ljubinko Cvetić, T 6598.
[421] Ljubinko Cvetić, T 6603.
[422] Ljubinko Cvetić, T 6604.
[423] Exhibit D232; Vlastimir Đorđević, T 9493-9494.
[424] Exhibit P1056, p 3. *See* Ljubinko Cvetić, T 6722.

information, daily information and periodic information and reporting.[425] The reporting system was based on the principle of hierarchy, entailing that each level of organisation reported to the level immediately above it.[426]

126. Pursuant to the Instructions, each organisational unit of the RJB was to ensure urgent, daily and periodic information and reporting among themselves on security-related events and developments, as well as on the execution of tasks, a responsibility to be checked by the head of organisational units.[427] Chiefs of the OUPs and commanders of police stations in municipalities were tasked with ensuring that information and reports on security-related events and developments in their municipality were submitted to the respective SUP.[428] The SUP chiefs in turn had to ensure that such information and reports were submitted to the Ministry and the RJB organisational units at the Ministry headquarters.[429]

127. Urgent information was to be conveyed immediately to the Ministry's Duty Operations Centre.[430] In extremely urgent cases, the OUP or police station had to directly communicate with the Ministry or another Secretariat.[431] A dispatch would be sent immediately to the competent administration in the MUP.[432] The commanders of police stations responsible for the control of crossings over the state border were to supply the relevant SUP with urgent information.[433] They also were obliged to send information directly to the authorised Department in the Ministry.[434] Such urgent information was supplied to local organs, as well as to the relevant organisational unit at the Ministry headquarters.[435]

128. Daily reporting was carried out by the issuance of daily bulletins containing a summary of events and developments and measures taken in the course of the day as well as any associated numerical data.[436] The duty services of the SUPs would compile the daily bulletin and submit it to the Ministry's Duty Operations Centre.[437] The Duty Operations Centre would in turn assemble a daily bulletin of this information and send it to "users", the list of which was approved by the Chief

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425 Exhibit D232, Article 1.
426 Exhibit D232, Articles 8 and 18; Vlastimir Đorđević, T 9494-9496.
427 Exhibit D232, Articles 2 and 4.
428 Exhibit D232, Article 5; Exhibit P1056, p 3.
429 Exhibit D232, Article 6.
430 Exhibit D232, Article 7.
431 Exhibit P1056, p 3.
432 Ljubinko Cvetić, T 6762.
433 Exhibit D232, Article 8.
434 Exhibit P1056, p 3.
435 Exhibit D232, Article 9.
436 Exhibit D232, Article 11.
437 Exhibit D232, Article 12; Ljubinko Cvetić, T 6724. *See* Exhibits D276; D277; D278; D279 and D280.

of the RJB, Vlastimir Đorđević.[438] SUPs were obliged to send circular dispatches to the Ministry and all the OUPs and police stations in their area.[439]

129. The SUPs in Kosovo, *i.e.* Priština/Prishtinë, Kosovska Mitrovica/Mitrovicë, Uroševac/Ferizaj, Gnjilane/Gjilan, Đakovica/Gjakovë, Peć/Pejë and Prizren, were specifically required to send dispatches both to the Ministry in Belgrade and to the MUP Staff in Kosovo.[440] Ljubinko Cvetić, chief of the Kosovska Mitrovica/Mitrovicë SUP, confirmed that in 1999 reports about events in the territory of the SUP were sent both to the Ministry and to the MUP Staff.[441] The most important security-related information that occurred in all SUPs was sent by the Analytics Department within the RJB to the individual SUPs so that they were informed about the situation outside their territory, as well as to the head of the MUP Staff.[442] Chiefs of SUPs also gave a report to the head of the MUP Staff, Sreten Lukić, in Priština/Prishtinë every morning to inform him of current events not included in the bulletin.[443] In addition, reports were given during meetings of the MUP Staff. At a meeting of senior police officials, including PJP commanders, the SAJ commander and the JSO commander, and the MUP Staff on 4 April 1999, the participants discussed "previous tasks", "achieved results", "the situation on the ground", and "forthcoming tasks".[444] The unit or detachment commanders also reported on these issues.[445]

130. Reports from the SUPs were sometimes given orally to the MUP headquarters in Belgrade by telephone.[446] The telephone system of reporting was interrupted during April 1999 after the bombing of the post office in Priština/Prishtinë which resulted in the telephone lines being cut. During this period, a telephone line was established between some SUPs and the MUP Staff in Kosovo, but not to Belgrade.[447]

131. While the Instructions did not provide for a duty of the MUP Staff to report to the MUP headquarters in Belgrade (notably, the MUP Staff was created in 1997, after the issuance of the 1994 Instructions and 1996 update), the MUP Staff did in practice submit reports to the MUP headquarters in Belgrade.[448] The MUP Staff would issue summary reports to the Ministry leadership, a "sort of cross-section, a recap of everything that had happened in the field", which Vlastimir Đorđević described as a "double-track channel" since the same information was sent by

438 Exhibit D232, Article 12; Vlastimir Đorđević, T 9495, 9510.
439 Exhibit P1056, p 3.
440 Exhibit P1056, p 3; Vlastimir Đorđević, T 9495, 9510, 10047.
441 Ljubinko Cvetić, T 6723, 6726; *see* Exhibit P1060.
442 Vlastimir Đorđević, T 9495, 9499-9504; *see* Exhibits D407; D408; D410; D411; D412.
443 Ljubinko Cvetić, T 6763.
444 Exhibit P764.
445 Ljubinko Cvetić, T 6860.
446 Ljubinko Cvetić, T 6723, 6726.
447 Ljubinko Cvetić, T 6723.

the SUPs in Kosovo to the Operations Centre of the Ministry.[449] The MUP Staff also reported regularly to the MUP headquarters, including, specifically, the Minister's office, the Head of the RJB and the Head of the RDB.[450]

132. The reports were required to include, *inter alia*, information about any use of firearms by police as well as "[o]perative actions and measures in which a large number of employees and materiel and equipment are engaged (searches, raids, blockades, searches of the terrain, ambushes, providing security and the like)".[451] The Accused testified that while such reports were to include information on the movement of the police and police operations, the information received by the Ministry in Belgrade covered only terrorist activities.[452] The Chamber does not accept the truthfulness of this testimony. Pursuant to the Agreement on the OSCE Verification Mission on Kosovo of 18 October 1998, SUPs in Kosovo were instructed by the MUP Staff, on 21 October 1998, to report specifically on, *inter alia*: (1) terrorist actions and the police response to these, effects and consequences; (2) police operations, including the type of operation, its time and place, the number of police members participating, combat and non-combat equipment used and the result and consequences; (3) movement of police units to, from and within Kosovo, and (4) observations on the work of KVM mission members.[453]

133. In addition, periodic information was supplied "if and when necessary, or regularly".[454] Such information was more geared towards analysis, containing an assessment of the causes of the events and developments of interest to security and their possible consequences, an assessment of the security situation in view of these events and developments, and an assessment of the security situation in a certain area.[455] Monthly information circulars, based on the urgent and daily reports, were also issued to "users".[456] Finally, an annual report was distributed to a list of users approved by the RJB chief.[457]

134. The SUPs were continually reminded of their duty to report throughout the Indictment period. At a meeting of senior police officials, including PJP commanders, the SAJ commander and the JSO commander, and the MUP Staff on 4 April 1999, Sreten Lukić underlined the

448 Vlastimir Đorđević, T 10047.
449 Vlastimir Đorđević, T 9508; *see* Exhibit D284.
450 Ljubinko Cvetić, T 6728; *see* Exhibits P691; P692; P693; P1058; P1059; P1327.
451 Exhibit D232, p 13.
452 Vlastimir Đorđević, T 9505-9507, 9515, 9719.
453 Exhibit P1041; Vlastimir Đorđević, T 9505-9506. *See* Exhibits D274 and D275.
454 Exhibit D232, Article 17.
455 Exhibit D232, Article 18.
456 Exhibit D232, Article 20.
457 Exhibit D232, Articles 25-30.

"obligatory reporting of the Chiefs of Secretariats and unit commanders to the staff".[458] In a Dispatch dated 1 April 1999 from the MUP Staff to the Kosovo SUPs, Lukić stated that "it is necessary that you submit a daily summary of important incidents and events for the period from 0600 hours to 0600 hours to the Staff of the Ministry of the Republic of Serbia [in Kosovo] [...], which you should send by fax to the MUP [...] Staff by 0700 hours on the following day," which must include, *inter alia*, information about "Bombardment of NATO forces" and "Serious Crimes Committed".[459] Ljubinko Cvetić testified that he received and implemented this dispatch.[460] The Decree on Internal Affairs During a State of War, issued on 7 April 1999 by the government of the Republic of Serbia, made the failure to file reports, or the filing of inaccurate reports and information or forging information by MUP employees a serious violation of professional duties and responsibilities, which could result, *inter alia*, in the restriction of movement of a person for up to 60 days or demotion to a lower position or rank for between one and two years.[461]

135. The units in the field communicated via radio.[462] Work-plans were prepared by the Communications Station indicating the radio frequencies and call signs to be used by which unit.[463] One such work plan in evidence indicates that the 125th Motorised Brigade had the call sign IBAR-40, the Joint Command had the call sign Pastrik, and the commander of the 37th Detachment of the MUP had the call sign Cegar 1.[464]

8. Disciplinary and criminal procedures in the MUP for MUP staff

136. Disciplinary liability of MUP employees was regulated under the Law of Internal Affairs[465] and the "Decree on Disciplinary Responsibilities in the Ministry of the Interior", adopted on 30 September 1992.[466] An officer who committed a serious breach of employment obligations and duties could be fined, transferred temporarily to another post, or dismissed.[467] A serious breach included, *inter alia*: the issuing of orders or carrying out of orders that unlawfully jeopardised the safety of people and property; material gain unlawfully acquired by making use of one's official position; any action that would be a criminal act committed on duty or in connection with official duties; giving orders that, once carried out, would represent a criminal act; and concealment on the

458 Exhibit P764, p 4; Ljubinko Cvetić, T 6725-6726, 6859, 6863.
459 Exhibit P1057.
460 Ljubinko Cvetić, T 6727.
461 Exhibit P47, Article 9(3).
462 Ljubinko Cvetić, T 6729.
463 Ljubinko Cvetić, T 6729-6732; *see* Exhibit P1061.
464 Exhibit P1061.
465 Exhibit P66, Section II (2), Articles 49-58; Vlastimir Đorđević, T 9516-9517.
466 Exhibit P1049; Vlastimir Đorđević, T 9516-9517.
467 Exhibit P66, Article 52.

part of a direct superior, of any serious breach of employment obligations or duties committed by a subordinate.[468]

137. If criminal proceedings were initiated against an officer, he was suspended from duty until the completion of the criminal proceedings.[469] Under the Law of Internal Affairs, a MUP employee was fired if a final judgement was handed down convicting him of certain criminal offences[470] or if he no longer fulfilled the conditions of his appointment.[471] Vlastimir Đorđević explained that it was also possible, pursuant to this law, to "get rid" of employees prior to the handing down of a final judgement, if the process was taking too long.[472] It was his evidence that the Ministry never stood in the way of carrying out proceedings against MUP employees.[473] When it concerned crimes that had to be prosecuted *ex officio,* MUP employees were treated like any other citizen.[474]

138. In terms of procedure, the immediate superior of an employee proposed the initiation of disciplinary proceedings to the head of the organ concerned, *i.e.*, the chief of the SUP or the chief of the administration.[475] The head of the organ then initiated disciplinary proceedings by filing a request with the disciplinary prosecutor. Disciplinary liability was incurred at the employee's home SUP, after a report of this violation was submitted by the employee's superior under whose command he was operating.[476] A commanding officer could remove a policeman from his unit and send him back to his original SUP if the violation was serious, accompanied by a report of the violation and proposal of measures to be taken either in disciplinary or criminal proceedings.[477]

139. On 4 April 1999, the FRY government passed a Decree on the Application of the Law on Criminal Procedure during a state of war, which came into force on 5 April 1999.[478] This had the effect of allowing an internal affairs organ to carry out certain investigative tasks independently in urgent cases without a decision of the public prosecutor, although the latter had to be informed of such tasks. It also allowed for an internal affairs organ to order a 30 day detention of a suspect, after which, the person, together with the criminal report, was to be immediately taken before the

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468 Exhibit P66, Article 50.
469 Exhibit P66, Article 56; Vlastimir Đorđević, T 9518; *see* also Ljubinko Cvetić, T 6743-6744.
470 *I.e.* the crimes listed in Article 34, item 1 of the Law of Internal Affairs (Exhibit P66), namely: crimes against the constitutional order and security, the armed forces, economy or property or official duty, or criminal offences committed for personal gain or with dishonourable motives.
471 Exhibit P66, Article 45; Vlastimir Đorđević, T 9519.
472 Vlastimir Đorđević, T 9519-9520.
473 Vlastimir Đorđević, T 9520-9521.
474 Vlastimir Đorđević, T 9518-9519.
475 Vlastimir Đorđević, T 9517-9518; *see* also Vlastimir Đorđević, T 9522. Exhibit D281 is an example of a disciplinary report submitted by police station to a SUP chief. Exhibit D417 is a request, dated 26 March 1999, for the initiation of disciplinary proceedings made by the Chief of the SUP of Bor, Časlav Golubović, against an employee who committed a violation while working outside Bor SUP, as part of a PJP unit.
476 Vlastimir Đorđević, T 9522-9523.
477 Vlastimir Đorđević, T 9523.
478 Exhibit P200; *see* also Exhibit D933, p 18.

court having jurisdiction. Dragan Ilić, the chief of the Crime Police Administration, issued a dispatch on 6 April 1999, informing the SUP chiefs about these changes to criminal procedure.[479]

140. On 7 April 1999, the Decree on the Internal Affairs during a State of War was issued. The Decree envisaged additional serious violations that could be committed by MUP employees during a state of war, and stipulated the sanctions in relation to such offences. It also made disciplinary proceedings more urgent by way of certain procedural actions. Superiors, *i.e.*, chiefs of SUPs, could immediately discipline subordinates, especially for less serious violations.[480] The Decree stated that MUP employees were obliged to carry out all the orders of their superiors except orders that would require the commission of activities that constituted a criminal offence.[481] On 8 April 1999, the FRY Decree on the implementation of the Law on the Federal State Prosecutor During a State of War was issued, which provided that for the period of the war the Federal State Prosecutor could independently prosecute or directly take over prosecutions for crimes against the constitutional order and security of the FRY, crimes against humanity and other international law crimes, offences against the Army of Yugoslavia and any offences punishable by a minimum of five years imprisonment.[482] Vlastimir Đorđević sent a dispatch on 9 April 1999 informing the SUP chiefs of the Decree of 7 April 1999.[483] The Dispatch made clear that the Accused, as Chief of the RJB, had authorised the heads of organisational units to impose the prescribed measures and sentences for serious violations of employment obligations and duties.[484] Assistant Minister Petar Zeković sent another dispatch dated 21 April 1999 containing a further explanation of Đorđević's 9 April 1999 dispatch.[485] Đorđević testified that Zeković was "in charge of everything relating to the disciplinary court and higher disciplinary court".[486]

141. The Chamber received evidence that the Decree was implemented, at least in some cases. The chief of the SUP of Priština/Prishtinë issued a decision on 26 May 1999, in accordance with "Section 9 sub-section 3" of the "Decree on Internal Affairs during the State of War", terminating the employment of a police officer for having inflicted bodily harm and stolen from a civilian.[487] The chief of the criminal investigation department of SUP Priština/Prishtinë then submitted a criminal charge of this conduct to the District Prosecutor.[488] The conduct of the discharged policeman is also recorded in the summary of events of 19 May 1999, sent by the MUP Staff to the

[479] Exhibit D257; *see* also Exhibit D933, p 18.
[480] Exhibit P47; Vlastimir Đorđević, T 9521.
[481] Exhibit P47, Article 7; *see* also Exhibit D933, p 22.
[482] Exhibit P204, Article 2.
[483] Exhibit P1050.
[484] Exhibit P1050, p 2.
[485] Exhibit D262.
[486] Vlastimir Đorđević, T 9752.
[487] Exhibit D418; *see* Vlastimir Đorđević, T 9525-9526.
[488] Vlastimir Đorđević, T 9526; Exhibit D418, p 4.

leadership of the Ministry, *i.e.*, the Minister, Đorđević, Marković, and Krstić.[489] The Chief of the SUP in Belgrade issued a Decision on 7 June 1999 terminating the employment of a PJP member on the basis of violations committed by him during his service in Kosovo.[490] Đorđević testified that this was the principle of procedure whenever any breaches of work duty were established within a SUP.[491]

142. Notwithstanding the above, as discussed in detail in a separate part of the Judgement, the evidence overwhelmingly demonstrates that crimes committed by MUP staff against Kosovo Albanian civilians were generally unreported, not subject to any effective investigation, and there was a systematic failure on the part of the responsible authorities to prosecute and punish offenders.[492] In the Chamber's finding, this amounted to a pattern of non-investigation of incidents involving the killings of Kosovo Albanian civilians by the end of March 1999 which continued until the end of the Indictment period and thereafter.[493]

143. Where investigations of killings of Kosovo Albanians were conducted by the MUP during this period, the evidence indicates a deliberate manipulation to present false results with regard to the status of the victims as members of the KLA killed in combat.[494] Those criminal or disciplinary measures taken against members of the MUP were mostly related to property theft and confirm the finding that no effective investigations were conducted in regard to serious incidents in which large numbers of Kosovo Albanian civilians were killed.[495] Moreover, as discussed at length elsewhere in this Judgement, the evidence discloses that MUP personnel took measures to actively prevent the discovery of killings, and thereby any investigation and prosecution of perpetrators, including by removing bodies from the crime scenes, transporting them to other locations sometimes hundreds of kilometres away to MUP owned sites in Serbia, and reburying them in unmarked mass graves.[496] The result of this pattern of non-reporting, non-investigation, and the deliberate concealment of bodies of victims, was that the vast majority of the MUP perpetrators of the crimes established in this Judgement went unpunished.

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489 Vlastimir Đorđević, T 9528-9529; D418, p 10 first para under heading "3. Felonies committed".
490 Exhibit D419; Vlastimir Đorđević, T 9529-9530.
491 Vlastimir Đorđević, T 9529-9530.
492 *See infra*, paras 2083-2105, 2108.
493 *See infra*, paras 2102, 2108.
494 *See* Exhibits D803, D804, D806, D807; s*ee infra*, paras 2083-2105.
495 *See* Exhibits P1058, p 5; P1059, p 5; P696, p 5. *See infra*, para 2102.
496 *See infra*, paras 1967-1982.

B. The Yugoslav Army (VJ)

1. Legal framework

144. In 1998-1999, the Army of the Federal Republic of Yugoslavia (*Vojska Jugoslavije*) ("VJ") was recognised by the FRY Constitution adopted on 27 April 1992, which provided that the FRY "shall have an Army to defend its sovereignty, territory, independence, and constitutional order" and set out that a federal law should be adopted regulating the VJ.[497] The Law on the VJ was adopted on 18 May 1994.[498]

145. In addition, the FRY Law on Defence adopted on 27 May 1994 provided that the VJ was "the main armed force and organiser of the armed struggle and all other forms of armed resistance to the enemy" in the defence of the country, which "shall unite all participants in the armed struggle and command all combat activities".[499] In case of "an imminent threat of war, a state of war or a state of emergency", it was the duty of the President of the Republic, in accordance with the decisions of the Supreme Defence Council, to order measures of readiness, mobilisation and use of the VJ and actions of the VJ "in order to prevent and eliminate the threat to the defence and security of the country".[500] In 1998 the Supreme Defence Council ("SDC") was made up of the President of the Federal Republic – Slobodan Milošević – and the presidents of the member republics – the President of Serbia Milan Milutinović and the President of Montenegro Momir Djukanović.[501]

2. VJ structure

146. At the top of the military hierarchy was the President of the Federal Republic and the SDC. The Constitution provided that in both peacetime and wartime, the VJ would be under the command of the President of the Federal Republic pursuant to a decision of the SDC.[502] The FRY President was to preside over the SDC.[503]

147. Within the VJ itself, the "highest professional and staff organ" for the preparation and use of the VJ was the General Staff, composed of the Chief of the General Staff and his assistants and support staff.[504] It's job, *inter alia*, was to "determine the organisation, plan of development, and establishment of the commands, units, and institutions of the Army"[505] and to "issue rules, orders,

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497 Exhibit P129, Articles 133 and 134 respectively.
498 Exhibit P43.
499 Exhibit P44, Article 16.
500 Exhibit P44, Article 8.
501 Aleksandar Vasiljević, T 5655-5656.
502 Exhibit P129, Article 135. *See* also Exhibit P1440, p 96.
503 Exhibit P129, Article 135; Aleksandar Vasiljević, T 5655-5666.
504 Exhibit P43, Article 5; Exhibit P1440, p 97.
505 Exhibit P43, Article 5.

commands, instructions, and other documents" in order to "implement documents issued by the President of the Republic" and those pursuant to its own duties.[506]

148. The Chief of the General Staff in 1998 until 24 November 1998 was General Momčilo Perišić. He was replaced by General Dragoljub Ojdanić.[507]

149. The VJ was made up of the Land Forces, the Air Force and Anti-Aircraft Defence and the Navy.[508] The Land Forces were the principal force of the VJ. In 1998-1999, the Land Forces were divided into three Armies – the 1st Army, based in Belgrade, Serbia, the 2nd Army, based in Podgorica, Montenegro, and the 3rd Army, based in Niš, Serbia. The land army was divided into operational units (corps), combined tactical units (divisions, regiments and brigades), and basic tactical units (companies, batteries, battalions, artillery battalions).[509] In addition, military territorial organs (districts and sections) were formed for "the control of mobilisation, recruitment and other matters of administration, and for combat operations in a particular territory".[510]

150. Members of the VJ consisted of regular soldiers, soldiers performing their compulsory military service, students in military academies, students in secondary-level military schools, students attending schools for reserve officers and individuals in the Reserve Forces while they were performing their military service in the Army.[511] Volunteers could also reinforce the armed forces during a state of armed conflict.[512]

3. Command and control

(a) FRY President and Supreme Defence Council (SDC)/Supreme Command (SC)

151. As outlined above, the Constitution provided that the FRY President commanded the VJ in accordance with the decisions of the SDC.[513] The FRY Law on Defence outlined the mandate of the FRY President, "in accordance with the decisions of the Supreme Defence Council", to order the implementation of the country's defence plan, to command the VJ in wartime and peace, and to decide on the country's territorial division into military areas.[514] The Law on the VJ specified that the FRY President's duty to command the VJ "in accordance with the decisions of the Supreme Defence Council" included deciding on the deployment of the VJ and approving a plan for its use,

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506 Exhibit P43, Article 6; *See* also Exhibit P1440, pp 96-97.
507 Karol John Drewienkiewicz, Exhibit P996, para 63; Karol John Drewienkiewicz, T 6331.
508 Exhibit P43 (FRY Law on the VJ), Article 2; Exhibit P1440, p 99.
509 Exhibit P1440, p 99.
510 Exhibit P1440, p 100.
511 Exhibit P43, Article 9.
512 Exhibit P43, Article 15; Exhibit P44, Article 18.
513 Exhibit P129, Article 135.
514 Exhibit P44, Article 40.

regulating and ordering the readiness of the VJ in case of an imminent threat of war, state of war or state of emergency, issuing orders for the mobilisation of the army, and issuing basic regulations and other acts related to the deployment of the VJ.[515]

152. The SDC had the duty to adopt the country's defence plan, render decisions in accordance with which the FRY President commands the VJ, assess possible war and other dangers to the defence and security of the country, determine the equipment and weapons needed for the country's defence, determine the arrangement of the territory for the country's defence, determine the strategy of armed conflict and rules on the use of forces in the country's defence and the conduct of war, and approve the basic elements of training, plans and programs for the country's defence.[516] During wartime, the SDC became the Supreme Command (SC)[517] and the President of the FRY was referred to as the "Supreme Commander".[518]

(b) Federal Ministry of Defence and Military Territorial Organs

153. The Federal Ministry of Defence was responsible, *inter alia*, for preparing and planning general mobilisation, organising preparations for the country's defence and performing other duties as defined by the country's Defence Plan.[519] Mobilisation was organised by the Ministry of Defence through military territorial organs. Each Military District (*Vojni Okrug*) consisted of a number of Military Departments (*Vojni Odsek*). Each municipality was covered by a Military Department which kept records of recruitment and who was sent to the VJ.[520] In Kosovo there was one Military District, located in Priština/Prishtinë. The commander of the Priština Military District was Colonel Zlatomir Pešić.

154. The Priština Military District controlled five Military Departments: Priština/Prishtinë, Prizren, Peć/Pejë, Gnjilane/Gjilan, and Kosovska Mitrovica/Mitrovicë. The Military District oversaw the Military Departments and reported to the Ministry of Defence in Belgrade.[521] Each Military Department controlled a number of Military Territorial Detachments. In Kosovo in early 1999 there were 24 Military Territorial Detachments in total. The Military Territorial Detachments were composed of reservists, and were sometimes referred to as the "Territorial Defence".[522] After

[515] Exhibit P43, Article 4(3)-(6).
[516] Exhibit P44, Article 41(1)-(8).
[517] Milovan Vlajković, Exhibit D602 (*Milutinović* transcript), T 16091-16092.
[518] Aleksandar Vasiljević, T 5654-5656; Milovan Vlajković, Exhibit D602 (*Milutinović* transcript), T 16093.
[519] Exhibit P44, Article 43.
[520] Nike Peraj, Exhibit P313, para 18.
[521] Nike Peraj, Exhibit P313, para 19.
[522] The Chamber notes that there is some inaccuracy in the evidence of Nike Peraj with regard to what he refers to as "Territorial Defence". He refers to Nikola Mičunović as the "operational commander of the Territorial Defence for Đakovica/Gjakovë" and later as the "VJ major commanding the reservist units of the Territorial Defence". Nike Peraj, Exhibit P313, paras 36 and 59. A Priština Corps document (Exhibit P900) dated 31 March 1999 indicates

24 March 1999, these were re-subordinated to various Priština Corps units. An order of 27 March 1999 signed by Colonel Zlatomir Pesić tasked the Priština Military Sector with protecting the Serbian population, guarding roads and military installations, preventing operations by the KLA, and being "in a state of readiness to conduct PDB/anti-landing combat".[523] An order of the Supreme Command Staff dated 31 March 1999 provided that in order to "facilitate effective counteraction" against terrorist forces in Kosovo a wartime Military Territorial detachment should be formed comprising a command and three territorial companies as part of the Priština Military district with Colonel Ristić as coordinator of such detachment.[524] The order provided that the detachment should be "brought up to strength" by the military district of Priština with "unassigned conscripts" of Albanian ethnicity living in Kosovo. Aleksandar Vasiljević commented that during his tour of security organs in Kosovo he had received briefs from security organs who were Albanians and had been appointed to those roles during peacetime, although he found it strange that Albanians would be included in the ranks after the war had started.[525] The military territorial department nonetheless remained 99 per cent Serb.[526]

(c) VJ General Staff

155. As noted above, in 1998-1999, the General Staff was the highest military command body immediately subordinate to the civilian leadership.[527] During a state of war the General Staff became known as the Supreme Command Staff.[528] This occurred in March 1999. From 24 November 1998, General Dragoljub Ojdanić was the Chief of the General Staff,[529] the highest ranking military officer in the VJ.[530] His function was to command the VJ through the issuing of orders to strategic units and other officers of the VJ immediately subordinate to him in order to accomplish the directives of the FRY President.[531] On 23 March 1999 new SDC Rules of Procedure were adopted which required the attendance of the Chief of the General Staff at SDC sessions and which authorised him to convene sessions of the SDC and to propose items for the agenda.[532]

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that Mičunović was the commander of the Đakovica/Gjakovë Military Territorial Detachment. This was confirmed by Miloš Đošan. Miloš Đošan, T 1141.

523 Exhibit P896.

524 Exhibit D181.

525 Aleksandar Vasiljević, T 5848.

526 Aleksandar Vasiljević, T 5849.

527 Exhibit P43, Article 5.

528 Aleksandar Vasiljević, T 5656.

529 Exhibit P1363, pp 3-5; Aleksandar Vasiljević, T 5656, 5658.

530 Exhibit P43, Article 5.

531 Exhibit P43, Article 6; Exhibit P1440, p 97.

532 Exhibit P1468, Articles 3 and 5 respectively.

156. According to the Command and Control Manual, the VJ operated under the principle of unity and singleness of command.[533] The principle of unity entailed that all the component sections of the VJ had a united and harmonised establishment and understanding of assignments, and was ensured by the "Supreme Council of the Defence of FRY".[534] The principle of singleness of command determined that there was only ever one commander with responsibility for the tasks assigned in each level of the chain of command.[535] Subordinates were required to execute orders issued by superior officers "except if the carrying out of the order would be a criminal act", in which case the service member was required to "immediately report such order to a superior commanding officer or an officer of a higher rank than the officer who issued the order".[536] In 1998-1999 the VJ was an organised and disciplined military force and had an effective working command and control structure in practice.[537] Those who volunteered to serve with the VJ were also required to adhere to the system of command and control.[538] In practice, however, there was a lack of discipline among volunteers and a lack of commanders in the field.[539]

4. VJ forces in Kosovo in 1998-1999

157. The 1st, 2nd and 3rd Armies were the operational groups subordinated to the General Staff in 1998-1999. The 3rd Army's zone of responsibility covered southern Serbia. It was divided into two corps, the Niš Corps and the Priština Corps.[540] These two corps comprised a number of brigades, battalions, and service regiments. The Priština Corps had responsibility over the territory of Kosovo.[541] The Commander of the Priština Corps in 1999 was General Vladimir Lazarević, who assumed this post on 9 January 1999.[542]

158. The Priština Corps, an element of the 3rd Army, was the primary VJ unit in Kosovo with a headquarters in Priština/Prishtinë. There was no engagement of the Priština Corps without the approval of the 3rd Army commander.[543] In 1998 General Nebošja Pavković was the Commander and General Vladimir Lazarević was the Chief of Staff of the VJ Priština Corps. On 9 January 1999, General Lazarević took over as Commander when General Nebošja Pavković was

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533 Exhibit P1440, pp 61-62.
534 Exhibit P1440, p 63.
535 Exhibit P1440, p 62.
536 Exhibit P43, Article 37.
537 Joseph Maisonneuve, Exhibit P851, para 21.
538 K90, Exhibit P322 (*Milutinović* transcript) T 9277.
539 K90, Exhibit P322 (*Milutinović* transcript) T 9275-9276.
540 Aleksandar Vasiljević, T 5658.
541 Aleksandar Vasiljević, T 5659.
542 Exhibit P1343, p 8; Exhibit P1494; Nike Peraj, Exhibit P313, para 6; Aleksandar Vasiljević, T 5659.
543 *See* Exhibit D323, a request for additional explanation on using units of the Corps from General Pavković to the 3rd Army Command, dated 31 July 1998; Milan Đaković, T 8018.

appointed commander of the VJ 3rd Army in Niš.[544] The Chief of Staff of the Priština Corps from this time and throughout the Indictment period was Veroljub Zivković.[545]

159. The Priština Corps consisted of 12 brigades, each of which had responsibility for a particular area within Kosovo in 1999.[546] These included: the 15th Armoured Brigade, the 125th Motorised Brigade, the 243rd Mechanised Brigade, the 549th Motorised Brigade,[547] the 52nd Mixed Artillery Brigade,[548] the 52nd Air Defence Artillery Rocket Brigade, the 37th Motorised Brigade[549] and the 211th Armoured Brigade.

160. At the commencement of the NATO bombing campaign on 24 March 1999 there were less than 18,000 men in the Priština Corps.[550] This position changed dramatically after the commencement of the NATO campaign, no doubt because a NATO land invasion of Kosovo was anticipated. By 13 April 1999 there were 61,892 members of the Priština Corps, inclusive of re-subordinated units and volunteers.[551]

161. The brigades were composed of battalions, detachments and platoons. In each platoon there were 40-60 men.[552] Each infantry platoon had two 120 millimetre mortars,[553] with a firing range of 9.7 to 9.8 kilometres,[554] and the men were armed with automatic rifles and machine-guns.[555] Combat units were equipped with howitzers (artillery weapons), tanks and other armoured military vehicles, Pragas and other transport vehicles.[556]

162. VJ soldiers were obliged to wear uniforms when the rules of service so required.[557] Regular VJ units wore camouflage uniforms that were principally green, which carried VJ insignia on the upper left arm.[558] The regular VJ insignia depicted a double-headed eagle above the FRY flag. The

544 Nike Peraj, Exhibit P313 para 6; Milan Đaković, T 7873; Aleksandar Vasiljević, T 5659.
545 Miloš Đošan, T 11440.
546 Exhibit P1366.
547 Exhibit P1391, p 1.
548 Exhibit P1441, p 4.
549 Exhibit P1443.
550 Exhibit P1441, p 3. As at 31 March there were 17,971 men in the Corps.
551 Exhibit P948, p 2; Exhibit P1331, p 11.
552 K73, Exhibit P332 (*Milutinović* transcript), T 3433.
553 K89, Exhibit P1274 (*Milutinović* transcript), T 9119.
554 K89, Exhibit P1274 (*Milutinović* transcript), T 9120-9122.
555 K89, Exhibit P1274, T 9125-9126.
556 K54, Exhibit P782, p 2; K54, T4371; Joseph Maisonneuve, Exhibit P851, para 37; Joseph Maisonneuve, Exhibit P853 (*Milutinović* transcript), T 11056-11057.
557 Exhibit P43, Article 32.
558 K82, Exhibit P1315, para 2; K73, Exhibit P331-A, para 12.

eagle wings pointed downwards, and were lined with golden details.[559] Specific VJ Corps often wore their own unique insignia.[560]

163. The VJ were equipped with T-55 tanks, Pragas (anti-aircraft artillery), BDRM-2s (armoured reconnaissance vehicles), M 84 and T84 tanks, and a series of other heavy artillery, tanks and APCs.[561] As discussed elsewhere in this Judgement, from early April 1998 onwards, VJ started to repaint many of their vehicles in MUP blue (from VJ green).[562] The green, however, was often visible through the blue layer of paint. Vehicles repainted in this way included the BOV-3 (an air defence weapon), the BOV-M (a troop carrier) and the M80 (an APC).[563] In addition, the VJ used heavier 120 millimetre mortars.[564]

(a) Military police

164. Military police units were engaged in Kosovo during the Indictment period.[565] The military police was composed of different units, some dealing with internal affairs, others with military traffic control, and others with anti-terrorist actions.[566] The military police also provided security details for senior VJ officials and officers, including the Corps Commander and the Chief of Staff of the Corps. Security was provided through the military police units under the control of the Chief of the Security Section in the Command of the Priština Corps, Momir Stojanović.[567]

165. In June 1998, because of the complex security situation on the state border with the Republic of Albania and the overall security situation in the Kosovo, the security administration of the army reinforced the organs of the Priština Corps by sending some experienced operations officers. From that time, military security service organs were present in all the organisational units of the Priština Corps.[568] The "terrorist-related" tasks of the military security service organs were to detect, document and stop anti-terrorist, subversive and any other illegal activities in commands, units and installations of the Priština Corps or aimed against them.[569]

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559 K73, T 1514; K82, Exhibit P1315, para 2; Exhibit P327 (photograph no 3 depicts VJ insignia).
560 K73, T 1514.
561 John Crosland, Exhibit P1400, paras 55, 65, 68; John Crosland, Exhibit P1401 (*Milutinović* transcript), T 9764.
562 John Crosland, Exhibit P1400, para 33. The Chamber has found elsewhere in this judgement that the VJ equipment was being painted in MUP colours to disguise the operations of the VJ as MUP operations, *see infra,* para 276.
563 John Crosland, Exhibit P1400, paras 33; John Crosland, Exhibit P1401 (*Milutinović* transcript), T 9764.
564 K25, Exhibit P340-A, p 6.
565 Exhibit P1381.
566 K73, Exhibit P332 (*Milutinović* transcript), T 3296.
567 Momir Stojanović, T 11826-11827.
568 Exhibit D723; Momir Stojanović, T 19685.
569 Exhibit D723, Momir Stojanović, T 19685.

166. Within the VJ, there were two elite Special Forces units dealing specifically with anti-terrorist activities: the 63rd Parachute (or Air-borne) Brigade and the 72nd Special Brigade.[570] In addition, the anti-terrorist unit of the 52nd Battalion of the Military Police was a special unit tasked with anti-terrorist activities.[571] All three units were active in Kosovo during the Indictment period, being re-subordinated to the command of the Priština Corps. "Instructions for the engagement of military police units in combat" were sent by the VJ General Staff on 14 May 1999.[572] The Instructions noted that there "have been certain deviations from the basic purpose and tasks of the military police, which in consequence is less efficient and has unnecessary losses".[573] They specified that in combat activities, "military police units should primarily be used for [...] mopping up, control of the territory by organising control checkpoints and 'cruise' patrols, sniping and anti-sniping activities in combat with terrorists and the forward line of defence, whereas special military police units should be used for both offensive and defensive antiterrorist activities".[574] Special military police units functioned in the 72nd Special Brigade, the 63rd Parachute Brigade, and special purpose companies and platoons in military police battalions.[575]

167. Under direct General Staff command, the 72nd Special Brigade had an anti-terrorist battalion as well as a scouting sabotage battalion. Both the 72nd Special Brigade and the 63rd Parachute Brigade were part of the Special Forces Corps, stationed in Belgrade.[576] However, in early 1999, the anti-terrorist battalion of the 72nd Special Brigade was resubordinated to the 52nd Military Police Battalion of the Priština Corps.[577] According to Momir Stojanović, the Chief of the Security Section in the Command of the Priština Corps, the battalion was commanded by Lieutenant-Colonel Jovanović.[578] However, the balance of the evidence suggests that Stojanović himself took overall command of the anti-terrorist battalion of the 72nd Special Brigade and other anti-terrorist detachments at least on some occasions during the Indictment period. K73, whom the Chamber finds to be generally reliable, gave evidence that the battalion of the 72nd Special Brigade and the

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570 K73, Exhibit P332 (*Milutinović* transcript), T 3312; Momir Stojanović, T 11908-11910; *see* also Exhibit P1381, p 3, footnote 4.
571 K73, Exhibit P332 (*Milutinović* transcript), T 3294-3295; K73, T 1505-1506.
572 Exhibit P1381.
573 Exhibit P1381, pp 1-2.
574 Exhibit P1381, p 3. The Instructions define "offensive anti-terrorist tasks" as all those activities against terrorists before they start their activities, such as gathering intelligence (counter-intelligence) on terrorists including reconnaissance of the area and facilities, attack (raid) on training centres or base regions, ambush activities in the area which the terrorists consider their own secure area, carried out primarily in a state of war or in imminent threat of war and in state of emergency. "Defensive anti-terrorist tasks" are defined as those which are carried out after terrorist activities and include the releasing of hostages, suppressing resistance of armed persons – terrorists, blockade of the area and facilities, and search of the area and facilities.
575 Exhibit P1381, p 3, footnote 4.
576 Momir Stojanović, T 11843.
577 Exhibit P1341, p 16; Momir Stojanović, T 11814.
578 Momir Stojanović, T 11814.

anti-terrorist unit of the 52nd Battalion of the Military Police, under the command of Stojanović,[579] at the end of January or beginning of February 1999, were deployed in Đeneral Janković in Kačanik/Kaçanik municipality.[580] After that operation the MUP anti-terrorist unit and the battalion of the 72nd Special Brigade were sent for a month to Našec which was situated near Prizren,[581] tasked with conducting reconnaissance operations around Albanian villages.[582] According to K73, at some point during the operations, Stojanović ordered the two units to ambush Serb and Albanian civilian vehicles for the purpose of attributing the attacks to the KLA although the order was not carried out because the commander of the battalion of the 72nd Special Brigade refused to do so.[583] Stojanović denied this evidence, stating that pursuant to orders by the corps commander, he went to the Prizren garrison to take the battalion to a children's resort on the banks of the Drim River. In his evidence, the battalion was used for in-depth securing activities of the state border near Mount Pastrik where the border offices could no longer withstand attacks by the "terrorists".[584] For reasons explained elsewhere, the Chamber is not able to accept Stojanović's contention that he never commanded VJ units, including the 72nd Special Brigade.[585] It notes that Stojanović admitted to being assigned to move the location of the anti-terrorist units, which indicates a command position. It further takes into account K73's evidence that although it was not usual that a chief of security would command units engaged in combat, in 1999 all the military police units were subordinated to Stojanović and received orders from him.[586] In addition, the war diary of the 52nd Military Police Battalion recorded that on 13 April 1999, a special unit of this battalion was "tasked" by the Chief of the Priština Corps Security Department, *i.e.* Stojanović, to capture a border post in Kamenica (Albania).[587] This demonstrates, in the Chamber's finding, that Stojanović was in a position to, and did, command anti-terrorist units during the Indictment period.

168. Military police were also used to man checkpoints, covering the area of deployment of the respective VJ units in Kosovo.[588] From at least early April 1999, checkpoints throughout Kosovo were manned both by military police units and by MUP forces (mixed checkpoints).[589]

169. VJ Special Forces operating within Kosovo during the Indictment period often wore insignia and carried weaponry that made them distinguishable from regular VJ units. In addition to green

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579 K73, Exhibit P330, para 33; K73, Exhibit P332 (*Milutinović* transcript), T 3314.
580 K73, Exhibit P330, para 31; K73, Exhibit P332 (*Milutinović* transcript), T 3312.
581 K73, Exhibit P330, para 31.
582 K73, Exhibit P330, para 32; K73, Exhibit P332 (*Milutinović* transcript), T 3313, 3354.
583 K73, Exhibit P330, para 33; K73, Exhibit P332 (*Milutinović* transcript), T 3315.
584 Momir Stojanović, T 11908-11910.
585 *See infra*, paras 942-943.
586 K73, Exhibit P332 (*Milutinović* transcript), T 3314.
587 Exhibit P338, p 6.
588 Momir Stojanović, Exhibit D723 (*Milutinović* transcript), T 19758.
589 Exhibit P946, para 5.

camouflage uniforms, VJ Special Forces – including the 63rd Parachute Brigade, the Special Corp and the Military Police – often wore extra items of uniform and kit.[590] They wore plain grey or green combat vests, black berets,[591] camouflage "Panama" helmets, black face-nets and black gloves.[592] In addition to these items of uniform, the Military Police also wore white belts.[593]

170. The 63rd Parachute Brigade's insignia, which was worn on the sleeve, could be distinguished by the eagle's wings – which pointed upwards – and by it's depiction of a parachute and the number "63" between the eagle's wings.[594]

171. The Special Corp's insignia could also be identified by the wings which pointed upwards.[595]

172. Members of the VJ military police wore a unique round insignia[596] which depicted a double-headed eagle on a black background with the wings pointed upwards, and carried gold letters above the eagle, spelling "Military Police" in Cyrillic.[597]

173. The military police had several types of personal weapons at their disposal, including CZ-99 pistols, standard M-70s, AB-2 automatic rifles, Heckler Koch MP5 Ks, pump-action shotguns, sniper-rifles and crossbows.[598]

(b) VJ reservists

174. VJ units consisted of regular VJ members and reservists.[599] The reserve forces consisted of military conscripts under the age of 60 who had completed their compulsory military service or who had fulfilled their obligation to do their compulsory military service in some other way.[600] Military conscripts could also be called to carry out military exercises in police units.[601] Reservists were registered by the competent territorial military organ and were issued with identity cards.[602]

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590 K73, Exhibit P332 (*Milutinović* transcript), T 3303; Exhibit P333 (photograph depicts VJ special forces standing atop an army vehicle).
591 Michael Phillips, T 8696.
592 K73, Exhibit P332 (*Milutinović* transcript), T 3303; Exhibit P333 (photograph depicts VJ special forces standing atop an army vehicle).
593 K73, Exhibit P332 (*Milutinović* transcript), T 3297.
594 K73, T 1514. Exhibit P327 (photograph no 1 depicts the 63rd Parachute Brigade's insignia, and photograph no 2 depicts the VJ Special Corp insignia).
595 K73, T 1514. Exhibit P327 (photograph no 1 depicts the 63rd Parachute Brigade's insignia, and photograph no 2 depicts the VJ Special Corp insignia).
596 K73, T 1514; K90, T 1364; Exhibit P327 (photograph no 4 depicts Military Police insignia).
597 Exhibit P327 (photograph no 4 depicts Military Police insignia).
598 K73, Exhibit P332 (*Milutinović* transcript), T 3298-3299, 3302; Exhibit P333 (photograph depicts VJ Military Police standing atop an army vehicle).
599 Exhibit P43, Article 7.
600 Exhibit P43, Article 315. *See* also Exhibit P129, Article 137.
601 Exhibit P43, Article 317.
602 Exhibit P43, Articles 329 and 331.

175. Pursuant to an order from the Priština Corps Command dated 26 June 1998, weapons and ammunition were distributed to military conscripts within the area of responsibility of the Priština Corps Command, the Priština Military District and the 202nd logistics base.[603] Aleksandar Vasiljević commented that because the "terrorist forces" were very active during that time, a decision was made to issue reserve forces with weapons.[604] At a Collegium of the VJ General Staff in February 1999, Samardžić informed the participants that some 47,000 Serbs had been armed and that commanders at all levels had been sent out to the villages with ammunition. He explained that the role and assignments of the "armed Serbs" was to defend their villages and participate with VJ units in any operations in the immediate vicinity.[605]

176. VJ reservists wore either plain/solid green uniforms or regular VJ green camouflage uniforms.[606] The plain/solid uniforms were also described as SMB[607] uniforms. VJ reservists could usually be distinguished from regular VJ units in several ways; in particular, reservists often had beards and looked unkempt, whereas VJ generally did not.[608] The local reservists carried automatic weapons.[609]

5. Reporting procedure

177. Commanders of all VJ units starting with the brigades up to the Supreme Command Staff were required to send daily combat reports to their superiors and, in seven to 10 day intervals, summary reports about the activities of the army and the MUP, if there had been joint activities.[610] All units had to follow a checklist of issues to report on.[611] In particular, if a VJ officer received an order the carrying out of which would represent a criminal act, he was required to immediately report such order to a superior commanding officer or an officer of a higher rank than the officer who issued the order.[612] Commanders were under an obligation to report up the chain of command whenever they learned of any crimes that had occurred during the course of anti-terrorist operations or combat activities.[613] The reports also had to include any problems in combat actions or

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603 Exhibit P901; Aleksandar Vasiljević, T 5946-5947.
604 Aleksandar Vasiljević, T 5947.
605 Exhibit P1333, p 23.
606 K25, Exhibit 340, p 20.
607 Hysni Berisha, T 3355-3356; Mahmut Halimi, T 2957. The SMB colour appears to be a reference in BCS to an olive-green/grey colour, Nike Peraj, T 1232; *see* also Mahmut Halimi, T 2957. The reference to SMB colour is a reference to one solid colour, Hysni Kryeziu, T 5581; Avdyl Mazreku, T 6192.
608 K73, T 1512.
609 K25, Exhibit P342 (*Milutinović* transcript), T 4681.
610 Milan Đaković, T 7927. *See* Exhibits P1230 and 1231. *See* also Exhibits D322, D187, D345.
611 Milan Đaković, T 7927-7928.
612 Exhibit P43, Article 37.
613 Milan Đaković, T 7932. *See* Exhibit P1233, "an annex to the report regarding incidents resulting in death and use of critical ammunition" dated 5 October 1998, from General Pavković to the 3rd Army IKM. Paragraph 2, p 4 of the English version refers to an alleged massacre against the civilian population of the village of Gornje Obrinje/Obri e Eperme (Glogovac/Gllogocon) on 26 and 27 of September 1998.

disciplinary matters.[614] If a VJ officer learned of a non-member of the VJ committing a crime, he was required to report that to his superior officer or the MUP organ in the territory or the Prosecution service in that territory who would deal with it together with the MUP.[615]

178. Evidence indicates that the reporting obligations were complied with in part during the Indictment period in the sense that combat reports were regularly sent and that the Chief of Staff received daily briefings on the situation in the field and the activities of the Priština Corps.[616] Nike Peraj explained how reports from the units in the field were transmitted to the VJ headquarters in Niš and then to Belgrade. In the case of the 52nd Rocket Artillery Brigade of the VJ, stationed in the municipality of Đakovica/Gjakovë in March-April 1999, Colonel Branko Kotur in the VJ Corps headquarters collected reports from commanders in the field. This information would then be passed along to General Dušan Samardžić in the VJ headquarters in Niš. Information from Niš was then sent to the Ministry of Defence in Belgrade.[617] General Pavković, Commander of the Priština Corps, regularly reported to the Supreme Command Staff (General Staff) by daily combat reports.[618]

179. There were some irregularities in the line of reporting in 1999. Aleksandar Vasiljević gave evidence that Pavković communicated with the President of the Supreme Defence Council, Slobodan Milošević, without informing his immediate superior, General Ojdanić.[619] Ojdanić told Vasiljević that Pavković also frequently reported to Nikola Šainović who was in the Joint Command in Priština/Prishtinë instead of reporting to Ojdanić.[620]

180. Aleksandar Vasiljević testified that based on the regular reporting lines information originating from the Priština Corps Security organ should be written down and sent to the Security Department of the 3rd Army. The Security Department would then decide whether to report that to the Security Administration.[621] Vasiljević also received information orally, outside the regular lines of reporting.[622]

181. As discussed in detail in a separate part of the Judgement, despite the specific obligation on VJ members to report about criminal orders given by superiors and/or of crimes committed by VJ or MUP members in the field, the reporting of crimes committed by VJ officers or MUP personnel

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614 Milan Đaković, T 8071. *See* Exhibit D345.
615 Aleksandar Vasiljević, T 5738-5739.
616 Milan Đaković, T 7927-7928.
617 Nike Peraj, Exhibit P313, para 28.
618 Aleksandar Vasiljević, T 5660.
619 Aleksandar Vasiljević, T 5661.
620 Aleksandar Vasiljević, T 5665.
621 Aleksandar Vasiljević, T 5671.
622 Aleksandar Vasiljević, T 5662; 5671.

against the civilian population in Kosovo in 1999 was minimal.[623] Milan Đaković testified that reports about irregularities in the field in Kosovo in 1999 were received occasionally but not with such regularity that there appeared to be a major problem. He recounted three incidents involving crimes committed by VJ officers in Kosovo against Kosovo Albanians in 1999, all of which resulted in investigations and prosecutions being conducted.[624] Other evidence indicates there were instances where crimes committed by VJ officers against Kosovo Albanian civilians were reported, sometimes followed by an investigation and prosecution.[625] However, the Chamber notes that the numbers and types of crimes and VJ perpetrators dealt with in this evidence contrasts dramatically with its findings, set out in Section VI of the Judgement, as to the large number of serious crimes committed against Kosovo Albanian civilians during operations in which the VJ participated. The entirety of evidence on the matters reported by VJ units indicates very clearly in the Chamber's finding that such crimes were severely under-reported.[626] In the Chamber's view, the reasonable inference of the failure to include such information in the official reports is that there was an intention to conceal the commission of crimes by members of the VJ.[627]

6. Disciplinary and criminal procedures in the VJ

182. The Constitution of the FRY provided that military tribunals and military prosecutors shall be established under federal statute.[628] Military tribunals were independent and adjudicated on the basis of federal legislation.[629] In accordance with Article 30 of the Law of the Army of Yugoslavia, the organs of the military service, including the military police, had the same rights, powers and duties as the regular police of the MUP. Pursuant to the Law on Criminal Procedure and the Law on Military Courts, the organs of the military security service participated in the actions that preceded the institution of criminal proceedings. The powers of the organs of the military security

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623 *See infra*, paras 2106-2107.

624 One incident concerned two Albanian citizens having been killed in Kosovo Polje/Fushë Kosovë by three members of the VJ 37th Motorised Brigade. According to Đaković, the command was informed about this incident, the General ordered Colonel Stojanović to arrest these men and an investigation was conducted. Milan Đaković, T 8150. He stated that there was also such a response in relation to an incident involving killings in Lipljani. Milan Đaković, T 8151. The third incident concerned the killing of a Kosovo Albanian family in Žegra/Zhegër village in 1999 by members of the reserve force of the VJ 175th Infantry Brigade based in Gnjilane/Gjilan. General Pavković ordered Đaković to go to Gnjilane/Gjilan and the brigade commander was replaced. Those responsible were prosecuted and the senior officers were replaced. Đaković believed that these reservists were each given several years imprisonment for the killing of the civilians in Žegra/Zhegër. Milan Đaković, T 8152)

625 *See* Exhibits D507-D511 and Exhibit P964. *See* also Exhibits P1394, p 2; P951, p 2; P1378, p 3; P946, p 2; P1390, p 4.

626 Radomir Gojović, until 16 April 1999 the President of the military court in Belgrade, and thereafter, the Chief of the Legal Department of the Ministry of Defence, testified that there was an atmosphere of fear and a reluctance to report crimes. *See* Radomir Gojović, Exhibit D496 (*Milutinović* transcript), T 16685.

627 *See infra*, paras 2108.

628 Exhibit P129, Article 138.

629 Exhibit P129, Article 138; Exhibit P53, Article 2.

service could be used against all the personnel of the VJ and all those persons involved in hostile activities targeting the commands, units, and installations of the VJ.[630]

183. Military courts tried cases involving criminal acts committed by servicemen (comprising soldiers doing compulsory military service or working under a contract, military academy and military college students, members of the reserve force, and civilians performing specific military duties[631]), specific criminal acts relating to the defence and security of the country committed by other persons, and disputes relating to service in the VJ.[632]

184. The military courts of first instance were based in Belgrade, Niš (covering all the municipalities of Kosovo) and Podgorica.[633] In time of war, however, military courts of first instance ceased to work, while the Supreme Military Court continued work in the seat of the Supreme Command Headquarters.[634] As opposed to being established according to territorial jurisdiction as was the case in time of peace, during armed conflict military courts of first instance were established at the command headquarters of military districts, corps, armies, the Air Force and Air Defence Command Headquarters and the Naval Command Headquarters.[635] The Military Supreme Court continued its work at the Supreme Command Staff headquarters and departments of this court were formed at Army Commands.[636] The president, judges of military courts and judge-jurors of military courts of first instance were appointed by the FRY President at the proposal of the Chief of Staff of the Supreme Command (as opposed to the proposal of the Federal Minister of Defence in time of peace).[637] Departments of the Supreme Military Prosecutor were formed at army commands.[638] Military Courts of First Instance had territorial jurisdiction to try persons from the units or command where they were formed.[639] Military Courts at military district commands had jurisdiction over "persons from the organisational strength of the military district" as well as civilians who committed crimes within the subject-matter jurisdiction of military courts in the territory of the military district.[640]

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630 Momir Stojanović, Exhibit D723 (*Milutinović* transcript), T 19686.
631 Exhibit P53, Article 6.
632 Exhibit P53, Article 1.
633 Exhibit P53, Article 8.
634 Exhibit P53, Article 74.
635 Exhibit P53, Article 74. Radomir Gojović, Exhibit D496 (*Milutinović* transcript), T 16654; Radomir Gojović, T 10039-10340.
636 Exhibit P174, p 3, Article 1.
637 Exhibit P53, Articles 26 and 75.
638 Exhibit P174, p 1, Article 2.
639 Exhibit P174, p 3, Article 4.
640 Exhibit P174, p 3, Article 4.

185. On 25 March 1999, the VJ General Staff issued an order to mobilise war time military courts and prosecutors in the organisational structure of VJ commands and units[641] and upon the proclamation of war, the Chief of the General Staff issued an order on the establishment of military courts and prosecutors, linked to the unit commands of the 1st, 2nd and 3rd Armies, the naval military command, the air force command, the corps command, as well as at the level of the military district commands.[642] In 1998 and 1999, the military security service organs were present in all organizational units of the Priština Corps down to the level of the independent battalion.[643] Because the courts and prosecutors were attached to specific units, they only prosecuted members of a specific command, not according to the territory in which they operated.[644] Military courts were, moreover, adapted to wartime conditions so that they could perform their work out in the field.[645]

186. A Supreme Command Staff report on the work of military legal organs was prepared by the Legal Affairs Department of the VJ Staff Administration dated 12 May 1999.[646] The cover letter to the report dated 14 May 1999 stated that the Supreme Command Staff attributed a lot of importance to the work of the military judicial organs. An Order from the Supreme Command Staff to the 3rd Army Command dated 22 May 1999 instructed the 3rd Army Command to inform its members of the content of guidelines which had been compiled on the "operation, procedure, authorization and responsibilities of the military judiciary and other organs with regard to the detection of crimes, their perpetrators, initiating criminal proceedings and adjudicating".[647] A document from the Supreme Command Staff dated 8 June 1999 set out, among other things, the priorities in conducting criminal proceedings (number one priority being the criminal proceedings on violations of the provisions of international law).[648]

187. Evidence indicates that the system for investigating and prosecuting crimes committed by VJ personnel in Kosovo was in place in 1999 and processed a number of cases. Aleksandar Vasiljević, Deputy Head of the Security Service of the VJ gave evidence that while he was in Kosovo, sometime between 17 May 1999 and 6 June 1999, he and General Gajić, the assistant for counter-intelligence, contacted 12 security officers from various units (from independent battalions up to the Priština Corps) in order to gather information, which resulted in 42 cases (involving approximately 100 perpetrators[649]) being registered concerning crimes allegedly committed by

641 Exhibit D199.
642 Radomir Gojović, T 10339-10340.
643 Momir Stojanović, Exhibit D723 (*Milutinović* transcript), T 19685.
644 Radomir Gojović, T 10339-10340.
645 Radomir Gojović, T 10341.
646 Exhibit D200.
647 Exhibit D201.
648 Exhibit D202; Aleksandar Vasiljević, T 5875.
649 Aleksandar Vasiljević, T 5943.

military personnel, mostly in April 1999.[650] The crimes included murders of three to four people, rapes of under-aged girls, volunteers in the VJ murdering seven Kosovo Albanians in Gornja Klina/Klinë-e-Epermë, VJ members breaking into houses and maltreating inhabitants, and the case of a soldier at a checkpoint in Prizren who at the request of a policeman killed an elderly Albanian.[651] By June 1999, all but one case had been processed.[652] Vasiljević handed his report to the Head of the Security Administration, Geza Farkas. He believed that Farkas handed the report to the Chief of General Staff, General Ojdanić, who, in turn, passed it to President Slobodan Milošević.[653] Vasiljević later discovered that the report had not been archived.[654]

188. A "report on criminal proceedings instituted by the military judicial organs against VJ members for acts in contravention of the norms of humanitarian law" of the VJ Supreme Military Prosecutor provided to the OSCE Mission to Serbia and Montenegro dated 9 April 2002 indicates that from 1 June 1998 to 27 June 1999, military judicial organs instituted criminal proceedings against 305 persons for war crimes. Of these, 38 persons were tried for "crimes against humanity and the international law, against life and limb and for crimes of personal and moral degradation", while the remaining 267 persons were tried for property crimes.[655] The cases included in Vasiljević's report appear to be included in these figures. For the remaining cases related to war crimes, unlawful killing and wounding, murder, and rape of Kosovo Albanian persons by VJ members, after the charges were brought, the cases were deferred to the relevant district court or dropped due to lack of evidence.[656] The Chamber did not receive evidence related to the outcome of the cases deferred to the district courts.

189. The law prescribes that at the close of an armed conflict, the work of First-Instance Military Prosecutors ceases and the cases should be transferred to First-Instance Military Prosecutors with territorial jurisdiction;[657] similarly, military courts formed at the individual units would cease and military courts of first instance would transfer the incomplete cases to authorised military courts of first instance under Article 8 of the Law on Military Courts, *i.e.* according to territorial jurisdiction.[658] However, since the cases mentioned above in the report were against reservists still at the investigative stages, they were transferred to the civilian courts.[659] The evidence indicates

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650 Aleksandar Vasiljević, T 5731. *See* also Exhibit P964.
651 Aleksandar Vasiljević, T 5730-5731. *See* also Exhibit P964.
652 Aleksandar Vasiljević, T 5731; 5857.
653 Aleksandar Vasiljević, T 5833.
654 Aleksandar Vasiljević, T 5944.
655 Exhibit P964, p 1.
656 Exhibit P964, pp 2-6.
657 Exhibit P174, p 2, Article 7.
658 Exhibit P174, p 4, Article 7.
659 Radomir Gojović, Exhibit D496 (*Milutinović* transcript), T 16689. 16723, 16728-16730; Radomir Gojović, T 10380, 10384, 10402-10404. Gojović testified that the reason why there were not many completed cases in a list detailing the number of convictions for serious crimes between 24 March and 15 May 1999 (Exhibit D507) is that

that there was no effective follow up mechanism in such cases and that the VJ had no basis on which it could or did maintain any interest in cases concerning its personnel that were transferred to the civilian courts. Radomir Gojović, who until 16 April 1999 was President of the military court in Belgrade, and thereafter, was the Chief of the Legal Department of the Ministry of Defence,[660] was not able to give any information about the cases transferred to the civilian courts.[661]

190. The Chamber is of the view, therefore, that while an effective prosecutorial and judicial system to deal with VJ criminality was in place in 1999, this was not properly utilised. For the most part, crimes committed by VJ members against the Kosovo Albanian population during the Indictment period, particularly those unrelated to property crime, were under-reported, rarely investigated, and where charges were filed, the proceedings were mostly deferred to civilian courts at the end of the armed conflict, the outcomes of which are unknown, even to top military legal personnel.

C. Volunteers and paramilitaries

191. "Paramilitary" is a term that is used in humanitarian law instruments, such as Additional Protocol I to the Geneva Conventions, though it is not defined therein.[662] A paramilitary group is generally understood as a force or unit whose function and organization are analogous or ancillary to those of a professional military force, but which is not regarded as having professional or legitimate status.[663] In its jurisprudence, the ICTY has ascribed the term "paramilitary" to groups fighting alongside military or police forces in the Bosnian and Croatian conflicts, which were identifiable by their uniform, training, and leadership, and which were often incorporated into reserve forces.[664] When referring to "paramilitary groups" in this Judgement, this is the sense in which the term is used by the Chamber.

192. The existence and use of paramilitaries by Serbian forces in Kosovo during the Indictment period is a strongly contested issue. The Prosecution submits that Vlastimir Đorđević significantly contributed to the joint criminal enterprise by engaging paramilitary groups to commit crimes against Kosovo Albanian civilians.[665] Specifically, the Prosecution asserts that prior to the NATO bombings on 24 March 1999, Đorđević prepared for the introduction of paramilitaries and

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investigative procedures for such offences took time, and the cases were thus handed over to civilian courts when the war ended (*see* Radomir Gojović, T 10402-10403 and Exhibit D508, p 2).

660 Radomir Gojović, Exhibit D496 (*Milutinović* transcript), T 16642-16643; Radomir Gojović, T 10334-10336.

661 Radomir Gojović, T 10442.

662 *See* Article 43(3), Additional Protocol I.

663 Oxford English Dictionary (Oxford: OUP, 2007).

664 *See Martić* Appeal Judgement, paras 195, 205; *Krajišnik* Appeal Judgement, para 246; *Brđanin* Appeal Judgement, paras 146, 236.

665 Prosecution Final Brief, para 1138.

volunteers in to the MUP.[666] It furthermore submits that Đorđević played a key role in the incorporation of the Scorpions into the MUP,[667] even though he knew he was "deploying a notorious paramilitary unit" which committed crimes against civilians in Podujevo/Podujevë.[668]

193. The Defence argues in contrast that there were no paramilitaries in Kosovo; in its submission, all the forces commissioned by Đorđević were legitimate reservists, and active measures were taken to ensure none of the volunteers had criminal records.[669] The argument rests on the contention that deployment of additional forces was lawful in a state of war, and that "the state had all the legal and factual means at its disposal to engage every individual it deemed necessary for the defence of the country and to equip such individuals in accordance with the tasks they were assigned". In the Defence submission, therefore, there were no paramilitary and volunteer units in the territory of Serbia allowed in the MUP during the war in 1999.[670] Đorđević denied that he knew any of the forces deployed to Podujevo/Podujevë or in Kosovo in general had ever operated in Croatia or been part of the Scorpions.[671] Specifically, at the time of the admission and engagement of the MUP reserve force attached to the SAJ unit, Đorđević claims that he had no knowledge of any crime committed by any member of the reserve force in the territory of the former Yugoslavia.[672] Moreover, background checks were conducted on all candidates as required by law.[673]

194. The specific evidence in relation to Vlastimir Đorđević's knowledge of the existence, and role in the deployment, of paramilitaries in Kosovo in 1999 is discussed elsewhere in this Judgement.[674] The Chamber records its finding here, however, that a number of paramilitary groups were present in the field in Kosovo in 1998-1999, working in concert mainly with MUP units in order to supplement their forces.[675] These are discussed below.

195. The law did not provide for the possibility of engaging paramilitaries and other volunteers into MUP forces.[676] Some evidence indicates that paramilitary units were nonetheless used in Kosovo from May 1998 and were present from that time on.[677] What is clear is that Minister Stojiljković and Vlastimir Đorđević prepared for the inclusion of paramilitary units into MUP units

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666 Prosecution Final Brief, para 1139.
667 Prosecution Final Brief, para 1141.
668 Prosecution Final Brief, paras 1152, 1165-1166.
669 Defence Final Brief, paras 101, 476-480.
670 Defence Final Brief, para 107.
671 Defence Final Brief, para 482.
672 Defence Final Brief, para 481.
673 Defence Final Brief, para 480.
674 *See infra*, para 1934-1966.
675 Aleksandar Vasiljević, T 5663-5664, 5667-5668; Goran Stoparić, Exhibit P493, paras 34-35; Goran Stoparić, T 2816.
676 Ljubinko Cvetić, T 6675, 6678.

in early 1999. The Minutes of a meeting of the Priština/Prishtinë MUP Staff on 17 February 1999 report that Minister Stojiljković said "Approach and engage volunteers carefully, linking their engagement through the reserve police force when assessed as necessary".[678] Subsequently, Đorđević sent a dispatch on 18 February 1999 to all the SUPs in Serbia and to the RDB, requesting them to "... establish complete control over volunteer and paramilitary units and their members".[679] Minister Stojiljković sent a further dispatch on 24 March 1999 to the chief of the RJB, the headquarters of the RJB organisational units, all the SUPs, MUP Staff in Priština/Prishtinë and all the traffic police stations, referring back to the 18 February dispatch of Đorđević, and tasking them to "...register all volunteers and paramilitary units and their members and keep them under control in case that you might need to engage them".[680] In this document, the Minister refers to the 18 February dispatch as "our dispatch", indicating that the decision to engage paramilitaries was made jointly by Minister Stojiljković and the Accused Đorđević. The Chamber is unconvinced by the Defence explanation for the words "our dispatch" that all the RJB instructions sent to the organizational units and SUPs in Serbia had been approved before they were sent by the Minister.[681] The Minutes of a meeting with senior police officials in Kosovo dated 4 April 1999 record Sreten Lukić, the head of the MUP Staff, as noting the need to take "rigorous measures towards paramilitary units".[682]

196. The Supreme Command was well aware of the use of paramilitaries by the MUP and the VJ in Kosovo. Minutes of a meeting of the Supreme Command held on 17 May 1999 report the discussion about crimes committed by paramilitary groups in Kosovo.[683] Radomir Marković said that he spoke to Vlastimir Đorđević who had said that the group headed by Slobodan Medić aka "Boca" (in the Chamber's finding, the Scorpions) had been withdrawn to Prolom Banja.[684] As noted earlier and discussed in detail elsewhere in this Judgement, the Scorpions unit had been attached to the SAJ when members of the unit murdered 14 women and children in Podujevo/Podujevë on 28 March 1999.[685] It is clear that Đorđević was referring to this group being sent back to Prolom Banja following this incident. President Slobodan Milošević told Marković to convey to Vlajko Stojiljković and Đorđević that "their heads won't be chopped off" but that "'Boca' must answer".[686] In the finding of the Chamber, this evidence indicates that Milošević would not hold to account Stojijković and Đorđević for the crimes committed by the Scorpions

677 Baton Haxhiu, Exhibit P994 (*Milutinović* transcript), T 6092, 6133.
678 Exhibit P85, p 3.
679 Exhibit P356, para 7, p 3; Ljubinko Cvetić, T 6677, 6853.
680 Exhibit P702, para 5, p 1.
681 *See* Closing Arguments, T 14488.
682 Exhibit P764, p 3.
683 Exhibit P884.
684 Aleksandar Vasiljević, T 5681; Exhibit P884, p 1.
685 *See supra,* paras 1930-1953.

members, whereas the leader of the Scorpions unit, Medić, aka "Boca", would be. Milošević also stated that he supported the work of the RDB and of the security organs to have "all the cases of the 'big Serbs' resolved" since they only caused damage and that Stojiljković, Đorđević and Obrad Stevanović had no "reason to protect them".[687] Aleksandar Vasiljević, who took the notes of this meeting,[688] explained that Milošević was referring to the fact that the MUP reserve forces included many persons "representing themselves as big Serbs, who [...] caused damage" such as "Boca, Arkan's men, et cetera".[689] In the Chamber's finding, the term "big Serbs" in this context thus refers to members of paramilitary groups operating in Kosovo. The notes record that Nikola Šainović (Deputy Prime Minister of Serbia responsible for Kosovo) said that, "it is obvious that SAJ has its habits when it comes to forming the reserve".[690] He is later recorded as saying that orders had been issued for all sectors to submit reports about the situation on the ground and "what needs to be investigated" and the need to monitor "what is a consequence of combat and what's a crime". A proposal to establish a special state commission to look into the use of paramilitaries in Kosovo was supported in the meeting by Pavković, Šainović and Odjanić, but Milošević by-passed the issue and concentrated instead on the need to improve coordination and relations between the VJ and the MUP.[691] The role of the Accused and Minister Stojiljković in the engagement and deployment of a unit of the Scorpions to serve with the SAJ in Kosovo is discussed briefly in the section of this Judgement which follows and the activity of members of this Scorpions unit is dealt with in more detail in a later part of this Judgement.

197. In contrast to the MUP, during a state of war, imminent threat of war, or state of emergency, the VJ could be reinforced with volunteers.[692] Volunteers were defined as individuals who were not subject to compulsory military service and military conscripts who did not have wartime assignments.[693]

198. The VJ units in Kosovo were reinforced with volunteers during the Indictment period. The procedure for the reception, induction and deployment of volunteers to the VJ was set out in an order from the Supreme Command Staff dated 7 April 1999.[694] An order from the Supreme Command Staff dated 14 April 1999 arranged induction, accommodation and distribution of volunteers in the reception centres of the 1st, 2nd and 3rd Army Commands.[695] The order

686 Exhibit P884, p 1.
687 Aleksandar Vasiljević, T 5681-5683; Exhibit P884, p 1.
688 Aleksandar Vasiljević, T 5678-5679.
689 Aleksandar Vasiljević, T 5682.
690 Aleksandar Vasiljević, T 5682-5683; Exhibit P884, p 1; *see also infra,* para 1952.
691 Exhibit P884, p 1.
692 Exhibit P43, Article 15; Exhibit P44, Article 18.
693 Exhibit P43, Article 15.
694 Exhibit P679.
695 Exhibit D185.

established the responsibilities of the Army Command and the MUP in respect of the volunteers. There were two assembly points for volunteers: one in Bubaj Potak, which was later moved to Grocka, and the other one near Niš.[696]

199. There were problems with screening volunteers.[697] A letter of 20 April 1999 from the Supreme Command Staff sent by telegram to various commands in the VJ, reported that there had been no screening or security checks of some volunteers who had arrived at the Butaj Potak assembly point and had then been dispatched to the 3rd Army, that some of them were detained for murder or rape and refusing to obey orders and desertion and that a number of volunteers (50 per cent) gave up their engagement with the VJ because they were not ready to obey orders.[698] The 3rd Army Command found that the work at the Butaj Potak assembly point posed a great risk to security and that measures should be taken to eliminate such problems. A report of the 3rd Army sent to the Supreme Command Staff on 10 April 1999 also noted that there were a high number of volunteers who were members of paramilitary groups. A limited number of foreign volunteers from Republika Srpska, Russia and FYROM were included in the VJ units.[699] The Chamber notes that Miloš Došan denied that there were Russian volunteers in VJ units. He claimed that the only Russian volunteer he was aware of was a doctor who worked in the garrison clinic.[700] In view of the clear documentary evidence of the admittance of Russian volunteers into VJ units, as recorded in the Order of the 3rd Army Command of 10 April 1999,[701] and in light of the oral evidence of witnesses confirming the presence of Russian volunteers in Kosovo during the Indictment period,[702] the Chamber does not accept the denial of Došan, and views this as further reason to be cautious about the evidence given by him.

200. Aleksandar Vasiljević stated that although it was envisaged that volunteers should be deployed in VJ units and not left in a separate group, in some cases, such as the case of the 37th Brigade in Glogovac/Gllogoc, when 50 to 60 volunteers arrived, the commander formed a separate unit for them and appointed Stevan Jekić as commander. Although this was not supposed to happen, in practice it did and problems came mostly from such groups.[703]

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696 Aleksandar Vasiljević, T5857-5858.
697 Exhibit P1377, pp 1-2.
698 Exhibit P680.
699 Exhibit P1377, p 1.
700 Miloš Došan, T 11405.
701 Exhibit P1377, p 1.
702 Several witnesses gave evidence about the presence of Russian volunteers with either MUP forces or the VJ. *See* Martin Pnishi, Exhibit P1033, p 3; K79 T 8304; Nike Peraj, Exhibit P313, para 20; K90, Exhibit P321, paras 30-32; K90, Exhibit P322 (*Milutinović* transcript), T 9311; Sami Parashumti, Exhibit P903, p 2.
703 Aleksandar Vasiljević, T 5858-5859.

201. The Supreme Command Staff was fully cognizant of this matter and issued guidelines in order to regulate the problem of volunteers with mental issues in a telegram of 4 May 1999.[704] Military reports detailed offences committed by volunteers such as theft and arson.[705]

202. Paramilitaries often stood out from MUP and VJ units because of their distinctive demeanour and style of dress.[706] Witnesses described how paramilitary members sometimes carried long, bloodied knives, and otherwise exhibited threatening behaviour, which at times manifested into actual execution-style killings often in front of family members, severe beatings, rape, looting, burning of homes, and extortion.[707] The Chamber accepts that in the Indictment period they regularly served in Kosovo, arriving in vehicles from all over the former Yugoslavia, including Skopje, FYROM, Novi Sad and Belgrade, typically wearing sunglasses and bandannas, and carrying large knives.[708] They often painted their faces with black face-paint.[709] While some paramilitary groups wore specific uniforms, noted below, the evidence indicates that paramilitary forces often wore black military-style clothing.[710]

203. The evidence discloses that the paramilitary groups active in Kosovo during the Indictment period included the following:

1. Scorpions

204. As noted above, the Chamber is satisfied that the Scorpions unit, or some of its members, had been incorporated into or served with the SAJ by March 1999.[711] The origins of the Scorpions unit lay in the use of the Territorial Defence (TO) of the Serbian Krajina, led by Slobodan Medić aka "Boca", to protect oil wells located at the demarcation line with Croatia in the early 1990s. Until 1993 the members of this unit were employees of the oil industry.[712] In 1993 a decision was made by the supreme command of Krajina that the unit should become part of the army of Serbian Krajina to guard the border and secure the oil fields, although the unit continued to be financed by the oil industry of Krajina.[713] The unit was armed with weapons, other equipment and uniforms by

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704 Exhibit P681.
705 Exhibit D775.
706 John Crosland, Exhibit P1400, para 15; John Crosland, Exhibit P1401 (*Milutinović* transcript), T 9771.
707 Shukri Gerxhaliu, T 3168-3169; Sada Lama, T 3698-3699; Xhafer Beqiraj, T 4798; Nike Peraj, T 1258-1259; Bajram Bucaliu, T 5080; Adnan Merovci, T 2210-2211; Agim Jemini, T 3614-3615, 3533-3534; Hysni Berisha, T 3343.
708 John Crosland, Exhibit P1400, para 15; John Crosland, Exhibit P1401 (*Milutinović* transcript), T 9771; Nike Peraj, Exhibit P313, para 44.
709 Nike Peraj, Exhibit P313, para 90; Hamide Fondaj, Exhibit P627, p 3.
710 Shukri Gerxhaliu, Exhibit P512, para 16 ; Shukri Gerxhaliu, Exhibit P513 (*Milutinović* transcript), T 2512, 2602; Hysni Berisha, Exhibit P587, p 4017-4018; Aferdita Hajrizi, Exhibit P774, p 5; Mahmut Halimi, Exhibit P499 (*Milutinović* transcript), T 4455; Shefquet Zogaj, Exhibit P617 (*Milutinović* transcript), T 3792.
711 *See infra*, Section on Responsibility, para 75.
712 K92, T 2719-2720; Aleksandar Vasiljević, T 5667.
713 K92, 2721, 2763-2764

the so-called Republic of Serbian Krajina. On one sleeve of the uniform, the unit carried the insignia of the army of Krajina and on the other sleeve, a scorpions insignia, which led to the unit receiving the name of "Scorpions". The unit was headed by Slobodan Medić until 1996.[714] In 1995 and 1996 the Scorpions were deployed to other parts of Krajina, as well as to Trnovo, Republika Srpska in June, 1995 and in Bihac (Zazine Krajina).[715] The Scorpions were disbanded in May 1996. Some of them remained in the region (already reintegrated into Croatia), others left for the Republic of Serbia. Slobodan Medić moved to Novi Sad, Republic of Serbia. At the time it was disbanded as a unit of the so-called army of Krajina it had about 100 to 150 men.[716] It was generally known that members of the Scorpions had criminal backgrounds from their time spent in the battlegrounds.[717]

205. As discussed in detail elsewhere,[718] in 1999, two groups of the Scorpions went to Kosovo: one organised by Slobodan Medić aka "Boca", and the other was organised and led by Dalibor Novaković.[719] The group headed by Slobodan Medić was composed of 120 to 150 individuals. As discussed in more detail in a separate part of the Judgement, in 1999, the Scorpions unit commanded by Medić was deployed to Kosovo to serve with the SAJ.[720] On 28 March 1999, in the town of Podujevo/Podujevë, in the Priština/Prishtinë municipality, members of this unit took part in the murder of civilians, including 12 children and two women.[721] After this incident, the group were ordered to leave Kosovo.[722] However, within a short time almost all of them were re-deployed in Kosovo. The role of Vlastimir Đorđević in organising the deployment and later re-deployment of the Scorpions during the period of the Indictment is discussed in detail in a later part of the Judgement.[723]

206. When deployed in Kosovo, the Scorpions functioned as a separate unit, under its own commanders but serving with SAJ forces, rather than dispersed as individuals into other units.[724] The uniform worn by members of the Scorpions was the same as that worn by the SAJ, but with a Scorpions patch/insignia on the arm.[725] They wore hats with the MUP insignia and the tricolour Serbian flag.[726] Their berets also carried the Scorpions badge.[727] The Scorpions were issued with

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714 K92, T 2721-2724.
715 K92, T 2724-2725.
716 K92, T 2726.
717 Aleksandar Vasiljević, T 5667.
718 *See infra*, paras 1934-1945.
719 Aleksandar Vasiljević, T 5666.
720 Aleksandar Vasiljević, T 5666-5667.
721 *See infra*, paras 1231-1261.
722 Aleksandar Vasiljević, T 5663.
723 *See infra*, paras 1946-1948.
724 Goran Stoparić, Exhibit P495 (*Milutinović* transcript), T 787.
725 Goran Stoparić, Exhibit P493, para 11, 41; Goran Stoparić, T 2819.
726 Goran Stoparić, Exhibit P493, para 41; Goran Stoparić, T 2819.

SAJ identification papers and were given an SAJ reservist salary.[728] Although the Scorpions appear to have been engaged as reserve forces to serve with the SAJ, although not in compliance with the existing provisions for the use of reservists, they remained identifiable as a paramilitary unit. The Chamber rejects the Defence submission that the (irregular) incorporation of the Scorpions into the SAJ meant that the MUP did not engage the Scorpions as a paramilitary group during the relevant time. Given the common knowledge that the Scorpions were a paramilitary unit that had participated in wars in the former Yugoslavia, the Chamber further finds entirely unconvincing the evidence of Defence witness Radislav Stalević[729] that MUP organs did not know that the Scorpions were a known paramilitary unit before they were incorporated into the MUP as a reserve force.

207. The Scorpions wore green camouflage uniforms, similar to those worn by NATO forces.[730] Every Scorpions unit wore a scorpion insignia on one of their sleeves, and most also wore SAJ insignia on the other sleeve.[731] The Scorpions occasionally wore either camouflage (baseball-style) hats with a peak, which carried MUP insignia and the tricolour Serbian flag, or berets, which carried a scorpion insignia.[732] The Scorpions also wore combat vests and gloves every so often.[733]

2. Arkan's Tigers

208. The paramilitary group known as "Arkan's Tigers" were deployed in Kosovo during the Indictment period.[734] This group, headed by Željko Ražnatović (aka "Arkan"),[735] had been in existence since 1991[736] and had previously operated in Croatia, in 1992, and numbered 150 at that time.[737] Many of the men had criminal convictions.[738]

209. As noted above, the Chamber accepts that a number of Arkan's Tigers were attached to the RDB during the Indictment period. Aleksandar Vasiljević testified that members of Arkan's Tigers carried RDB identification passes[739] and that they were deployed in Kosovo Polje/Fushü Kosova.[740] The notes taken by Vasiljević of a meeting of the Supreme Command held on 17 May 1999 indicate that Radomir Marković, Head of the RDB, was directly offered 100 of these men by Arkan, and

727 Goran Stoparić, Exhibit P493, para 11.
728 Goran Stoparić, Exhibit P493, paras 13, 18; K92, T 2748 (closed session).
729 Radislav Stalević, T 13836-13837.
730 Goran Stoparić, Exhibit P493, paras 11, 41-42; K92, T 2819.
731 Goran Stoparić, Exhibit P493, paras 11, 41; K92, T 2819.
732 Goran Stoparić, Exhibit P493, para 41; K92, T 2819.
733 Goran Stoparić, Exhibit P493, para 41.
734 Aleksandar Vasiljević, T 5663-5664, 5668; K89, T 8410-8411.
735 Nike Peraj, Exhibit P313, para 95; Miloš Đošan, T 11418.
736 Aleksandar Vasiljević, T 5669.
737 Aleksandar Vasiljević, T 5669-5670.
738 Aleksandar Vasiljević, T 5669.
739 Aleksandar Vasiljević, T 5669-5670.
740 Aleksandar Vasiljević, T 5668.

that he accepted 30 of them on the condition that they wore uniforms.[741] John Crosland saw that Arkan's men were brought to Kosovo from Montenegro and were housed near Mitrovica/Mitrovicë.[742] The group was also based in the Grand Hotel in Priština/Prishtinë for a time.[743]

210. Witnesses claimed to have seen members of Arkan's Tigers or men dressed in a uniform similar to that worn by the group in the following locations in Kosovo during the Indictment period: from 25 March 1999, in the area between Orahovac/Rahovec and Đakovica/Gjakovë;[744] on 8 April 1999, in Srbica/Sërbica;[745] on 24 March 1999, in Priština/Prishtinë;[746] in February or March 1999 in the Đakovica/Gjakovë municipality;[747] on 27-28 April 1999, in Meja/Mejë, Đakovica/Gjakovë municipality;[748] on or around 25 March 1999 in the area around the village of Vladovo/Lladovë, municipality of Gnjilane/Gjilan;[749] and on 13 April 1999, in the village of Vata/Vataj, Kačanik/Kaçanik municipality.[750] The Chamber's specific findings with regard to the presence of Arkan's Tigers in these locations are discussed in Section VI of the Judgement. However, the Chamber is satisfied from the evidence as a whole that Arkan's Tigers were present in Kosovo during the Indictment period, were associated with the RDB, and played an active part in joint operations of the MUP and VJ.

211. Arkan's Tigers mostly wore green camouflage uniforms, with a unique insignia on the sleeve which featured the face of a tiger, but it was not uncommon to see them wearing mixed civilian and military clothing during the Indictment period. In particular, Arkan's Tigers often mixed civilian trousers with military jackets.[751] The Tigers were normally without headgear, but they occasionally wore black bandannas or tied red ribbons around their heads.[752] They often wore red ribbons around their shoulders and on their sleeves.[753] The Tigers also wore vests with many pockets, which were used to carry ammunition, grenades and knives.[754] Many of Arkan's Tigers wore chains 60 to 70 centimetres long. The knives carried by the Tigers were large hunting models.

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741 Aleksandar Vasiljević, T 5681; Exhibit P884, p 1.
742 John Crosland, Exhibit P1400, para 15.
743 Baton Haxhiu, Exhibit P994 (*Milutinović* transcript), T 6092, 6133.
744 K89, Exhibit P1274 (*Milutinović* transcript), T 9127, 9224-9225; K89, 8457, 8467-8468.
745 Halil Morina, Exhibit P283, p 4.
746 Baton Haxhiu, T 6226; Adnan Merovci, T 2210-2211; Adnan Merovci, Exhibit P416, para 44.
747 Nike Peraj, Exhibit P313, para 38; Nike Peraj, T 1266.
748 Nike Peraj, Exhibit P313, para 80; Nike Peraj, T 1211.
749 K81, Exhibit P791, statement of 30 May 1999, p 2; Exhibit P793 (*Milutinović* transcript), T 7086.
750 Sada Lama, Exhibit P661, pp 2-3; Sada Lama, T 3698
751 Nike Peraj, T 1270-1273.
752 Nike Peraj, T 1270-1273; Martin Pnishi, Exhibit P1033, p 5.
753 Martin Pnishi, Exhibit P1033, p 5.
754 Nike Peraj, Exhibit P313, para 42.

Their other weaponry consisted mostly of handheld revolvers, automatic rifles and hand-grenades.[755]

3. White Eagles

212. Evidence indicates that the paramilitary group known as the "White Eagles" or "Šešelj's men" were present and active in Kosovo during the Indictment period. This paramilitary group was associated with Vojislav Šešelj, deputy prime minister of Serbia.[756] Nike Peraj, a Captain in the 52nd Rocket Artillery Brigade of the VJ, gave evidence that the White Eagles operated jointly with the MUP and also with the "Territorial Defence", *i.e.* the Military Territorial Detachment,[757] on an *ad hoc* basis.[758] In particular, he testified that members of this group took part in Operation Reka in the Carragojs Valley in Đakovica/Gjakovë municipality on 27-28 April 1999.[759] Peraj personally witnessed MUP forces coordinating their actions with the White Eagles and other paramilitary groups in Meja/Mejë in the course of that operation.[760] The presence of the White Eagles during this operation was confirmed by Martin Pnishi, a villager from Meja/Mejë, who described in detail the uniform worn by the "White Eagles" from among those worn by the several different military and police units in the area at the time, as being all black with three stripes yellow, black and green colour ribbons on their sleeves and patches with the white "Šešelj" two headed eagle, as well as black "berets" with white two headed eagles on the side.[761]

213. Other witnesses also claimed to have seen members of the "White Eagles" or described uniforms worn by paramilitary members that matched those worn by this group. On 28 March 1999, in Dušanovo/Dushanovë, Prizren municipality, Hysni Kryeziu saw men wearing black uniforms with an emblem with the words "Beli Orlovi" translated as "White Eagles" written on it on their left upper arm.[762] The men also wore black caps, described by the witness as "the kokardas of Chetniks", with black cockades.[763] On 29 March 1999, in Priština/Prishtinë, Nazlie Bala observed men in black uniforms with white eagle patches on their shoulders.[764] On or about 4 or 5 June 1999, in Zveçan/Zvečane, Kosovska Mitrovica/Mitrovicë municipality, Shukri Gerxhaliu saw men wearing grey uniforms with a white eagle insignia on the arm which he

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755 Nike Peraj, T 1270-1273.
756 Nike Peraj, Exhibit P313, paras 12 and 95.
757 *See infra*, para 552.
758 Nike Peraj, Exhibit P313, para 12.
759 Nike Peraj, T 1258.
760 Nike Peraj, T 1258.
761 Martin Pnishi, Exhibit P1033, p 5.
762 Hysni Kryeziu,T 5608; Exhibit P878 (*Milutinović* transcript), T 7548-7549.
763 Hysni Kryeziu,T 5607; Exhibit P878 (*Milutinović* transcript), T 7548. *See* Exhibit P1301, p 13, photograph 26 (depicting the old JNA cap, which matches the description given by Kryeziu).
764 Nazlie Bala, Exhibit P420, p 4.

believed to be the uniform of "Šešelj's men".[765] Bedri Hyseni gave evidence that by 1 April 1999, paramilitary soldiers had moved into the houses of 12 or 13 Serbian or Montenegrin families in Staro Selo/Fshati-i-Vjeter village, Uroševac/Ferizaj municipality.[766] He thought they were "Šešelj's group" but the Chamber cannot make this finidng. Bajram Bucaliu also testified about the occupation of Staro Selo/Fshati-i-Vjeter by paramilitaries in April 1999. He described the paramilitary members as wearing "irregular clothing", and on their heads, the "Kokarda", the "hats used by the Chetniks".[767]

214. The Chamber is satisfied that the evidence as a whole establishes that members of the "White Eagles" participated in coordination with the MUP in operations in Kosovo in 1999.

215. The White Eagles most typically wore black uniforms and black headwear, usually described by witnesses as the "kokarda", or "the hat worn by the Chetniks", which is similar to the caps worn by JNA[768] soldiers during World War II.[769] During operations, they wore striped yellow, black and green ribbons on their sleeves.[770] Their insignia was worn on their headgear and sleeves, and depicted two white eagle heads, with the words "Beli Orlovi" in Cyrillic translated as "White Eagles" written on it on their left upper arm.[771]

4. Pauk Spiders

216. The paramilitary unit the Pauk Spiders, led by Jugoslav Petrusić and also known as "Petrusić's group", was absorbed into the VJ. The group circumvented the regular recruiting procedure for volunteers.[772] Evidence indicates that a colonel from the General Staff had intervened on their behalf and gave them uniforms and weapons. The group, numbering 25 persons, was sent to the 125th Brigade of the Priština Corps and deployed in Košare/Kosharë, Đakovica/Gjakovë municipality, from 15 April 1999 to 5 May 1999.[773] They wore regular VJ uniforms.[774] In the meeting of the Supreme Command held on 17 May 1999 mentioned above, General Pavković stated there was no problem with this particular group.[775] The group was

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765 Shukri Gerxhaliu, Exhibit P512, para 35.
766 Bedri Hyseni, Exhibit P809, pp 4-5; Bedri Hyseni, T 4885.
767 Bajram Bucaliu, T 5054.
768 JNA refers to *Jugoslovenska Narodna Armija*, the Yugoslav People's Army, the military of the Socialist Federal Republic of Yugoslavia.
769 Hysni Kryeziu,T 5608; Exhibit P878 (*Milutinović* transcript), T 7548-7549; Bajram Bucaliu, T 5054. *See* Exhibit P1301, p 13 (depicting the old JNA cap).
770 Martin Pnishi, Exhibit P1033, p 5.
771 Hysni Kryeziu,T 5608; Exhibit P878 (*Milutinović* transcript), T 7548-7549; Martin Pnishi, Exhibit P1033, p 5. *See* Exhibit P327, p 2, number 11 (depicting the White Eagles insignia); K73, T 1515.
772 Aleksandar Vasiljević, T 5663, 5908.
773 Aleksandar Vasiljević, T 5663; Momir Stojanović, Exhibit D723 (*Milutinović* transcript), T 19778.
774 Momir Stojanović, Exhibit D723 (*Milutinović* transcript), T 19780.
775 Exhibit P884, p 1. *See* Aleksandar Vasiljević, T 5680 (noting that reference in the document to "Petronijevic's group" was an error and should refer to "Jugoslav Petrusic's group".

disarmed and withdrawn from the field after it was believed that there was a French agent amongst its ranks[776] and that the group was going to make an attempt on the life of President Milošević.[777]

D. Civil defence and protection

217. The FRY Law on Defence provided for participation in civilian defence and protection, which consisted of all citizens from the age of 15, except for persons serving the VJ or the MUP and pregnant women or mothers of young children. Citizens were obliged to carry out specific duties in units and organs formed for the protection and rescue of the civilian population and material resources from wartime destruction and natural and other disasters or threats.[778]

218. Civilian protection units, intended for the protection and rescue of the population and material and other resources from wartime destruction, could be formed by state organs in accordance with the Plan for the Defence of the Country, or could be formed by citizens on a voluntary basis.[779] They followed instructions issued by the "organs competent for these affairs".[780]

219. Civilian defence units, manned by citizens who were not military conscripts and not assigned to units of civilian protection, could be organised by the local population only in a state of war or imminent threat of war, in order to protect the population and property from attack, secure public buildings (schools, hospitals, and others) and other civilian buildings and resources.[781] The Federal Ministry of Defence decided on the organisation, work, equipment and training of units of civilian defence.[782] Members of such units were authorised to be armed with small arms solely for "maintaining order and for self-defence".[783] The civilian defence units were under the command of the state organs responsible for civilian defence and protection. A VJ officer holding the position of battalion commander or higher was able to issue tasks concerning the defence and protection of the civilian population and material resources to units in his area of responsibility.[784] In Kosovo in 1998 and 1999, only citizens of non-Albanian ethnicity were part of the civilian defence and civilian protection units.[785]

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776 Aleksandar Vasiljević, T 5663, 5921; *see* also Exhibit P884, p 1; Aleksandar Vasiljević, T 5680.
777 Momir Stojanović, Exhibit D723 (*Milutinović* transcript), T 19779.
778 Exhibit P44, Article 22
779 Exhibit, P44, Article 59.
780 Exhibit P44, Article 59.
781 Exhibit P44, Article 61.
782 Exhibit P44, Article 61.
783 Exhibit P44, Article 62.
784 Exhibit P44, Article 63.
785 Milan Đaković, T 8137. *See* also Exhibit P889, p 4 (order of the Priština Corps Command of 16 February 1999 referring to engaging the "non-*Šiptar*" population to secure military facilities and defend places with "non-*Šiptar*" populations).

220. An order of the FRY Priština Defence Administration, signed by Petar Ilić, to Defence Departments and Sections dated 28 July 1998 referred to the organisation of civilian protection units pursuant to the Joint Command Instructions for the defence of inhabited areas and ordered them to fully implement the order.[786] The order tasked "general purpose" civilian protection units with providing first-aid treatment, rescue from ruins, extinguishing fires, clearing up barricades and washing streets, while "specialised" civilian protection units were tasked, in addition, with the destruction of unexploded ordnance and "clearing the terrain and maintaining order". Municipal staffs were responsible for coordinating the work of the civilian protection units with VJ and MUP units and municipal defence staffs.[787]

221. Despite the fact that the law limited the use of arms by the civilian defence to what was necessary to "maintain order" or in self defence, the evidence at trial reveals that both civilian defence units and civilian protection units were used in combat operations in 1998 and 1999 as a supportive or supplementary reinforcement of the VJ and MUP units. For example, a report entitled "Analysis of the tasks executed on the territory of Kosovo and Metohija", of the 3rd Army of the Forward Command Post, dated 2 October 1998 referred in Item 3 to "Experiences gained". Under "positive experiences", the last item read:

> 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 organized.[788]

At a meeting of the "Operations Inter-Departmental Staff for the Suppression of Terrorism in KiM", chaired by Slobodan Milošević in Belgrade on 29 October 1998, attended by Milutinović, Minić, Šainović, Matković, Stojiljković, Andelković, Perišić, Dimitrijević, Samardžić, Pavković, the Accused Đorđević, Marković, Stevanović and Lukić, Pavković informed the members that 48,000 guns would be distributed to the "local population", "as envisaged in the Plan".[789] The Minutes of the Collegium of the VJ General Staff of 2 February 1999 record Dušan Samardžić as saying that commanders of armed Serbs had been sent out with combat sets of ammunition with the role to defend their villages and "participate with army units in any operations in the immediate vicinity". He commented that military and police operations could not function any other way.[790] An order of the 3rd Army Command on 27 January 1999 "for the use of the 3rd Army in preventing the forceful introduction of a NATO Brigade, its routing and the destruction of *Siptar* terrorist forces in Kosovo and Metohija" engaged not only the forces of the regular VJ, but also the "armed non-*Siptar*

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786 Exhibit P1223; Exhibit P1224.
787 Exhibit P1224.
788 Exhibit D340, p 4.
789 Exhibit P87, p 10.
790 Exhibit P1333, p 23.

population".[791] The Priština Corps was ordered to engage the regular forces and the "armed non-*Siptar* population" in its work, and in particular to secure military features and communication routes as well as for the defence of populated sites "with non-*Siptar* population".[792]

222. A document from Dragan Ilić, the Chief of Defence Administration, to the Chiefs of Defence Departments and Heads of Defence Sections, dated 22 July 1998, indicates that the homes of ethnic Serbs and Montenegrins were used as municipal observation and reporting centres, facilitating the OUP communication centres.[793] The Chamber considers Milan Đaković's explanation that the order refers only to the homes of Serbs and Montenegrins because "Šiptars" refused to be involved with anything that had to do with defence, including the civilian protection and civilian defence,[794] to be obscuring the fact that the order fits within a pattern of the Ministry of Defence, VJ and MUP arming those who were not Kosovo Albanians and setting them against their Kosovo Albanian neighbours.

223. The civilian protection and civilian defence units in Kosovo were armed by the 3rd Army.[795] Members of the civilian protection wore uniforms similar to that worn by army members, except that they wore patches stating that they were members of the civilian protection and defence.[796] Sometimes they only wore parts of uniforms.[797]

E. Relationship and coordination of Serbian forces in Kosovo

1. Joint Command

224. A strongly contested issue in this trial, about which there was much conflicting evidence, is whether there existed and functioned a body called the "Joint Command", which was said by the Prosecution to operate as a high-level body which coordinated the operations of VJ, MUP and civilian units in Kosovo.[798] The Prosecution submits that the Joint Command was established in June 1998 and continued operations until at least June 1999.[799] Conversely, the Defence argues that the Joint Command was created as a "working group" in 1998, and ceased to exist after October 1998.[800] It contends that no orders were given at Joint Command meetings.[801] At trial, Vlastimir Đorđević denied the existence of the Joint Command, although he noted that the term was

791 Exhibit D343, p 5.
792 Exhibit D343, p 6.
793 Exhibit P1225.
794 Milan Đaković, T 7912.
795 Exhibit P1345, p 2.
796 Milan Đaković, T 7902.
797 John Crosland, Exhibit P1400, para 19.
798 Ljubinko Cvetić, T 6627-6628; Aleksandar Vasiljević, T 5660.
799 Prosecution Final Brief, para 256.
800 Defence Final Brief, paras 23, 322, 327; Closing Arguments, T 14475, 14476.

used by the army to refer to coordination meetings with MUP organs.[802] In this respect, he stated that he frequently attended these meetings when he was in Priština/Prishtinë.[803] In his evidence, the meetings were used solely to exchange information between the MUP and VJ; opinions were offered, but no decisions were made in an operational sense.[804]

225. Defence expert witness Radomir Milašinović gave evidence that although he had come across the term "Joint Command" during the research of his report on the "Position and Role of the Chief of the Public Security Department in the Ministry of the Interior of the Republic of Serbia in Anti-Terrorist Activities in Kosovo and Metohija in 1998 and 1999",[805] he did not understand the substance of the term[806] and he was not aware of any orders given by such a body.[807] After considering the report prepared by Milašinović and his evidence at trial, the Chamber is not prepared to rely on his knowledge or opinions in this regard. As noted earlier, the expert status of his report was rendered doubtful by the lack of appropriate reliable means for compiling the report. The fact that Milašinović claims never to have come across any orders of the Joint Command, and that his report omits all reference to such a body, demonstrates either or both the incompleteness and unreliability of the factual basis relied on by Milašinović, or the lack of credibility of Milašinović as an impartial expert witness on whose knowledge or opinions the Chamber could reasonably rely.

(a) Establishment of the Joint Command

226. A letter of the FRY Federal Ministry of Justice to the ICTY Office of the Prosecutor of 12 July 2002 indicates that the Joint Command was established in June 1998 on the order of the FRY President, Slobodan Milošević, and operated until October 1998.[808] No witness at trial was in a position to affirm or dispute this action by President Milošević in June 1998.[809] However, the Chamber notes the evidence of Ljubinko Cvetić, which it accepts, that at a meeting of the MUP Staff in Priština/Prishtinë held in the morning on 22 July 1998, the Accused Vlastimir Đorđević declared that a command had been established at the highest level and it was to be called the Joint Command.[810] Notably, the first Joint Command meeting took place that evening.[811] In the

801 Defence Final Brief, paras 323, 326.
802 Vlastimir Đorđević, T 9576, 9859-9860.
803 Vlastimir Đorđević, T 9847.
804 Vlastimir Đorđević, T 9605.
805 Exhibit D933.
806 Radomir Milašinović, T 14335.
807 Radomir Milašinović, T 14336-14337.
808 Exhibit P1245.
809 *See* Milan Đaković, T 8111.
810 Ljubinko Cvetić, T 6627-6628; Exhibit P768.
811 Exhibit P886, p 2.

Chamber's view, this is confirmatory of the information given by the FRY Federal Ministry of Justice.

227. Milan Đaković, at the relevant time head of operations and training of the VJ Priština Corps,[812] testified that he first heard the term "Joint Command" when it was mentioned in a conversation he had with General Pavković in May 1998.[813] An order of 7 July 1998 from the brigade commander of the 125th motorized brigade, Colonel Dragan Zivanović, to his subordinates is entitled "A ban on operations without knowledge and approval of the Joint Command for Kosovo and Metohija", is a strong indication that the Joint Command was in existence at least from this time. Order 1104-6 is cited in the document as the authority for the order.[814] Đaković, who drafted the Order of 7 July 1998, sought to suggest in his evidence that the term Joint Command was merely a notion to express joint coordination between the MUP Staff and the army.[815] However, in order to make coordination decisions between the MUP and VJ official, the documents would refer to the "KiM Joint Command" but, nevertheless, required approval by the MUP and the army command, respectively. Đaković explained that in July 1998, the Joint Command was qualified to carry out the "Grom" operation in the area of the Pec/Pejë-Djakovica/Gjakovë-Prizren road, which had been directed by an inter-departmental staff of the MUP,[816] after which the Joint Command took over because the inter-departmental staff was disbanded. From this time, in the evidence of Đaković, documents were made with the title "Joint Command".[817] The Chamber is unable to accept this explanation for the establishment of the use of the term "Joint Command". It does not take account of the order of President Milošević to establish the Joint Command. Further, as conceded by Đaković, he was not present at the meeting in June 1998, to be discussed in the next paragraph, when Milošević ordered the establishment of the Joint Command.[818] Therefore his explanation as to the use of the term "Joint Command" appears to be based on incomplete information and partially on assumption on his part. The Chamber also formed the distinct impression that, in his testimony, Đaković sought to minimise the import of the Joint Command in a way that was favourable to the Accused.

228. As discussed elsewhere in this Judgement, the Plan for Suppressing Terrorism, which involved the coordinated use of VJ and MUP units, had been drawn up by the VJ on 9 June 1998, and was adopted at a meeting held by President Slobodan Milošević on 21 July 1998, at which all

812 Milan Đaković, T 7872.
813 Milan Đaković, T 7874.
814 Exhibit P1216.
815 Milan Đaković, T 7874.
816 Milan Đaković, T 7990-7991.
817 Milan Đaković, T 7991.
818 Milan Đaković, T 8111.

the senior MUP and VJ staff were present, including the Accused Vlastimir Đorđević.[819] At a meeting of the MUP Staff in Priština held the next day, Vlastimir Đorđevic declared that a command had been established at the highest level and it was to be called the Joint Command.[820]

229. The first meeting of the Joint Command was held in the evening of 22 July 1998 and was attended by Milomir Minić (President of the Assembly), Nikola Šainović (Deputy Prime Minister/Vice-President in the FRY), Zoran Andelković (Minister for Sports and Youth in the government of the Republic of Serbia),[821] Nebojša Pavković (VJ Priština Corps Commander), the Accused Vlastimir Đorđević (Chief of the RJB), Sreten Lukić (Head of the MUP Staff for Kosovo), David Gajić (Assistant Chief of the RDB) and Milan Đaković.[822] Thereafter, as evidenced by the minutes taken of the meetings, the members of the Joint Command met frequently until late October 1998.[823]

230. On the basis of the above, the Chamber finds that the Joint Command was established pursuant to an order of President Milošević in June 1998 and began operating on 22 July 1998. The evidence of the Accused Vlastimir Đorđević denying the existence of the Joint Command and suggesting the term was used by the army to refer to coordination meetings with MUP organs is rejected.

231. The Joint Command was not a body contemplated by the Constitutions of the FRY or of Serbia. The FRY legal structure pursuant to which the VJ functioned, and the Republic of Serbia legal structure pursuant to which the MUP functioned, were quite distinct. There was no legal authority for a Joint Command of the VJ and the MUP. Because of this the Defence has maintained at all times that there could not have been a Joint Command. However, what is crystal clear, in the Chamber's finding, is that despite the constraints of the existing constitutional and legal regimes, a Joint Command was created and functioned for about a year, by decisions and actions at the very highest political, military and police levels, so as to coordinate and jointly command the operations of the Federal VJ and the Provincial MUP, with some other Serbian forces, in anti-terrorist and defence measures in Kosovo. As will be seen as this Judgement continues, in this and other matters, the constraints of the existing legal structures were ignored and overridden by those at the highest levels of power in an attempt to achieve desired political and social outcomes.

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819 *See supra*, paras 288.
820 Ljubinko Cvetić, T 6627-6628; Exhibit P768.
821 Milan Đaković, T 8042.
822 Exhibit P886, p 2; Milan Đaković, T 7880; Vlastimir Đorđević, T 9577; Ljubinko Cvetić, T 6628.
823 Exhibit P886.

(b) Period of operation of the Joint Command

232. From 22 July 1998 to late October 1998, the Joint Command met at least two or three times per week, depending on the influx of information or the level of combat activities.[824] The first meeting was held in the MUP building in Priština/Prishtinë, but for the most part, they were held in the provisional executive council building in the centre of Priština/Prishtinë.[825]

233. While, according to the FRY Federal Ministry of Justice, following October 1998 only "several unofficial meetings were held where the current security situation was analysed", notes of Joint Command meetings taken by Milan Đaković indicate that, although the end of October 1998 signalled the end of the first phase of the work of the Joint Command, it was decided that the Joint Command should continue to function as the most effective means to coordinate the operations of the VJ and MUP.[826] At the Joint Command meeting of 26 October 1998, Nikola Šainović stated that "[t]his section of combat operations should be closed".[827] On 28 October 1998, Minić is recorded as saying that "I think that this command should remain unchanged and work until the end of the year, meeting when necessary".[828] The minutes of a meeting of 29 October 1998, chaired by President Slobodan Milošević at the Beli Dvor Palace, record that "President Milutinović supported the proposal for consideration of the continued status of the Joint Command"[829] and Šainović suggested that the composition of the Joint Command should be re-evaluated.[830] Milošević himself referred to "the need for the continuing functioning of the Joint Command".[831] In the Chamber's finding it is clear that it was decided to continue the functions of the Joint Command.

234. Hence, at a meeting of the MUP Staff on 5 November 1998, President Milutinović summarised the decisions that had been reached when he stated that, in spite of the international October Agreements, by which the FRY and the Republic of Serbia had agreed to the reduction in manpower and weaponry of the MUP and VJ in Kosovo, "[w]ith regard to the Yugoslav Army and police, everything will remain 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)".[832] Đorđević attended both of these meetings as recorded in the minutes and notes

824 Milan Đaković, T 7879; Exhibit P886.
825 Milan Đaković, T 7879.
826 Exhibit P1245.
827 Exhibit P886, p 139.
828 Exhibit P886, p 142.
829 Exhibit P87, p 12.
830 Exhibit P87, p 13.
831 Exhibit P87, p 15.
832 Exhibit P770, p 4; *see supra,* para 357-363.

taken of these meetings.[833] His denial of the continued existence of the Joint Command after October 1998[834] is therefore rejected by the Chamber.

235. A number of operative reports of the Joint Command were issued throughout the month of November 1998, dealing with the engagement of MUP and VJ forces in Kosovo, confirming that the body continued to operate.[835]

236. Documentary evidence further confirms that the Joint Command operated at least until 1 June 1999. The minutes of the VJ Collegium of 21 January 1999 record General Ojdanić's observation that the Račak/Raçak operation had been ordered by the Joint Command.[836] A large number of Joint Command orders received in evidence directing combat operations in Kosovo reveal that the Joint Command played a central role in the planning and commanding of joint VJ and MUP actions during the Indictment period.[837] The orders specify that "The Joint Command for KiM is to command and control all forces from the sector of Priština during the execution of combat operations". The role of the Joint Command was noted in military documents in the same period. A combat report of the Priština Corps of 25 April 1999 stated that "Operations of combing the terrain and breaking up STS continue in line with the decision of the Joint Command for KiM".[838] Similarly, a combat report of the 3rd Army Command sent to the VJ General Staff Operations Centre of 29 April 1999 stated that "measures were undertaken to block the above sectors and carry out tasks in line with the joint KiM command decision".[839]

237. Aleksandar Vasiljević gave evidence about a meeting of the Joint Command in Priština/Pristinë on 1 June 1999 that he attended along with Pavković, Lazarević, the Accused Đorđević, Stevanović, Lukić and Stojanović.[840] Vasiljević took detailed notes of this meeting.[841] While Momir Stojanović denied that this was a Joint Command meeting, or that Đorđević was present,[842] the Chamber does not consider Stojanović's evidence to be reliable or credible in this regard. It takes into consideration the unsupported assertion by Stojanović that Vasiljević did not take notes,[843] despite these notes having been tendered into evidence and examined in court with Vasiljević. The Chamber finds no reason to question the authenticity of the notes. The Chamber is

833 Exhibit P886, p 140-141; Exhibit P87, p 1; Exhibit P770, p 3.
834 Vlastimir Đorđević, T 9893.
835 Exhibits P1218, P1219, P1399.
836 Exhibit P902, p 11.
837 Exhibits P973, D104, P972, P350, P971, P970, P1235, P1382, P766, P1383, P1384, P1385, P969, P767, P1386, D105.
838 Exhibit P1393, p 2.
839 Exhibit P1394, p 2.
840 Aleksandar Vasiljević, T 5691-5696; Exhibit P885.
841 Exhibit P885.
842 Momir Stojanović, T 11790-11791.
843 Momir Stojanović, T 11978-11979.

also convinced that Vasiljević properly recalled that Đorđević was present at the meeting, since this was the first time that Vasiljević had met Đorđević in person[844] and therefore there was good reason for his memory, and his notes, to be accurate in this regard.

(c) Composition of the Joint Command

238. The Joint Command was composed of senior political figures and senior MUP and VJ leaders in Kosovo. It was headed by Nikola Šainović, at the time the Vice-President of the federal government.[845] According to Aleksandar Vasiljević, Šainović attended the meetings "as a person representing Slobodan Milošević in Kosovo".[846]

239. Other members of the Joint Command included Duško Matković, charged with the economic development of Kosovo; Milomir Minić, President of the Federal Assembly, who was charged with "political issues of working with different organisations and political activities in Kosovo"; Zoran Andjelković, Minister for Sports and Youth in the government of the Republic of Serbia, who was tasked with coordinating the work of municipalities and districts in Kosovo; General Pavković, representing the VJ, General Lukić, representing the MUP Staff for Kosovo, David Gajić, representing the RDB, and Vlastimir Đorđević, representing the RJB.[847] General Samardžić, Commander of the 3rd Army attended a meeting on 27 July 1998.[848] General Lazarević from the 3rd Army and General Obrad Stevanović of the MUP also attended meetings on occasions.[849]

(d) Status and operation of the Joint Command

240. Joint Command operative reports were issued daily, which were the result of an exchange of information between the RJB, the RDB and the Priština Corps.[850] At the meetings, there would be a discussion of current and future operations of the VJ and MUP.[851] For example, the minutes of the Joint Command meeting of 4 September 1998 record Vlastimir Đorđević as saying that "all inhabitants are to be returned to the village tomorrow with the use of force".[852] Although it is not entirely clear from the minutes which village he was referring to, evidence indicates that the MUP did forcibly return villagers to their homes as a response to negative reports about operations in the

844 Aleksandar Vasiljević, T 5691-5692; 5695-5696.
845 Ljubinko Cvetić, T 6627; Exhibit P1329, pp 2-3.
846 Aleksandar Vasiljević, T 5699-5700.
847 Exhibit P886, p 2; Ljubinko Cvetić, T 6627-6628; Milan Đaković, T 7880.
848 Milan Đaković, T 7999.
849 Milan Đaković, T 7999.
850 Milan Đaković, T 7892. *See* Exhibits P1218; P1219; P1220, P1221, P1222, P1399, P1462.
851 Exhibit P886, p 14; Milan Đaković, T 8008-8011.
852 Exhibit P886, p 73.

international press.[853] It is therefore of significance that in the meeting of 2 September 1998, just two days before Đorđević made this statement, Sreten Lukić had told the Joint Command that humanitarian organisations had announced their intended passage the next day and that a Russian representative and a representative of the "Hague Tribunal" wanted to go to the village of Klecka/Kleqkë, in Lipljan/Lipjan municipality.[854]

241. The VJ General Staff was informed of decisions taken by the Joint Command.[855] The Joint Command for Kosovo issued orders for the VJ Priština Corps in coordination with MUP units to conduct combat operations against specific villages.[856] The orders specified that the "Joint Command for KiM shall command and direct all forces during combat operations from the Priština area".[857]

242. Consistently with the theme of his earlier evidence (which the Chamber did not accept) that the Joint Command was merely a notion expressing coordination between the MUP and the army, Milan Đaković suggested further that the term Joint Command did not mean that organs could act on the basis of a Joint Command order in the absence of a corresponding order from a superior command within the respective chain of command of the MUP and the VJ.[858] He maintained that the Joint Command did not meet any of the criteria required for commanding bodies, *i.e.* a superior body issuing orders, being part of a system of command, a commander, and the use of a stamp.[859]

243. In the Chamber's finding the evidence of Đaković may be affected by his possible lack of knowledge of the order of President Milošević. Whether that is so, or not, the Chamber has the distinct impression that he strained to play down the nature and the role of the Joint Command. The Chamber finds that Đaković's explanation that the term "Joint Command for KiM" on orders issued to VJ and MUP units was merely the result of the wrong use of a template is simply not credible. It further is unable to accept the explanation that the use of the heading "Joint Command for KiM" on orders merely signified that there was a need for coordination between the MUP and the VJ. The detailed instructions of the orders, the tenor and specific wording used, and the fact that the orders were carried out by the relevant units, attest to the fact that the Joint Command was a body which issued commands and did so on a regular basis during the Indictment period.

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853 Shaun Byrnes, Exhibit P1214, p 27.
854 Exhibit P886, p 71.
855 Aleksandar Vasiljević, T 5660.
856 Exhibits D104; D105; P1232; P1235.
857 *See* Exhibit D104, p 8; Exhibit P1235, item 13.
858 Milan Đaković, T 7931, 7949.
859 Milan Đaković, T 8001.

244. Minutes written by Milan Đaković of meetings of the Joint Command reveal that decisions for joint operations of the VJ and MUP in Kosovo were made and implemented. At the meeting of 26 July 1998, the Accused, Đorđević, gave the following instructions: "finish off Priština-Kijevo tomorrow, approach Mališevo as soon as possible, put Crnoljevo, Suva Reka and Zborce on hold and move onto Junik and Rudnik" and "we must finish off Kijevo tomorrow and regroup part of the units in the direction of Kijevo".[860] The minutes of the meeting of 27 July 1998 record further discussion about an operation in Mališevo/Malishevë. Samardžić stated, "the main goal is Mališevo and we must not back away" and "Mališevo must be crushed".[861] As a further example of an order, at the same meeting, Milomir Minić is recorded as saying "Continue the plan at 0700 as agreed".[862] The following day, an operation involving VJ and MUP forces working in coordination took place in Mališevo/Malishevë.[863] Đorđević, who was on the ground in Kosovo on 28 July overseeing the operation,[864] called the MUP Staff by radio to report that "Mališevo is free".[865] Furthermore, an operation in Junik, Dečani/Deçan municipality, took place in late July and early August 1998.[866]

245. Further, at a meeting of 10 September 1998, Milomir Minić is recorded as saying:

> Go into Dubovik and Radovic villages and see what the situation is like. Go to Prapacan village and have the police occupy it. [...] Go into all villages and pressure them into handing over weapons. Secure the roads and control the territory. The army will adopt a plan on the arrangement of the territory on Monday. The MUP should do the same.[867]

246. At the Joint Command meeting on 20 September 1998, General Pavković ordered a blockade and diversionary operation in Budakovo/Budakovë, Suva Reka/Suharekë municipality and General Lazarević added "at the same time on Monday block Budakovo".[868] At a meeting the next day, General Pavković noted that preparations for the "Ćičavica" operation to begin on 22 September were underway, and that "diversionary" operations would take place from 21-22 September 1998 from Suva Reka/Suharekë to Budakovo/Budakovë and from Peć/Pejë to Vrelo/Vrellë. Operations in the municipalities of Peć/Pejë and Suva Reka/Suharekë subsequently took place in September 1998.[869]

247. At the Joint Command meeting of 22 September 1998, General Pavković informed the group that the "Ćičavica" operation had begun that day, Đorđević noted the engagement of PJP

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860 Exhibit P886, p 12.
861 Exhibit P886, p 14.
862 Exhibit P886, p 15.
863 *See infra*, paras 317-318.
864 Radislav Stalević, T 13790.
865 Ljubinko Cvetić, T 6621, 6644.
866 *See infra*, para 319.
867 Exhibit P886, p 84.
868 Exhibit P886, p 104.
869 *See infra*, paras 341-343.

units, and specifically, that two companies had "come out west of Žilivoda village", and Šainović ordered "to continue the operation tomorrow".[870] An operation involving several villages in Vučitrn/Vushtrri municipality (Kolo/Kollë, Dubovac/Duboc, Brusnik, Galica/Galicë, Becic/Beçiq, Ošlanje/Oshlan, and Žilivoda/Zhilivodë) and several villages in Srbica/Skenderaj (Ljubovac/Lubavec and Mikušnica/Mikushnicë) took place in late September 1998, commencing on 22 September 1998.[871]

248. At the Joint Command meeting of 26 September 1998, Pavković and Lukić both reported that the operation in the area of Gornje Obrinje/Abria r Eperme had been completed.[872] As found elsewhere in this Judgement, this operation involved Serbian security forces. 21 members of the Delijaj family were killed, including six women and five children. The village of Gornje Obrinje/Abria r Eperme was largely destroyed.[873] The reporting to the Joint Command about the completion of the operation confirms, in the Chamber's finding, that the Joint Command ordered the operation.

249. At the meeting of 5 October 1998, Nikola Šainović is recorded as saying, "we should go to minor or small-scale actions", and then "[t]he leaders should be liquidated now that we have enough information. Go with everything in order to deal with individuals".[874] Đaković suggested that this discussion concerned some individuals who were members of the command personnel of the KLA, in particular, a "sultan" from Ovcarevo and Ramush Haradinaj in the area of Baranksi Lug in the Junik mountains.[875] In the same meeting, Šainović is recorded as saying "DB operatives – liquidate individuals".[876] Đaković confirmed that "DB" referred to the RDB.[877] The Minutes indicate several other instances in Joint Command meetings where it is apparent that orders have been issued.[878] Notably, the minutes of 4 September 1998 record the Accused Đorđević detailing the following instructions, apparently in regard to the Drenovac sector: "1. return all inhabitants to the village by force tomorrow; 2. search the terrain; 3. seize weapons; 4. carry out operations

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870 Exhibit P886, p 108.
871 *See infra*, paras 336-337, 340.
872 Exhibit P886, p 112.
873 *See infra*, para 339.
874 Exhibit P886, p 120.
875 Milan Đaković, T 8123.
876 Exhibit P886, p 121.
877 Milan Đaković, T 8124.
878 Exhibit P886, p 130 (13 October 1998, Mr Šainović); p 128 (11 October 1998, Mr Šainović); p 125 (8 October 1998, Mr Šainović); p 124 (7 October 1998, Mr Šainović); p 112 (26 September 1998, Mr Šainović); p 113 (29 September 1998, Mr Minić); p 108 (22 September 1998, Mr Šainović); and p 27 (1 August 1998, Mr Matković).

against terrorists".[879] The following day, General Sreten Lukić reported to the Joint Command that this had been complied with.[880]

250. In addition, the decisions taken in Joint Command meetings were relayed by those present to their respective units for implementation. For example, Nebojša Pavković informed the Priština Corps Command on 22 September 1998 following a meeting of the Joint Command on 10 September 1998, that

> During the briefing on the course of implementing stage five of the Plan which was given at the meeting of the ZK[881] for KiM on 10 September 1998, the other Command organs pointed out that the VJ had not carried out two of its duties under the Plan, namely: (1) it had not formed rapid intervention helicopter units as the SRJ president had ordered at the meeting on 31 August 1998 and (2) two BGs had not been moved down to KiM.[882]

A document sent to the 3rd Army Command Forward Command Post (General Samardžić) from the Priština Corps Command (Nebojša Pavković), dated 5 October 1998 stated that

> The plan to smash the DTS[883] on the territory of KiM, authorised by the President of the FRY, stipulated that when the DTS on the territory of KiM have been smashed by MUP and VJ forces, rapid-intervention forces shall be formed to be at full readiness, with the engagement of MI-8 helicopters, to intervene at threatened sectors and features, as ordered by the President. On my return from the reporting session with the ZK for KiM on 19 and 20 September 1998, I informed you personally by telephone of the decision to form rapid-intervention forces. As part of the conclusions from the ZK for KiM meeting, I sent you the decision to form rapid-intervention forces.[884]

These documents indicate that decisions on the use of VJ and MUP forces were made at Joint Command Meetings and were implemented by the relevant organs. Đaković's explanation that Nikola Šainović must have contacted President Milošević in order to have the authority to make such decisions[885] does not accord with the accumulated evidence in the Minutes of the meetings of the Joint Command or the documents of the respective VJ and MUP organs referring to the Joint Command.

251. Other evidence confirms that the Joint Command was a body with operational capability. For instance, in a work plan prepared by the Communications Station for units in the field to facilitate their ability to communicate via radio, the Joint Command was given the call sign Pastrik, while the 125th Motorised Brigade had the call sign IBAR-40 and the 37th Detachment of the MUP,

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879 Exhibit P886, p 73.
880 Exhibit P886, p 75.
881 "ZK" is variously translated as "Joint Command" or "Joint Commission".
882 Exhibit P1229.
883 "DTS" is translated in the document as "sabotage forces", a term commonly used by Serbian authorities to refer to Kosovo Albanian terrorist groups.
884 Exhibit D212.
885 Milan Đaković, T 8133.

headed by Colonel Mitrović, stationed in the Prizren SUP, had the call sign Cegar 1.[886] Had the Joint Command merely been a coordinating body, there would be no need to assign a call sign for radio communication purposes.

252. The Chamber is entirely convinced that the objective of the Joint Command went far beyond merely enabling an exchange of information between the MUP and the VJ, but was to plan and coordinate joint military operations of, *inter alia*, MUP and VJ forces in Kosovo. The Chamber observes that the established legal order of the FRY and the Republic of Serbia, and of the functioning of the VJ of the FRY and the MUP of the Republic of Serbia, did not authorise the functioning of a Joint Command. What President Milošević ordered, and what was done by Ministers and at the highest levels of the VJ and the MUP in the implementation of this order, were without legal authority. Clearly, out of necessity, the Joint Command was an extraordinary measure established by the President in conjunction with the political, VJ and MUP leadership to provide, in a period of crisis, a more effective means to carry out the agenda of the Serb leadership for Kosovo.

2. Coordination of VJ and MUP operations in 1998 - 1999

253. The FRY Law on Defence specified that in cases of imminent threat of war, a state of war or a state of emergency, the units and organs of Internal Affairs could be used to carry out "combat assignments, engage in combat or offer armed resistance". In carrying out such combat assignments, the organs and units were to be "subordinate to the officer of Armed Forces of Yugoslavia who is commanding combat operations".[887]

254. In 1998 and 1999 in Kosovo, the VJ and MUP conducted co-ordinated anti-terrorist operations together. From mid 1998 the broad scale of these operations were pursuant to orders of the Joint Command. The actual drafting of the orders was usually undertaken by the VJ.[888] During these anti-terrorist operations, the field commander would in theory be a VJ officer.[889] As discussed below, however, in practice the formal relationship of subordination of MUP units to VJ command was not always reflected in actions on the ground. Orders to the units conducting the operation would usually consist of a map with marked unit deployments, and an accompanying narrative describing the tasks of the unit.[890] At the request of the MUP unit to the VJ ground commander, or of the VJ Commander directly to the VJ, the VJ would typically provide any fire support requiring artillery or tanks.[891] The command of the specific MUP units reported to the

[886] Exhibit P1061; Ljubinko Cvetić, T 6732.
[887] Exhibit P1061; Ljubinko Cvetić, T 6732.
[888] Žarko Braković, Exhibit P759, para 23; Žarko Braković, T 4098.
[889] Žarko Braković, Exhibit P759, para 20.
[890] Žarko Braković, Exhibit P759, para 17; Žarko Braković, T 4146-4147.
[891] Žarko Braković, Exhibit P759, para 22.

command of the VJ Brigade during the conduct of anti-terrorist operations.[892] Žarko Braković, concurrently chief of the Priština SUP and commander of the 124th PJP detachment during the relevant time,[893] was aware of subordination orders issued by the Priština Corps to subordinate MUP units to the VJ Brigades for combat operations.[894] Examples of such orders include an Order issued by the Joint Command on 13 April 1999 for the destruction of Kosovo Albanian terrorist forces in the area of Žegovac.[895] In the field, copies of these orders were provided from the VJ, or at other times, they would be delivered in envelopes from the MUP Staff.[896] An order of 27 May 1999 from the Command of the Priština Corps to the Command of the MUP tasked the VJ 27th Motor Brigade with the 36th PJP unit of the MUP to attack along the axes of several villages in the Prekaze area in order to, *inter alia*, "crush and destroy the ŠTS".[897] Another unit of the PJP was ordered to take part in similar activities with a VJ brigade in another area.[898] As well as giving combat tasks to PJP units, the order stated that "[a]rmed non-shiptar population shall take part in securing facilities of vital importance and roads, as well as in defending and protecting the population".[899] As discussed in detail elsewhere in this Judgement, the Joint Command made liberal use of the Serb civilian population in Kosovo as vital support to the joint operations of the VJ and MUP.[900]

255. Orders and other official documents attest to the close cooperation between VJ and MUP forces in 1998-1999. An order to the Command of the Priština Corps from the 3rd Army Forward Command Post dated 7 August 1998 directed the VJ to support the MUP by using "direct fire on individual targets with weapons of the OMJ,[901] artillery and others, and artillery fire up to 120 mm calibre weapons".[902] A regular combat report of the 3rd Army Forward Command Post, dated 9 August 1998 provided, in Item 3, that "Part of the Army forces supported MUP forces in accordance with the decision on engagement" and in Item 5, paragraphs 2 and 3: "Support MUP forces in routing DTS in the sectors of Gramocelj, Prilep and Glodane villages, with the aim of pushing DTS away from the Đakovica – Dečane – Peć - main road".[903] A 14 August 1998 decision of the Priština Corps Command directed VJ forces to support MUP forces in breaking "Šiptar"

892 Žarko Braković, Exhibit P759, para 25.
893 Žarko Braković, Exhibit P759, p 2; Žarko Braković, T 4083, 4088, 4091, 4092.
894 Žarko Braković, Exhibit P759, para 23.
895 Exhibit P766; Žarko Braković, T 4145-4146.
896 Žarko Braković, T 4148, 4210.
897 Exhibit P961, p 4. "ŠTS" refers to Kosovo Albanian Terrorist Forces.
898 Exhibit P961, p 5.
899 Exhibit P961, p 2.
900 *See infra*, paras 1910-1915.
901 "OMJ" referred to Armoured Mechanised Units.
902 Exhibit D213, Item 2.
903 Exhibit D331. *See* Milan Đaković, T 8029-8030.

terrorist forces in the Sllupe/Slup and Voksah/Voska (Dečani/Deçan) sector.[904] A regular combat report of the 3rd Army Forward Command Post to the General Staff, dated 14 August 1998 referred to the need to support MUP in various "Šiptar" strongholds.[905] The General Staff ordered the 3rd Army Command on 17 August 1998 to: "...Continue coordination and joint action with MUP forces and in keeping with assessments, support the MUP forces in destroying the DTG/sabotage and terrorist groups...".[906] An "Analysis of the tasks executed on the territory of Kosovo and Metohija", of the 3rd Army Forward Command Post, dated 2 October 1998 proposed "that, in the future, whenever units of the MUP are engaged together with the Army, an organ be appointed at the Army or Priština Corps Control Post (Forward Command Post) to coordinate the activities of all MUP forces".[907]

256. General Karol Drewienkiewicz, Deputy Head of Mission for operations for the Kosovo Verification Mission ("KVM"),[908] gave evidence about a number of incidents in which he observed or had reported to him close links between the VJ and MUP in operations in Kosovo, suggesting there was one chain of command. VJ tanks and MUP were observed at the VJ position at Junik on 13 December 1998, as well as VJ seen entering the police station in Peć/Pejë on 15 December 1998.[909] A KVM report covering the period of 13 January 1999 records that the police operation in Gornji Ratiš/Ratish i Epërm east of Dečani/Deçan involved a VJ tank firing between 50 and 60 rounds, evidencing a combined VJ and MUP action.[910] Another combined VJ/MUP operation occurred on 19 January 1999 in Vasiljevo/Vasiljevë, east of Glogovac/Gllogoc.[911]

257. A coordinating link between the VJ and MUP was also apparent in the Račak/Raçak incident on 15 January 1999.[912] When the MUP advanced on foot into Račak/ Raçak, the village was still under VJ bombardment.[913] General Karol Drewienkiewicz observed the VJ on the high ground, overlooking Račak/Raçak at a distance of about a kilometre. As the operation unfolded, there was a considerable amount of firing by the VJ into the village and then the firing switched from the village to the flanks.[914] While this firing was still going on, the MUP entered the village.[915] The close coordination of supporting fire from the VJ and movement in the open by the

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904 Exhibit P1232.
905 Exhibit D332, p 4.
906 Exhibit D333, Item 4.
907 Exhibit D340, Item 4.3.
908 Karol Drewienkiewicz, Exhibit P996, para 7; Karol Drewienkiewicz, T 6305, 6429-6430, 6431.
909 Karol Drewienkiewicz, T 6346-6347; Exhibit P1003.
910 Exhibit P1006, Item 4, para 1; Karol Drewienkiewicz, T 6364-6365.
911 Karol Drewienkiewicz, Exhibit P996, para 198; Exhibit P1016, p 3.
912 Karol Drewienkiewicz, Exhibit P996, paras 180-181.
913 Karol Drewienkiewicz, Exhibit P996, para 181.
914 Karol Drewienkiewicz, T 6366; Karol Drewienkiewicz, Exhibit P997 (*Milutinović* transcript), T 7793-7795.
915 Karol Drewienkiewicz,T 6366.

MUP indicated that the operations of the VJ and MUP were controlled by a single commander on the ground.[916]

258. The incident in Rogovo/Rogovë, Đakovica/Gjakovë municipality, on 29 January 1999 also evidenced the coordination of the chains of command of the VJ and MUP.[917] General Lončar, a retired VJ officer who was the principal VJ liaison to the KVM, was in charge of the scene when General Karol Drewienkiewicz of the KVM arrived. Lončar was controlling both the regular police and the special anti-terrorist MUP units.[918] Lončar gave the police instructions which were obeyed, thereby disclosing that Lončar was effectively in the police chain of command for that operation.[919] This was also suggested by MUP Colonel Miroslav Mijatović's subordination to Lončar, although the former, who was the MUP liaison to the KVM,[920] worked for the police.[921] A KVM Regional Centre Prizren Daily Activity Report dated 29 January 1999 recorded that the VJ informed the OSCE that they performed a supporting function in the MUP operation in Rogovo/Rogovë.[922]

259. It was the evidence of Karol Drewienkiewicz that during Serbian operations in March 1999, the VJ and MUP cooperated together in a practised fashion; the VJ would secure the perimeter of a village or area and offered artillery support if required, while the MUP entered the village or area.[923]

260. In this Judgement the Chamber has recorded details of numerous coordinated joint operations including VJ and MUP forces in the months from March to June 1999. The evidence and findings of the Chamber in respect of the operations consistently confirms the joint involvement, and the close coordination, of VJ and MUP forces.

3. Re-subordination of MUP to the VJ in April 1999

261. Despite the work of the Joint Command there seems to have been ongoing friction between VJ and MUP. One reason for this was VJ concern that conduct allowed or condoned by MUP officers, *e.g.* criminal offences of murder, rape, etc., was disrupting VJ discipline and/or leading to allegations that such criminal conduct was being committed by the VJ.[924] By virtue of this friction the scheme of the existing Law on Defence, Article 17, was often advanced or urged by the VJ.

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916 Karol Drewienkiewicz, Exhibit P996, para 181; Karol Drewienkiewicz, T 6366-6367; Karol Drewienkiewicz, Exhibit P997 (*Milutinović* transcript),T 7793-7794.
917 Karol Drewienkiewicz, Exhibit P996, paras 165, 180; Karol Drewienkiewicz, T 6370- 6371.
918 Karol Drewienkiewicz, Exhibit P996, paras 59, 70, 182; Karol Drewienkiewicz, T 6343.
919 Karol Drewienkiewicz, Exhibit P996, para 182.
920 Karol Drewienkiewicz, Exhibit P996, para 56.
921 Karol Drewienkiewicz, Exhibit P996, paras 183-184.
922 Exhibit P1008, p 1.
923 Karol Drewienkiewicz, Exhibit P996, para 197.
924 Exhibits P1240 and P888.

This provided for all MUP units engaged in combat operations to be resubordinated to the VJ officer commanding the combat operation.[925] More than once the VJ, encouraged by their Chief of the General Staff and orders issued by him,[926] and President Milošević[927] on 18 April 1999, purported to make resubordination orders for MUP units engaged in combat operations.[928]

262. To this end, an order dated 8 May 1999 from VJ General Pavković to MUP General Lukić concerning the deployment of VJ and MUP forces in combat and control of the territory[929] apparently attempted to define more specifically the tasks assigned to MUP units and to direct General Lukić to implement the order on resubordination.[930] However, such orders were not fully complied with. Lazarević reported on 24 May 1999 to the 3rd Army Command Forward Command Post that the re-subordination of MUP forces to the Priština Corps Command and brigade commands "has not been done in the spirit" of the orders of 18 April 1999, and that commanders and leaders of MUP units had resisted and openly opposed the obligation to re-subordinate "offering as a pretext the alleged lack of a corresponding order from their command", with the result that the VJ did not have the MUP structures under its command.[931] It noted that one of the principal consequences of this was that there was a lack of coordination in joint actions of the MUP and VJ in combat actions and that the work of the mixed checkpoints of the MUP and Military Police was "fraught with problems and salient issues since the MUP tolerates criminal activities of its members against the Šiptar civilian population – murder, rape, looting, robbery, aggravated theft...".[932] This was communicated by Pavković to the Supreme Command Staff in a report the following day, noting in particular that "some MUP members and to a considerable extent entire smaller units which 'operate' independently on the ground are committing serious crimes against Šiptar civilian population in settlements or refugee shelters-murder, rape, plunder, robbery aggravated, theft, etc., and they then purposefully attribute or plan to attribute those crimes to units and individuals in the VJ".[933] The report proposed that the Supreme Command should take urgent measures to re-subordinate the units and organs of the MUP or leave the forces of the MUP "in the hands of the Ministry of the Interior - Staff of MUP of the Republic of Serbia for KiM, through the Joint Command, as has so far been the case".[934] In the view of the Chamber, these statements by senior VJ officials were made with a view to achieving subordination of the MUP; they did not necessarily reflect the full reality in terms of the authors of crimes committed in Kosovo. As

[925] Exhibit D203.
[926] Exhibit P887.
[927] Exhibit D203.
[928] Exhibits D204, D205 and D206.
[929] Exhibit P1239.
[930] Milan Đaković, T 8100-8101.
[931] Exhibit P1240.
[932] Exhibit P1240.
[933] Exhibit P888.

discussed and described in Chapter VI, the evidence indicates that VJ personnel also took part in crimes against Kosovo Albanian civilians in 1999, though with less frequency than that of MUP personnel. A meeting took place on 9 July 1999 at the General Staff in Belgrade at the request of Slobodan Milošević in order to establish a firm cooperation between the VJ and the MUP.[935] In attendance were Minister Vlajko Stojiljković, Vlastimir Đorđević, Obrad Stevanović and Sreten Lukić, Dragoljub Ojdanić who chaired the meeting, Geza Farkas, Branko Gajić, Branko Krga and Aleksandar Vasiljević.[936] Đorđević reportedly stated at the meeting that in order for both services (*i.e.* MUP and VJ) to perform well they should keep within their own domains.[937]

263. Despite the existing Law on Defence, the MUP appears to have disregarded these orders. Đorđević himself confronted Pavković on 18 April 1999 on the pretext that there would be no MUP resubordination until the MUP received such an order from Minister Stoljiljković (which did not occur).[938] Therefore there was some confusion about this, and ill-will. Sometimes MUP units appear to have acted as a unit resubordinated to a VJ Combat Commander, but this was often not the case (despite the suggestion of VJ witnesses such as Đaković[939] and Vasiljević[940]). Nebojša Pavković stated publicly on the VJ website on 14 June 2001 that although "it is true that the national defence law regulated that police units in the responsibility zones were bound to subordinate to the commands of the Yugoslav army", in reality, "this never came into existence" and that "[t]he 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 that purpose".[941] While the Chamber acknowledges that Pavković made these remarks in reaction to the publicity surrounding the refrigerated trucks with bodies that had been found in the Danube river and like publicity during the war[942] and therefore was likely to be trying to distance the VJ from any responsibility of the MUP in this regard, the lack of effective re-subordination of the MUP to the VJ is nonetheless well-supported by the evidence.

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934 Exhibit P888; *see* also Milan Đaković, T 7962.
935 Aleksandar Vasiljević, T 5690, 5695, 5718-5720, 5746.
936 Aleksandar Vasiljević, T 5720.
937 Aleksandar Vasiljević, T 5726. Đorđević further noted that there were numerous possibilities to establish a successful and quality cooperation between the services. For example, he mentioned the area of training, exchange of experience, and resolving the matters of status of those belonging to the army and the MUP, as well as joint supplies. He said that the image of the army being with the people and the MUP being against it is something that should be avoided.
938 Milan Đaković, T 7964-7966; T 8091.
939 Milan Đaković, T 8031.
940 Aleksandar Vasiljević, T 5878-5879.
941 Exhibit P1241.
942 Milan Đaković, T 7974.

264. Hence, in fact, the primary means of effective coordination was that established by Milošević, *i.e.* the Joint Command coordinating the distinct chains of command of the VJ and the MUP.

F. Use of ribbons

265. The Chamber received differing evidence as to the use of ribbons by MUP and VJ forces. A number of witnesses testified that both VJ and MUP forces, including the PJP, wore coloured ribbons on their shoulders during the Indictment period.[943] Coloured ribbons, yellow, blue, red and white, were worn either one colour at a time or in various combinations. These were usually changed daily.[944] In addition to these ribbon combinations, the JSO and SAJ would wear gold ribbons. Evidence indicates that the gold ribbons were worn in the areas of west Kosovo, whilst the red and white were worn in more central areas, such as Drenica.[945]

266. Evidence of the VJ wearing ribbons is more limited. Certain units, such as the 549th Motorised Brigade, did not wear such ribbons.[946] This is consistent with a document of the SUP Priština entitled "Instructions to the police for wearing identification bands" dated May 1999 which noted that "VJ do not have identification bands".[947] However, Žarko Braković testified that this note was incorrect, and that the VJ did in fact wear matching ribbons.[948] A letter on the subject of armbands worn by the police signed by General Sreten Lukić and sent to all SUPs in Kosovo dated 13 April 1999 also cautioned that VJ members did not currently wear armbands.[949] Further instructions on the wearing of armbands was issued by Sreten Lukić in a letter dated 26 May 1999, addressed not only to the chiefs of the various SUPs in Kosovo but also the 122nd and 124th Intervention Brigades of the PJP.[950] This letter did not contain a note on the lack of armbands worn by the VJ, possibly suggesting that by this time the VJ did wear armbands. Given the purpose of these coloured bands it is also possible that both VJ and MUP units engaged in a joint operation would use the same coloured ribbons to assist their mutual identification.

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943 K25, Exhibit P340-A, p 20; K73, Exhibit P331-A, para 13; K73, T 1509-1510; John Crosland, Exhibit P1400, para 38; Žarko Braković, Exhibit P759, para 8.
944 K25, Exhibit P340-A, p 20; K73, Exhibit P331-A, para 13; K73, T 1509-1510; John Crosland, Exhibit P1400, para 38.
945 John Crosland, Exhibit P1400, para 38.
946 K82, Exhibit P1315, para 2.
947 Exhibit P761.
948 Žarko Braković, T 4127-4128.
949 Exhibit P762, p 1.
950 Exhibit P762, p 4 on e-court; Žarko Braković, T 4129.

267. These ribbons appeared to be worn so that units could more easily distinguish between friendly and enemy forces; which in turn prevented friendly fire and also made enemy infiltration more challenging.[951]

268. The Chamber finds that although the use of ribbons by the VJ was more limited and some units may not have used them, ribbons were used by MUP forces, and to a lesser extent by the VJ forces, during the Indictment period.

G. Numbers of Serbian forces in Kosovo

269. In October 1998, there were an estimated 14,000 MUP personnel in Kosovo.[952] This number was reduced to around 10,000 police officers at the end of October 1998 by virtue of the October Agreements of 1998.[953] Despite the Agreement, the numbers of MUP forces increased to 14,571 in March 1999.[954] In April 1999, there were 15,779 MUP personnel in Kosovo.[955]

270. While the number of Priština Corps soldiers was 17,971 as at 31 March 1999,[956] the total manpower of the VJ in Kosovo under the Priština Corps, including re-subordinated units and volunteers stood at 61,892 according to a combat report dated 13 April 1999 from the Priština Corps to the 3rd Army Command and Supreme Command Staff.[957]

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951 K25, Exhibit P340-A, p 20; K73, Exhibit P331-A, para 13; K73, T 1509-1510; John Crosland, Exhibit P1400, para 38.
952 Exhibit P1038, p 2; Ljubinko Cvetić, T 6608-6609, 6618-6619. *See* also Exhibit P886, p 23.
953 Exhibit P769, p 1; Exhibit P87, p 7; Ljubinko Cvetić, T 6608, 6618. *See* Exhibit P837.
954 Ljubinko Cvetić, T 6609-6610.
955 Vlastimir Đorđević, T 10043.
956 Exhibit P1441, p 3.
957 Exhibit P948, p 2; Exhibit P1331, p 11.

V. EVENTS IN 1998 AND EARLY 1999

A. Armed violence in Kosovo in February to May 1998

1. Events in Cirez/Çirez, Likošane/Likoshan and Prekaze/Prekaz

271. On 28 February 1998 fighting between Serbian forces and the KLA took place in the villages of Cirez/Çirez and Likošane/Likoshan, in the border area between the municipalities of Srbica/Skenderaj and Glogovac/Gllogoc, during which some 24 people were killed, many of them members of two families.[958] A MUP helicopter was used in this operation.[959] On 3 March 1998 MUP forces surrounded the family compound of Adem Jashari in the village of Prekaze/Prekaz, Srbica/Skenderaj municipality. Adem Jashari was one of the founders of the KLA and a KLA leader in the area.[960] The MUP forces maintained a siege of the Jashari compound for several days.[961] At least 54 people most of them members of the Jashari family, were killed.[962] The operation in Prekaze/Prekaz was organised and carried out by the RDB and the RJB of the MUP.[963] The unit for special operations, JSO of the RDB, and an SAJ unit carried out the operation while other SAJ units and a PJP unit of the RJB blockaded the surrounding region.[964] John Crosland, the British defence attaché to Belgrade who was touring the region at the time saw over 200 MUP personnel in the area on 5 March 1998.[965]

272. These events in Prekaze/Prekaz led to a rapid growth of the KLA among the Kosovo Albanian population with many young people joining the organisation.[966] The conflict was reaching a new level of intensity.

2. Increase of FRY and Serbian security forces in Kosovo from late March and April 1998

273. On 29 March 1998 John Crosland noted the first obvious indications of a build up of Serbian forces in the Dečani/Deçan area.[967] There were Serbian paramilitary forces based across

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958 Sabit Kadriu, Exhibit P515, pp 5-6; Sabit Kadriu, Exhibit P516 (*Milutinović* transcript), T 5110-5111; Frederick Abrahams, T 3941.
959 Sabit Kadriu, Exhibit P515, pp 5-6.
960 Momir Stojanović, T 11693, 11868-11870.
961 Veton Surroi, T 270.
962 The evidence as to the number of victims varies. John Crosland testified that there were 54 people killed, John Crosland, Exhibit P1400, para 28. Frederick Abrahams gave evidence that 58 members of the Jashsari family were killed, Frederick Abrahams, T 3941-3942, while Sabit Kadriu placed the number of victims at 61, Sabit Kadriu, Exhibit P515, pp 6-7.
963 Ljubinko Cvetić, T 6613-6615.
964 Živko Trajković, T 9060-9061, 9070; Ljubinko Cvetić, T 6613-6616; John Crosland, Exhibit P1400, para 28; John Crosland, T 9156-9157. *See* also Žarko Braković, Exhibit P759, para 39.
965 John Crosland, Exhibit P1400, para 28.
966 Baton Haxhiu, T 6263, 6268.
967 John Crosland, Exhibit P1400, paras 29-30; John Crosland, T 9156-9157.

the border in Montenegro.[968] In March 1998 joint VJ and MUP bases started to appear in all major towns in Kosovo.[969] The Priština Corps of the 3rd Army of the VJ was stationed in Kosovo with over 15,000 personnel, commanded by Nebojša Pavković.[970]

274. On 23 April 1998 the FRY border belt facing Albania was extended dramatically to about five kilometres.[971] The border belt was a territory, in which FRY armed forces had responsibility for ensuring security of the border. The depth of the border belt could be expanded to allow for the security forces to be active in broader areas.[972] On 21 July 1998 the border belt facing Albania and the FYROM was extended again.[973] The border belt was extended even further on 5 March 1999.[974] These extensions were made by the General Staff of the VJ at the request of the Priština Corps Command.[975]

275. In Đakovica/Gjakovë municipality, bordering Albania, the number of police and military increased. New equipment was brought in, including tanks, Pinzgauers, APCs, and cannons. Cannons and other military equipment were placed at locations outside the town of Đakovica/Gjakovë.[976]

276. During the whole of 1998 John Crosland saw BOC-3, BOV-M, APCs and other light VJ vehicles being repainted from VJ green to MUP blue throughout Kosovo.[977] The VJ had small and long arms, T-55 and T-84 tanks.[978] Beginning in May 1998 Crosland saw, all over Kosovo, that machine-guns were also being repainted blue. John Crosland understood from this repainting of VJ equipment in MUP colours that the VJ was starting to support operations within Kosovo, the types of equipment being painted indicating the VJ was intending to use not only direct fire, but also indirect fire of heavier weapons such as mortars and artillery.[979] Within Kosovo the role of providing security was the responsibility of the MUP. Hence, the Chamber accepts, VJ equipment was being painted in MUP colours to disguise the operations of the VJ as MUP operations.

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968 John Crosland, Exhibit P1400, para 29; John Crosland, Exhibit P1402 (*Milutinović* transcript), T 9774.
969 John Crosland, Exhibit P1400, para 30; John Crosland, T 9157.
970 John Crosland, T 9157-9158.
971 Rade Čučak, Exhibit D570 (*Milutinović* transcript), T 14877-14880; Rade Čučak, T 10882, 10892, 10939. The belt had previously been 100 metres.
972 Rade Čučak, T 10874, 10876, 10929.
973 Exhibit D573; Rade Čučak, Exhibit D570 (*Milutinović* transcript), T 14877-14880; Rade Čučak, T 10882, 10892, 10939.
974 Rade Čučak, Exhibit D570 (*Milutinović* transcript), T 14877-14878; Rade Čučak, T 10940.
975 Rade Čučak, Exhibit D569, para 9; Rade Čučak, Exhibit D570 (*Milutinović* transcript), T14835-14837.
976 Fuad Haxhibeqiri, Exhibit P1068, p 4.
977 John Crosland, Exhibit P1400, para 33; John Crosland, Exhibit P1402 (*Milutinović* transcript), T 9764-9765.
978 John Crosland, Exhibit P1402 (*Milutinović* transcript), T 9764.
979 John Crosland, T 9165-9166.

277. In early 1998 and throughout the year the KLA continued to smuggle weapons to Kosovo across the border from Albania; it also conducted trainings of Kosovo Albanians.[980] Even at the beginning of 1998, for example, the Prizren SUP were alerted to weapons and ammunition arriving in Kosovo. Automatic weapons, explosives and mines were seized.[981]

3. Escalation of tension in Kosovo from March till June 1998

278. Acts of violence, including killings, committed by both Serbian forces and the KLA, became more frequent in 1998.[982]

279. Serb and sometimes Kosovo Albanian civilians in areas under KLA control were harassed or terrorised, by assaults, kidnappings and sporadic killings.[983] There were attacks on members of the MUP and on police stations.[984]

280. In March 1998 PJP forces carried out an operation in the area of Klina/Klinë and Srbica/Skenderaj, the purpose of which was to hold the road between Klina/Klinë and Srbica/Skenderaj.[985] Following this, PJP forces carried out an operation "to free" the road between Peć/Pejë and Dečani/Deçan, which had been sealed off by the KLA.[986] As part of this operation, checkpoints were set up to uncover weapons, drugs and persons wanted by the Serbian authorities.[987]

281. In April 1998 PJP forces carried out an operation with the aim of establishing control over Jablanica/Jabllanicë in Đakovica/Gjakovë municipality, which was a KLA stronghold. PJP forces attempted to take the village for about a day but failed.[988] The exchange of fire was significant.[989]

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980 Momir Stojanović, T 11695, 11696, 11730-11731; Momir Stojanović, Exhibit D723 (*Milutinović* transcript), T 19703-19704; Exhibit D747. *See* also Exhibits D244; D430; D431 confirming that weapons held by Kosovo Albanians were handed over to the police.

981 6D2, T 12191.

982 Although incidents against the police in Kosovo had taken place before March 1998, attacks against the police occurred virtually on a daily basis following this date. (Velibor Veljković, T 7102) In the spring of 1998 Rahim Latifi found in a cornfield in Pirane/Piranë, Prizren municipality, the bodies of three of his co-villagers who had been shot dead. The hands of one of the bodies had been tied behind his back. The victims had been working in the field the whole day, Rahim Latifi, Exhibit P778, p 2.

983 Frederick Abrahams, Exhibit P738, Statement of 24 January 2002, p 10; Danica Marinković, T 12921, 12923-12924, 12928; Danica Marinković, Exhibit D853, paras 12, 13; Danica Marinković, Exhibit D854 (*Milutinović* transcript), T 23495-23498. *See* also Exhibit D888, p 101, item 255; Momir Stojanović, Exhibit D723 (*Milutinović* transcript), T 19747-19748.

984 Danica Marinković, T 12928.

985 K25, Exhibit P340-A, pp 4-5; K25, Exhibit P341-A (*Milošević* transcript), T 7815-7816; K25, T 1584-1585; Exhibit P343.

986 K25, Exhibit P341-A (*Milošević* transcript), T 7815-7816.

987 K25, Exhibit P340-A, p 5; K25, Exhibit P342 (*Milutinović* transcript), T 4733.

988 K25, Exhibit P341-A (*Milošević* transcript), T 7817.

989 K25, Exhibit P342 (*Milutinović* transcript), T 4716, 4736.

282. On 11 and 12 May 1998 John Crosland observed that the villages in the area of Ponoševac/Ponoshec in Đakovica/Gjakovë municipality, were deserted. He saw slaughtered livestock, houses that had been sprayed with gunfire and empty casings from ammunition used for various weapons, including 40 millimetre grenades. JSO and PJP units of the MUP were present in the area; they carried out patrols using APCs, which were not normally used by the Serbian forces.[990] There was a lot of structural damage to the houses caused by shell fire.[991]

283. A British military report dated 28 May 1998 revealed that the village of Kijevo/Kijevë was in the hands of armed Serb civilians, that there was evidence of recent house burning in two villages north of Dečani/Deçan and that there were witness reports of a Serbian helicopter attack on two villages west of Rudnik/Runik, Srbica/Skenderaj municipality. The British team witnessed the arrival of a large MUP convoy in the area and the withdrawal of the JSO.[992] The KLA were present in the area of Kijevo/Kijevë at the time.[993]

284. The main road between Đakovica/Gjakovë, Dečani/Deçan and Peć/Pejë became the front line between the KLA and the Serbian forces. Most of the villages along this road, including Prilep south of Dečani/Deçan and Gornji Streoc/Strellc-i-Epërm, north of Dečani/Deçan were held by Serbian forces, and were attacked fairly regularly by the KLA.[994] A MUP report suggests that male Kosovo Albanians from the village of Crnobreg/Carabreg had been armed.[995] The KLA held this road, having cut off communications; they were searching people and vehicles and looting.[996]

285. In May 1998, Mališevo/Malishevë was controlled by the KLA.[997] There were displaced persons in Mališevo/Malishevë from other parts of Kosovo who came mainly from villages in Drenica region.[998] This was a region covering parts of the municipalities of Srbica/Skenderaj and Glogovac/Gllogoc. Houses in the area of Orahovac/Rahovec, Mališevo/Malishevë, Komorane/Komoran, and Priština/Prishtinë were burnt to the ground.[999] The houses along the Priština/Prishtinë-Peć/Pejë road and the Lipljan/Lipjan road were burnt.[1000] There were policemen on the Priština/Prishtinë-Peć/Pejë road.[1001]

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990 John Crosland, Exhibit P1400, para 34; John Crosland, T 9160-9161; Exhibit P1404.
991 John Crosland, T 9161.
992 Exhibit P1405; John Crosland, T 9162-9163.
993 John Crosland, Exhibit P1402 (*Milutinović* transcript), T 10021-10022.
994 John Crosland, T 9163-9164.
995 Vukmir Mirčić, T 13246; Exhibit D910, p 3.
996 K25, Exhibit P342 (*Milutinović* transcript), T 4734.
997 Baton Haxhiu, Exhibit P994 (*Milutinović* transcript), T 6082-6083.
998 Baton Haxhiu, Exhibit P994 (*Milutinović* transcript), T 6083.
999 Baton Haxhiu, T 6269.
1000 Baton Haxhiu, Exhibit P994 (*Milutinović* transcript), T 6083.
1001 Baton Haxhiu, Exhibit P994 (*Milutinović* transcript), T 6085.

286. On 29 May 1998 the Priština Corps of the 3rd Army was commanded to be at full combat readiness "due to the deterioration of the security-political situation in the territory of Kosovo".[1002] By that time there were combat operations in the border area with suspected KLA forces who were attempting to bring in weapons and equipment to the territory of Kosovo. The KLA were taking positions at major intersections and dominant elevations and were targeting members of the MUP.[1003]

287. From 15 January to 15 May 1998, 20 shooting incidents and 18 incidents of illegal importation into Kosovo of weapons, ammunition and other military equipment were registered by the VJ at the area of the border with Albania.[1004]

B. Events from June until September 1998

1. Plan for Suppression of Terrorism and Establishment of Joint Command for Kosovo

288. On or about 30 May 1998, a meeting took place in the FRY President's Office in Belgrade. The meeting was attended by the President, Slobodan Milošević; Jovica Stanišić, at the time Chief of the State Security Services; Vlajko Stojiljković, Minister of Interior; Sreten Lukić, Head of the MUP Staff for Kosovo; the Accused Vlastimir Đorđević, Chief of the RJB; Obrad Stevanović, Assistant Minister of Interior in charge of coordination of the police administration; General Perišić, Chief of the General Staff of the VJ; General Dimitrijević, Chief of the Security Administration of the General Staff of the VJ; Nebojša Pavković, at the time, Commander of the Priština Corps; General Samardžić, Commander of the 3rd Army of the VJ, and others.[1005] At this meeting the overall situation in Kosovo was discussed and an initiative was launched to make preparations to monitor the situation "in order to avoid any surprises" for the VJ or the MUP in Kosovo, related to activities of the Kosovo Albanian forces.[1006] Following this meeting, Milan Đaković who did not attend, was told by General Nebojša Pavković that on 9 June 1998 the Supreme Defence Council would issue a decision on the use of force.[1007]

289. On 9 June 1998 the Supreme Defence Council held a meeting to deal with the situation in Kosovo. At the proposal of Slobodan Milošević, the meeting determined that should terrorist activities escalate, the VJ "will intervene in adequate measure."[1008] At this meeting the Chief of the General Staff of the VJ, General Perišić, informed those present of the VJ activities in the border

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[1002] Exhibit D318; Milan Đaković, T 7986.
[1003] Milan Đaković, T 7986.
[1004] Rade Čučak, Exhibit D569, para 9; Rade Čučak, T 10881-10882; Exhibit D571.
[1005] Milan Đaković, T 7914-7915.
[1006] Milan Đaković, T 7914.
[1007] Milan Đaković, T 7915.

belt area and indicated that some forces of the VJ were deployed deep in Kosovo to provide security for the barracks and to be able to be deployed to secure "suddenly endangered" facilities.[1009]

290. In early June 1998 Milan Đaković of the Priština Corps and other senior VJ officers were directed to draft a Plan for Suppression of Terrorism.[1010] To prepare the plan they received information from all the FRY and Serbian structures operating in Kosovo, including the MUP and its State Security Service and various VJ units. The plan was presented to the FRY President Slobodan Milošević and the federal and state political leadership and others at a meeting in Belgrade on 21 July 1998.[1011] This meeting was attended by Milomir Minić, Member of the Yugoslav Assembly; Nikola Šainović, Deputy Prime Minister of the FRY; Zoran Anđelković, President of the Provisional Executive Council in Kosovo; Nebojša Pavković, Commander of the Priština Corps; General Perišić, Chief of General Staff; the Accused, Vlastimir Đorđević, Head of the RJB; General Sreten Lukić, Head of the MUP Staff for Kosovo; Dušan Samardžić, Commander of the 3rd Army; Aleksandar Dimitrijević, Chief of the Security Administration of the General Staff of the VJ, Vlajko Stojiljković, Minister of Interior; Obrad Stevanović, Assistant Minister of Interior, and other officers of the MUP.[1012] Slobodan Milošević informed those present that the Supreme Defence Council had made a decision to draw up a plan to combat terrorism in response to the further deterioration of the security situation in Kosovo.[1013] General Nebojša Pavković, the Commander of the Priština Corps of the VJ, then presented the plan and showed to those present a map of the expected areas of operation of the army and the police.[1014] The plan was adopted as proposed[1015] and an order was given to implement the plan.[1016]

291. Initially, the plan comprised three stages. The first involved the engagement of border units of the VJ in the border area. The police had no jurisdiction there, except for their regular policing and checking the movement of people and vehicles, and consequently the VJ had a major role in preventing the movement of terrorists across the border.[1017] The second stage involved the engagement of MUP units, with support provided by the VJ, in the breaking up of terrorist forces along the main road between Peć/Pejë-Đakovica/Gjakovë, and Prizren in the area 10 to 15 kilometres from the border. A working map was prepared on which the units of the VJ were plotted

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[1008] Exhibit P683, p 2.
[1009] Exhibit P683, p 1.
[1010] Milan Đaković, T 7913-7916, 7994.
[1011] Milan Đaković, T 7916.
[1012] Milan Đaković, T 7916-7918; Vlastimir Đorđević, T 9563-9564.
[1013] Vlastimir Đorđević, T 9564, 9831.
[1014] Vlastimir Đorđević, T 9564-9565, 9566.
[1015] Milan Đaković, T 7996.
[1016] Exhibit P1226.
[1017] Milan Đaković, T 7923-7924, 7995.

roughly.[1018] Once information about MUP units was received from the MUP Staff for Kosovo this information was also included in the plan.[1019] The third stage involved VJ support to MUP forces in lifting the blockade of the Kosovska Mitrovica/Mitrovicë-Rudnik/Runik-Peć/Pejë road, the Priština/Prishtinë-Klina/Klinë-Đakovica/Gjakovë road, and the Štimlje/Shtime-Suva Reka/Suharekë-Prizren road.[1020] Subsequently, in October and November 1998, two additional stages were added.[1021] The fourth stage involved breaking up KLA forces in Srbica/Skenderaj, Mount Čičavica/Qiqavica, Mount Jablanica/Jabllanicë and the broader area including the village of Glodjane/Gllogjan, as well as in the area of Jezero/Liqej Mountains and Dulje/Dühel.[1022] The fifth stage, which was developed following the October Agreements, to be discussed below[1023], involved sending seven combat groups to provide security on the roads in the border belt and three mixed companies in the area of the Volujak/Volljakë Mountains. The MUP was tasked with setting up patrols and checkpoints.[1024]

292. One of the immediate actions envisaged by the plan was the joint participation of both MUP and Priština Corps units in the blockade of Junik and Jasić/Jasiq villages, and in de-blockading the Priština/Prishtinë-Peć/Pejë road in the sections between Komorane/Komoran, Kijevo/Kijevë and Klina/Klinë, and between Štimlje/Shtime, Crnoljevo/Carralevë and Dulje/Duhël. On 22 July 1998 the command of the Priština Corps requested clarification from the 3rd Army on the Priština Corps's involvement in the implementation of this part of the plan.[1025] Authorisation to act in accordance with the plan was given to the Priština Corps by the 3rd Army command on 23 July.[1026] The acts of these forces on the ground in implementation of the plan, will be discussed below.

293. The Chamber has found elsewhere in this Judgement that in June 1998, approximately at the same time as the Plan for Suppression of Terrorism was conceived, a Joint Command of the VJ and MUP forces in Kosovo was established. Its structure and functions are discussed elsewhere in this Judgement.[1027]

2. Establishment of Kosovo Diplomatic Observer Missions

294. The deteriorating security situation in Kosovo quickly became a matter of international concern. On 31 March 1998 the United Nations Security Council, acting under Chapter VII of the

[1018] Milan Đaković, T 7924, 7995-7996.
[1019] Milan Đaković, T 7996.
[1020] Milan Đaković, T 7924.
[1021] Milan Đaković, T 7923.
[1022] Milan Đaković, T 7924, 8051.
[1023] *See infra*, paras 351-363.
[1024] Milan Đaković, T 7925.
[1025] Exhibit P1226. *See* also Exhibit P1227.
[1026] Exhibit P1228.

United Nations Charter, passed Resolution 1160 which prohibited the sale or supply of weapons and related materials to the FRY, including Kosovo.[1028] The resolution called upon the FRY to take measures to achieve a political solution to the situation of Kosovo through dialogue and urged the KLA to condemn terrorist actions and to pursue their goals by peaceful means.[1029]

295. In June 1998, the President of the FRY Slobodan Milošević and the President of Russia, Boris Yeltsin met in Moscow. At this meeting it was agreed that foreign diplomatic representatives would have broader powers to monitor the situation in Kosovo.[1030] On 17 June 1998 Vlajko Stojiljković, the Minister of Interior, sent a dispatch to all SUPs in Kosovo containing the text of the joint statement of Slobodan Milošević and Boris Yeltsin.[1031] The statement made specific references to facilitating the return of displaced persons and refugees, reduction of the presence of security forces outside their permanent bases in proportion with the reduction of terrorist activities, and announced the readiness of the FRY to start negotiations with the OSCE about receiving its mission in Kosovo and about the renewal of the FRY membership in the organisation.[1032] Subsequently, the US Special Envoy for the Balkans Richard Holbrooke met with Slobodan Milošević in Belgrade.[1033] It was accepted that the monitoring of the situation in Kosovo would no longer be left to foreign diplomatic missions in Belgrade and that formal observer missions would be established in Priština/Prishtinë. These missions became known as Kosovo Diplomatic Observer Missions or KDOMs. It was agreed that three KDOMs would be established: Russian KDOM, EU-KDOM and US-KDOM.[1034]

296. In early July 1998 the first of the three missions, the EU-KDOM was established.[1035] The US-KDOM was established in late July 1998 and quickly became the largest.[1036] The Russian

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[1027] *See supra*, paras 224-252.
[1028] Exhibit P1074; Knut Vollebaek, T 7204-7206; Živadin Jovanović, T 10192-10196.
[1029] Exhibit P1074, p 2.
[1030] Shaun Byrnes, Exhibit P1214 (*Milutinović* transcript), T 12129-12130; Shaun Byrnes, T 8162; Živadin Jovanović, Exhibit D454 (*Milutinović* transcript), T 13991-13992; Živadin Jovanović, T 10202. There were expectations in the international community that greater international observation in Kosovo would lead to a calming down of the situation and would permit a political solution to be found, Shaun Byrnes, Exhibit P1214 (*Milutinović* transcript), T 12130, 12133.
[1031] Ljubinko Cvetić, T 6793-6794; Exhibit D233.
[1032] Exhibit D233.
[1033] Shaun Byrnes, Exhibit P1214 (*Milutinović* transcript), T 12130, 12133-12134.
[1034] Shaun Byrnes, Exhibit P1214 (*Milutinović* transcript), T 12130, 12134; Shaun Byrnes, T 8163; Jan Kickert, T 2617-2618; Karol John Drewienkiewicz, Exhibit P996, paras 40, 41; Karol John Drewienkiewicz, T 6459; Karol John Drewienkiewicz, Exhibit P997 (*Milutinović* transcript), T 7734.
[1035] Shaun Byrnes, T 8164. A European Community Monitoring Mission ("ECMM") existed in Kosovo since April 1998; this mission took over the functions of the EU-KDOM, Shaun Byrnes, T 8164; Shaun Byrnes, Exhibit P1214 (*Milutinović* transcript), T 12134. *See* also Jan Kickert, T 2576. The EU-KDOM had its inauguration trip in Kosovo on 6 July 1998, Jan Kickert, T 2577; Exhibit P482.
[1036] Shaun Byrnes, Exhibit P1214 (*Milutinović* transcript), T 12134; Shaun Byrnes, T 8164. In December 1998 and January 1999 the US-KDOM had about 300 US officers and 600 to 700 local (Albanian and Serbian) staff, Shaun Byrnes, Exhibit P1214 (*Milutinović* transcript), T 12135.

KDOM was established in early September 1998. It had only five or six officers, and it did not have vehicles suited for travel outside Priština/Prishtinë.[1037]

297. The mandate of the KDOMs was to provide the international community with accurate and independent information about the situation in Kosovo which would be collected by international observers present on the ground in Kosovo.[1038] The KDOMs reported to their respective diplomatic missions in Belgrade.[1039] In addition to the relevant authorities in the USA, the US-KDOM also provided information about the situation on the ground to the Contact Group on the Balkans[1040] through the US Embassy in Belgrade.[1041]

298. In the late summer and autumn of 1998 the KDOMs ran daily missions to various parts of Kosovo. The US-KDOM would send a team of two American officers and a Serb or Albanian interpreter to areas where there was information of clashes or in areas that were contested.[1042] The three missions coordinated their activities and worked closely together.[1043] The missions had frequent contacts with representatives of the MUP in Priština/Prishtinë.[1044]

299. With the establishment of the OSCE Kosovo Verification Mission ("KVM"), to be discussed below, various KDOM contingents were absorbed by the KVM.[1045] The EU and the USA retained small representation in Priština/Prishtinë, to serve their respective diplomatic missions in the region.[1046] The remaining 15 member staff of the US-KDOM, also ran missions and provided unclassified reporting to Washington, Brussels and to the US Mission in Belgrade on the general situation on the ground. This continued until the end of March 1999.[1047]

[1037] Shaun Byrnes, Exhibit P1214 (*Milutinović* transcript), T 12134-12135; Shaun Byrnes, T 8164.
[1038] Jan Kickert, T 2576, 2624; Jan Kickert, Exhibit P479 (*Milutinović* transcript), T 11200.
[1039] Karol John Drewienkiewicz, Exhibit P996, paras 40, 41; Karol John Drewienkiewicz, T 6459; Karol John Drewienkiewicz, Exhibit P997 (*Milutinović* transcript), T 7734. The US-KDOM was established as an entity of the US embassy in Belgrade and the head of the US-KDOM reported directly to the chief of the US mission in Belgrade, Shaun Byrnes, Exhibit P1214 (*Milutinović* transcript), T 12132. *See* also Jan Kickert, T 2577; Exhibit P482.
[1040] The Contact Group on the Balkans comprised France, Germany, Italy, Russia, the United Kingdom, and the United States, Jan Kickert, T 2576.
[1041] Shaun Byrnes, Exhibit P1214 (*Milutinović* transcript), T 12132; Shaun Byrnes, T 8162, 8163.
[1042] Shaun Byrnes, Exhibit P1214 (*Milutinović* transcript), T 12135-12136; Shaun Byrnes, T 8165.
[1043] Shaun Byrnes, Exhibit P1214 (*Milutinović* transcript), T 12136-12137; Shaun Byrnes, T 8166.
[1044] Shaun Byrnes, Exhibit P1214 (*Milutinović* transcript), T 12140-12141. The MUP sent regularly reports to the US-KDOM, Shaun Byrnes, Exhibit P1214 (*Milutinović* transcript), T 12206.
[1045] *See infra*, paras 253-356.
[1046] Shaun Byrnes, Exhibit P1214 (*Milutinović* transcript), T 12169-12170l; Shaun Byrnes, T 8261-8262; Karol John Drewienkiewicz, Exhibit P996, paras 42, 46; Karol John Drewienkiewicz, Exhibit P997 (*Milutinović* transcript), T 7735-7736, 7830, 7966.
[1047] Shaun Byrnes, Exhibit P1214 (*Milutinović* transcript), T 12171-12172. *See* also Shaun Byrnes, T 8261-8263.

3. Armed violence in Kosovo from June to September 1998

300. In June or by July 1998 the KLA held up to 50 per cent of the territory of Kosovo.[1048] Three main roads had been closed by the KLA by June 1998 which cut off the supply lines for the Serbian forces.[1049] Nevertheless, the KLA did not have any artillery at their disposal.[1050] In July 1998 the KLA had gained control of the Belacevac coal mine, which was a major source of power supply. MUP forces launched one or more actions to retake the mine and eventually took control of the plant.[1051]

301. There were frequent attacks by the KLA on the police and the army.[1052] Incidents of kidnapping by the KLA of ethnic Serbs and Albanians perceived as collaborators also increased[1053] as did incidents of intimidation, harassment and killings by the KLA.[1054] In June 1998 an armed attack was carried out against the police station in Suva Reka/Suharekë.[1055] One policeman was wounded.[1056] In the night between 12 and 13 June the police station in Rudnik/Runik in Srbica/Skenderaj municipality was attacked; it had previously come under sniper and infantry fire for days. 11 houses belonging to Serb families were also set on fire that night in the nearby village of Leocina/Leçinë. In a nearby village a Serb civilian was killed, and his house subsequently was set on fire.[1057]

302. In June 1998 armed clashes between the KLA and Serbian forces took place in the Drenica region, which encompasses the border areas of the municipalities of Srbica/Skenderaj and Glogovac/Gllogoc. Villages in the region were shelled by the VJ. As a result, some 40,000 people

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[1048] Mialn Đaković, T 7913; John Crosland, Exhibit P1400, para 36; 6D2, T 12192; Vlastimir Đorđević, T 9558.

[1049] Milan Đaković, T 7913; John Crosland, T 9207-9208; Exhibit D382; 6D2, T 12192-12193. Baton Haxhiu testified that in June 1998 the traffic between Priština/Prishtinë and Prizren was interrupted by the KLA and that the village of Kijevo/Kijevë was blocked for a month, Baton Haxhiu, T 6269-6270. Branko Mladenović testified that in June 1998 the Priština/Prishtinë-Prizren road was controlled entirely by the KLA, Branko Mladenović, T 12452-12454.

[1050] John Crosland, Exhibit P1400, para 36.

[1051] Žarko Braković, T 4256; Exhibit P688, p 7.

[1052] Radomir Mitić, T 12638. For example, in the summer of 1998 a police patrol was attacked in the outskirts of Kačanik/Kaçanik and in Nerodimlje/Neordime, Uroševac/Ferizaj municipality, Radomir Mitić, T 12644. *See* also Vlastimir Đorđević, T 9549.

[1053] Radomir Mitić, T 12638.

[1054] Exhibit D888, p 602, item 152, referring to the discovery of the bodies of a mother and a daughter on 23 August 1998 on the Priština/Prishtinë-Prizren road in Suva Reka/Suharekë municipality. Although the police report of the incident indicates that the perpetrator of this crime was unknown, 6D2 believed that the murder was caused by the KLA, 6D2, T 12265-12267.

[1055] Velibor Veljković, T 7104-7105.

[1056] Velibor Veljković, T 7104. In 1998 there were six or seven terrorist attacks in the town of Suva Reka/Suharekë, 6D2, T 12270-12271.

[1057] Exhibit D729, p 2; Momir Stojanović, T 11702.

fled from the region and moved to the municipalities of Vučitrn/Vushtrri and Kosovska Mitrovica/Mitrovicë.[1058]

303. In June a number of operations by the Serbian forces were carried out in the municipalities of Dečani/Deçan and Đakovica/Gjakovë, located in western Kosovo along the border with Albania. In late May or early June 1998, Austrian diplomats travelled to Peć/Pejë and Dečani/Deçan. The trip was organised by the FRY Ministry of Foreign Affairs.[1059] French, Greek and British defence attachés were also present.[1060] Clashes between the Serbian security forces and the KLA had taken place in Dečani/Deçan and when the diplomats visited the town they saw there houses that had been burned or destroyed.[1061] The town appeared deserted.[1062]

304. In June or July 1998 MUP PJP forces carried out an operation in the area of the villages Prilep, Junik and Babaloc/Babbaloq, in Dečani/Deçan municipality. The operation involved holding the road from Đakovica/Gjakovë and Dečani/Deçan and securing the communication lines.[1063]

305. On 24 June 1998 a combat unit of the VJ carried out an operation in the village of Damjane/Damjan, Đakovica/Gjakovë municipality.[1064] On orders of their commander VJ soldiers went from house to house telling people that they had one hour to leave.[1065] The village was emptied within three days.[1066] Once the village was "cleared" of residents the VJ set up guards to secure the area. Soldiers entered the houses and looted valuables.[1067]

306. A report of the Austrian Embassy in Belgrade to the Austrian Ministry of Foreign Affairs documents that on 30 June 1998, Serbian authorities officially confirmed for the first time the involvement of VJ units in inland operations. According to a press report by Veljko Odalović, the prefect of Priština/Prishtinë, to Reuters, this happened in the area of Belacevac.[1068]

[1058] Sabit Kadriu, Exhibit P516 (*Milutinović* transcript), T 5070; Sabit Kadriu, Exhibit P515, p 7.
[1059] Jan Kickert, Exhibit P478, p 2; Jan Kickert, T 2572; Jan Kickert, Exhibit P479 (*Milutinović* transcript), T 11192.
[1060] Jan Kickert, Exhibit P478, p 2.
[1061] Jan Kickert, Exhibit P478, p 2; Jan Kickert, Exhibit P479 (*Milutinović* transcript), T 11194-11196.
[1062] Jan Kickert, T 2573-2574.
[1063] K25, T 1585; Exhibit P343.
[1064] K54, T 4366-4367, 4406; K54, Exhibit P782, p 2.
[1065] K54, Exhibit P782, p 2; K54, T 4366-4367.
[1066] K54, Exhibit P782, p 2.
[1067] K54, Exhibit P782, p 2; K54, T 4367.
[1068] Jan Kickert, T 2575; Jan Kickert, Exhibit P479 (*Milutinović* transcript), T 11198; Exhibit P481.

307. In early July 1998 fighting between Serbian forces and the KLA took place in the village of Loda/Loxhë in Peć/Pejë municipality. During the fighting police officers were injured and some were abducted. The body of one of them was found a month later, mutilated.[1069]

308. A number of incidents occurred in the border area. A report of the Chief of the General Staff of the VJ General Perišić to the Minister of Defence dated 16 July 1998 lists over 60 incidents along the border with Albania between 1 January 1998 and 30 June 1998, mainly concerning illegal border crossing and the smuggling of weapons.[1070] A report dated 15 June 1998 indicates that the entry of a "large group" of Albanian terrorists was prevented.[1071]

309. In July 1998 the road between Glogovac/Gllogoc and Srbica/Skenderaj in central Kosovo was cut off by the KLA. There were frequent KLA attacks in the area between Glogovac/Gllogoc and Komorane/Komoran, on the Priština/Prishtinë-Peć/Pejë road.[1072] The KLA also held the town of Orahovac/Rahovec, and the villages of Zocište/Zoqishtë, Velika Hoca/Hoçë-e-Madhe and Retimlje/Retiljë in Orahovac/Rahovec municipality.[1073] At the time the KLA controlled the area in the direction of Mount Čičavica/Qiqavica and the Drenica region, including Lipljan/Lipjan.[1074] The KLA were establishing themselves on the outskirts of Podujevo/Podujevë, but there was no increase in their activities.[1075] The road to Suva Reka/Suharekë from Uroševac/Ferizaj had been blockaded by the KLA.[1076] There were few attacks on police personnel in Priština/Prishtinë and in neighbouring villages.[1077]

310. On 17 July 1998 the KLA carried out an attack on the village of Retimlje/Retijë in Orahovac/Rahovec municipality. They collected ammunition and guns belonging to the residents of Retimlje/Retijë as well as some valuables. 11 members of one Serb family were kidnapped and one member of the family was killed during the attack.[1078]

311. Around mid July 1998 the Serbian forces started a heavy offensive against the KLA in Kosovo.[1079] This lasted until the end of September 1998.[1080]

[1069] Žarko Braković, T 4246; Exhibit D110.
[1070] Exhibit D320.
[1071] Exhibit D730; Momir Stojanović, T 11703.
[1072] Žarko Braković, T 4260-4261.
[1073] Velibor Veljković, T 7108.
[1074] Žarko Braković, T 4261; Exhibit P768, p 1.
[1075] Exhibit P768, p 1.
[1076] Exhibit P768, p 2.
[1077] Žarko Braković, T 4261. *See* also Exhibit P768, pp 1, 2.
[1078] Exhibit D888, p 529, item 47; 6D2, T 12315. 6D2 testified that the bodies of the kidnapped persons were found subsequently in a mass grave, 6D2, T 12207-12208.
[1079] John Crosland, Exhibit P1400, para 37; Ljubinko Cvetić, T 6611.
[1080] Ljubinko Cvetić, T 6611.

312. On 17 July 1998 Serbian forces launched an attack on the town of Orahovac/Rahovec. A PJP unit was sent to Orahovac/Rahovec in order "to liberate" the town.[1081] PJP, SAJ, and VJ units took part in the operation.[1082] A few days earlier there had been an attack on a VJ vehicle, one officer was killed and VJ soldiers were taken prisoner.[1083] A VJ unit was located outside Orahovac/Rahovec and held the town in encirclement.[1084] The VJ unit had tanks, Pragas and self propelled anti-aircraft guns.[1085] Some of the KLA members wore uniforms, some were in civilian clothes, and some wore blue camouflage uniforms.[1086] KLA members in the town had automatic weapons. The KLA also had 12.7 millimetre Browning machine-guns in the hills. Shortly after the fighting started the KLA began withdrawing into the hills overlooking Orahovac/Rahovec.[1087] A witness observed that in the course of the operation some 30 members of the SAJ had surrounded a Kosovo Albanian man. The man was shot dead by an SAJ member with a pistol.[1088] At the exit of the town, in the Serbian part of Orahovac/Rahovec a witness observed approximately 30 dead bodies of men under 40 years of age and one woman lying on the road. Two of the bodies had green camouflage uniforms, the rest were in civilian clothes. Some wore KLA insignia.[1089]

313. The Serbian forces continued on foot towards Vran-Stena, a hill overlooking Orahovac/Rahovec from where the KLA forces were shooting. The Serbian forces took over the hill killing four KLA members during the operation. A few members of the Serbian forces were wounded. The operation lasted three days.[1090]

314. The Chamber notes that in evidence are a police and an army report referring to this event. A report of the Prizren SUP suggests that on 17 July a terrorist attack was carried out on the town of Orahovac/Rahovec, that some 2,000 to 3,000 terrorists took part in this operation, that they erected barricades in the centre of town, that they attacked several specific facilities, and that they abducted 55 ethnic Serbs, 20 of whom were taken to a KLA prison in the village of Semetište/Semetisht, Suva Reka/Suharekë municipality and 35 to Malishevo/Malishevë.[1091] A report of the Priština Corps Command dated 18 July also refers to a terrorist attack on the town of Orahovac/Rahovec carried out during the night between 17 and 18 July 1998. It describes events similar to those contained in the Prizren SUP report and states in addition, that about 260 members of the MUP

[1081] K79, Exhibit P1260 (*Milutinović* transcript), T 9591.
[1082] K79, Exhibit P1260 (*Milutinović* transcript), T 9592, 9594.
[1083] K79, Exhibit P1260 (*Milutinović* transcript), T 9726.
[1084] K79, Exhibit P1260 (*Milutinović* transcript), T 9726-9727, 9594; K79, T 8306.
[1085] K79, Exhibit P1260 (*Milutinović* transcript), T 9594-9595.
[1086] K79, Exhibit P1260 (*Milutinović* transcript), T 9604. A witness testified that some of the KLA fighters wore civilian clothes underneath their uniform and could easily change into civilian clothes, K79, T 8306.
[1087] K79, Exhibit P1260 (*Milutinović* transcript), T 9604.
[1088] K79, Exhibit P1260 (*Milutinović* transcript), T 9595, 9601-9603.
[1089] K79, Exhibit P1260 (*Milutinović* transcript), T 9605; K79, T 8307-8308.
[1090] K79, Exhibit P1260 (*Milutinović* transcript), T 9606, 9696.
[1091] Exhibit D786, pp 8, 9, 10. *See* also 6D2, T 12206-12207; Exhibit D888, pp 580-581, item 50.

withdrew to the building of the police station and a hotel during the attack. It also states that on 18 July 1998 MUP units launched an action to lift the blockade of the town from the direction of the village of Zrze/Xërxë. The Priština Corps Command report refers to the kidnapping of "about 30" Serbs during the terrorist attack in the night of 17/18 July 1998.[1092]

315. The Chamber is not fully satisfied with the reliability of some parts of these reports. While the SUP report includes a great deal of detail about the movement and the activities of the terrorist forces, the report makes no mention of any action in response by the MUP forces or of the strength of the MUP forces participating in or affected by the operation even though such information is contained in the Priština Corps Command report. The Prizren SUP report makes no reference to the presence of VJ forces. While the Priština Corps Command report contains a fairly detailed description of the events during the night, it does not contain any information about the location or the activities of the VJ forces during the operation. It is unclear on the basis of either of the reports what made the "terrorists" withdraw from Orahovac/Rahovec. Despite the fact that according to the Prizren SUP report some 2,000 to 3,000 "terrorists" participated in the attack, a fact suggesting a relatively large-scale operation, the report does not contain any information about injuries or other casualties suffered by either party. The Chamber is not able to accept that the information contained in Prizren SUP report and the Priština Corps Command report cited above represents an accurate and complete picture of the events occurring in Orahovac/Rahovec on 17 and 18 July 1998.

316. On or about 25 to 28 July 1998 the VJ conducted a mopping-up operation in eastern Đakovica/Gjakovë, in the area of the villages Meca/Meqe and Rakovina/Rakovinë. En route, in the corn fields near Rakovina/Rakovinë, VJ troops captured two Kosovo Albanian civilians, interrogated them briefly and shot them in the back of their heads. In the village of Meca/Meqe a VJ tank fired several shots which caused women and children to run out of their homes towards the woods.[1093] There was no firing from the village or any sign of KLA presence in the village.[1094] VJ infantry troops were ordered to move on foot into the forest to "clean up" and search for terrorists.[1095] The same VJ combat unit then moved to the village of Rakovina/Rakovinë, Đakovica/Gjakovë municipality where there were already houses on fire.[1096] A PJP unit from Đakovica/Gjakovë and regular police were in the village.[1097] There were no civilians in the

[1092] Exhibit D733, p 1. *See* also Momir Stojanović, Exhibit D723 (*Milutinović* transcript), T 19699-19700; Momir Stojanović, T 11706.
[1093] K54, Exhibit P782, p 3; K54, T 4368-4369; K54, Exhibit D114 (*Milutinović* transcript), T 10500-10501.
[1094] K54, Exhibit P782, p 3; K54, Exhibit D113 (*Milutinović* transcript), T 10500-10501.
[1095] K54, T 4369-4371, 4409.
[1096] K54, Exhibit P782, p 3.
[1097] K54, Exhibit P782, p 3; K54, T 4433; K54, Exhibit D114 (*Milutinović* transcript), T 10501-10502.

village.[1098] During the night an exchange of fire between the PJP and KLA forces took place during which a policeman was shot.[1099]

317. During a trip to Kosovo on 28 and 29 July 1998 John Crosland saw about 150 SAJ, PJP and VJ forces with six tanks on the main road Peć/Pejë-Mališevo/Malishevë[1100] going towards Mališevo/Malishevë in central Kosovo, which was considered a KLA stronghold.[1101] The forces were also all wearing red and white ribbons on their epaulettes, which suggested that they were acting in coordination.[1102]

318. On an unspecified day near the end of July 1998 diplomats from EU countries visited Mališevo/Malishevë.[1103] Mališevo/Malishevë had been abandoned by its inhabitants and the KLA and was described as an "empty city", apart from some Serbian police and elderly people.[1104] The diplomats observed destruction in Mališevo/Malishevë and saw policemen looting shops and a policeman setting fire to a house.[1105] On their way back they saw unharvested fields burning. Kosovo Albanians had been the majority inhabitants in the area.[1106]

319. In late July and in August 1998 a PJP unit conducted an operation to take control of Junik in Dečani/Deçan municipality.[1107] The area around Glodjane/Gllogjan and Junik, was a KLA stronghold under the command of Ramush Haradinaj.[1108] KLA attacks had been launched from Junik.[1109] During this operation, the PJP unit received support from Lake Radonjić by the VJ, who were using tanks and howitzers.[1110] The role of the VJ was to provide support with heavy weaponry, artillery and tanks, but not to use these weapons against civilians.[1111] The operation lasted 21 days.[1112]

320. A report to the VJ General Staff from the Priština Corps Command dated 1 August 1998 based on interviews with "terrorists" who had escaped the village of Junik during the operation, but were arrested by MUP forces, states that the women and children had fled the village as had "a

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[1098] K54, Exhibit P782, p 3.
[1099] K54, Exhibit P782, p 4; K54, Exhibit D114 (*Milutinović* transcript), T 10501, 10611; K54, T 4433.
[1100] John Crosland, Exhibit P1400, para 38.
[1101] Exhibit P1407; John Crosland, T 9166-9167.
[1102] John Crosland, Exhibit P1400, para 38.
[1103] Jan Kickert, Exhibit P478 p 3; Jan Kickert, T 2578-2579.
[1104] Jan Kickert, Exhibit P479 (*Milutinović* transcript), T 11206.
[1105] Jan Kickert, T 2579-2580.
[1106] Jan Kickert, Exhiibt P478, p 3; Jan Kickert, T 2578; Jan Kickert, Exhibit P479 (*Milutinović* transcript), T 11202.
[1107] K25, T 1585.
[1108] John Crosland, Exhibit P1402 (*Milutinović* transcript), T 9812-9814, 10017; K25, Exhibit P342 (*Milutinović* transcript), T 4751.
[1109] K25, Exhibit P341-A (*Milošević* transcript), T 7819; K25, T 1585.
[1110] K25, Exhibit P341-A (*Milošević* transcript), T 7818; K25, Exhibit P340-A, p 6; K25, Exhibit P342 (*Milutinović* transcript), T 4662-4663.
[1111] K25, Exhibit P342 (*Milutiović* transcript), T 4716.
[1112] K25, Exhibit P342 (*Milutiović* transcript), T 4751-4752.

number of terrorists" and that there were at the time some 700 "terrorists" in Junik. The report also indicates that the "terrorists" in Junik possessed automatic weapons, 10 Browning machine-guns, 10 hand held launchers, two 82 millimetre guns and about 1,000 hand grenades.[1113] The report refers to "a reliable source" according to which the civilian population in the villages of Prekaze/Prekaz, Lauša/Laushë, Poljance/Polac, Poluža/Polluzhë and Srbica/Skenderaj had been evacuated, presumably by KLA forces or other Kosovo Albanians, because of an expected MUP attack.[1114]

321. In July and August 1998 foreign diplomats noticed an increasing amount of destruction in Kosovo.[1115]

322. It was the conclusion of the British defence attaché, based on his observations in Kosovo, that the operations during the summer offensive were conducted by members of the RJB of the MUP and a unit for special operations of the RDB.[1116] VJ units provided support to the MUP units in certain operations.[1117] John Crosland saw clear evidence of coordination between VJ and MUP forces. A British military report dated 30 July 1998, based on a trip Crosland took to Kosovo on 28 and 29 July 1998, stated:

> Met assault force of SAJ, PJP and VJ at Cijevo. Ongoing (operations) in Bulje, Blace, firing all day. Junik under artillery/tank and mortar fire from 1300 onwards. Unanswered question where is the civilian population from Orahovac. Malisevo (approximately) 30,000 missing.[1118]

The report also indicates that every village from Lapušnik/Llapushnik westwards had suffered deliberate damage by heavy-machine gun fire and cannons.[1119]

323. Crosland subsequently found out that the civilian population in Orahovac/Rahovec and Mailševo/Malishevë referred to in his report cited above had all gone to the Pagaruša/Pagarushë valley, north of Suva Reka/Suharekë.[1120] Shelter and assistance to these people was provided by the UNHCR and other organisations.[1121] Crosland also had information that there were about 50,000 Kosovo Albanians from Kosovo in Montenegro and that others had gone to Albania and the

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[1113] Exhibit D328; Milan Đaković, T 8026.
[1114] Exhibit D328, p 2.
[1115] Jan Kickert, Exhibit P479 (*Milutinović* transcript), T 11206-11207, 11270-11271; Jan Kickert, T 2580-2581; Exhibit P483, p 2.
[1116] Ljubinko Cvetić, T 6612-6613.
[1117] Ljubinko Cvetić, T 6612-6613.
[1118] Exhibit P1407; John Crosland, Exhibit P1400, para 37; John Crosland, Exhibit P1402 (*Milutinović* transcript), T 9808-9809.
[1119] Exhibit P1407; John Crosland, T 9170-917.
[1120] Exhibit P1407; John Crosland, Exhibit P1400, para 37; John Crosland, Exhibit P1402 (*Milutinović* transcript), T 9808-9809.
[1121] John Crosland, Exhibit P1402 (*Milutinović* transcript), T 9837.

FYROM.[1122] It was estimated in the British military report of 30 July that the number of displaced persons in Kosovo at the time could exceed 100,000.[1123]

324. While from the beginning of 1998 arms were distributed by Serbian authorities to the Serb population in many parts of Kosovo,[1124] this process intensified in June and July 1998. At a meeting of the MUP Staff held in Priština/Prishtinë on 28 July 1998 it was reported that the police had formed 243 reserve police stations with citizens from local villages and towns who were organised to defend them, that weapons had been issued to 54,683 persons, that the MUP had issued weapons to 12,170 persons and the VJ to 34,716, and that 7,797 of these persons had been issued with weapons earlier.[1125] It was reported also that the MUP had brought another 5,070 weapons to Kosovo which were being issued. It was estimated that after this process some 60,000 individuals would have been issued with weapons.[1126] At the same meeting, the Head of the MUP Staff Sreten Lukić stated that the MUP was also arming citizens in towns and that plans for defending towns have been drawn up. He stated further that chiefs of SUPs had the duty to organise the defence of towns in agreement with the VJ, reserve police stations and other bodies.[1127]

325. A British military report based on a visit to Kosovo on 5 and 6 August 1998 stated that villages on either side of the road from Grebnik/Gremnik, Klina/Klinë municipality eastwards to Komorane/Komoran, Glogovac/Gllogoc municipality, had been "completely trashed".[1128] There appeared to be no obvious military purpose for which this operation would have been conducted. Throughout the whole Kosovo in 1998 Crosland observed a constantly increasing number of internally displaced persons fleeing westwards towards Albania and Montenegro and refers to observing a total of about 400,000 internally displaced persons in Pagaruša/Pagarushë valley alone.[1129]

326. From August 1998 to 1999 the VJ shelled the villages in Đakovica/Gjakovë municipality. Before the shelling the police and military would go in the villages asking for KLA members. Many people from these villages had told a witness that after the shelling police and what they

[1122] John Crosland, Exhibit P1402 (*Milutinović* transcript), T 9810.
[1123] John Crosland, T 9170-9172; Exhibit P1407.
[1124] Witnesses testified to seeing a number of Serb civilians, whom they knew personally, in uniforms and carrying weapons, Hazir Berisha, T 4671; Bedri Hyseni, Exhibit P810 (*Milutinović* transcript), T 3093, 3117; Bedri Hyseni, T4883, 4907-4908, testifying in particular about armed Serbian civilians from Staro Selo/Vshat-i-Vjetër, Uroševac/Ferizaj municipality.
[1125] Exhibit P688, p 7; Žarko Braković, T 4168-4169.
[1126] Exhibit P688, p 7.
[1127] Exhibit P688, p 8.
[1128] Exhibit P1408; John Crosland, T 9173-9174.
[1129] John Crosland, T 9175-9176.

believed were paramilitaries would enter the village and arrest or threaten the men, thus forcing the families to leave.[1130]

327. In August 1998, near Glodane/Gllogjan, between Đakovica/Gjakovë and Dečani/Deçan, Crosland observed elements of the VJ, the SAJ, the JSO, and the PJP, still torching, burning, and firing into houses.[1131] The troops were engaged in these activities despite the presence of the British and American defence attachés.[1132] From a distance of about two kilometres John Crosland personally observed fire by Serbian forces for four hours in the area of the villages Junik, Prilep, Rznic/Irzniq, and Glodjane/Gllogjan, in Dečani/Deçan municipality.[1133] The village of Prilep, had been bulldozed.[1134] The police point at Prilep had been attacked previously by the KLA from the village of Rznic/Irzniq in the east.[1135] On 2 and 9 August 1998 the KLA had launched two attacks on the police in Prilep killing six members of the MUP. The village was considered a stronghold of the KLA.[1136]

328. In August or September 1998 British and American military teams were taken to a canal leading to Lake Radonjić near the village of Glodjane/Gllogjan where they were shown six bodies alleged to have been Serbs killed by the KLA.[1137] There were gunshot marks on the walls of the canal and empty casings, which, it was established subsequently, were of Chinese made ammunition.[1138]

329. In August 1998 a delegation including Ambassador Petritsch and Emma Bonino, the European Commission Commissioner for Humanitarian Aid, visited Kosovo. They travelled to Mališevo/Malishevë, Banja/Bajë and other parts of Kosovo but were not allowed to proceed to some of these areas by the KLA because of the large media presence with the group.[1139] In

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[1130] Fuad Haxhibeqiri, Exhibit P1068, p 5.
[1131] John Crosland, Exhibit P1400, para 41; John Crosland, Exhibit P1402 (*Milutinović* transcript), T 9812.
[1132] John Crosland, Exhibit P1402 (*Milutinović* transcript), T 9812.
[1133] John Crosland, Exhibit P1402 (*Milutinović* transcript), T 9782-9783; 9804, 9928-9929; John Crosland, T 9203. The villages of Junik, Prilep, Rznic/Irzniq and Glogjane/Gllogjan are located between Đakovica/Gjakovë and Dečani/Deçan. (John Crosland, Exhibit P1400, para 41) In evidence are the minutes of a "meeting between army command organs at the forward command post and commanders of subordinated units" held on 17 August 1998 at which the "Army commander" is recorded stating that Junik had not been destroyed, that there were no civilian casualties and that there were no mass graves." (Exhibit D391) The Chamber has considered this document and is satisfied that it does not change its findings made above. The "army commander" who is recorded to have made this statement is not named in the document and there is no indication of the factual basis for his view recorded in the document.
[1134] John Crosland, Exhibit P1400, para 42; John Crosland, Exhibit P1402 (*Milutinović* transcript), T 9768.
[1135] John Crosland, Exhibit P1402 (*Milutinović* transcript), T 10017-10018.
[1136] Vukmir Mirčić, T 13258, 13280-13282; Exhibit D921, p 3.
[1137] John Crosland, Exhibit P1402 (*Milutinović* transcript), T 9863; John Crosland, Exhibit P1400, para 41. Vukmir Mirčić testified that bodies were found in a canal floating into Lake Radonjić; he believed that the persons had been tortured and shot dead by the KLA, Vukmir Mirčić, T 13278-13279.
[1138] John Crosland, Exhibit P1402 (*Milutinović* transcript), T 9863, 9811-9812.
[1139] Jan Kickert, Exhibit P478, p 4.

Cirez/Çirez, Srbica/Skenderaj municipality, the delegation encountered a large number of internally displaced persons.[1140]

330. In August 1998 representatives of the Austrian Embassy travelled to the area of Đakovica/Gjakovë to follow-up on claims that the Serbs had established a local Albanian police force. The group did not see any evidence of such a force. Their assessment was that there had been some attempts to set up a "local" police force but in reality not much had occurred.[1141]

331. Reports submitted by the US-KDOM and the EU-KDOM contained information about intensified activity of the PJP forces from August to September 1998. According to the US-KDOM reports only police were involved in this kind of activity and not the VJ. The US-KDOM saw the consequences of this type of activities on the ground--burning of villages, destruction of crops, and killing of farm animals.[1142] Shaun Byrnes, the Head of the US-KDOM, brought information about such activities to the attention of Sreten Lukić, the Head of the MUP Staff and sometimes also to the attention of Veljko Odalović, the prefect of Priština/Prishtinë.[1143] Lukić's response was either to deny that this was happening or to acknowledge that this was happening but in response to attacks by the KLA.[1144]

332. On 27 August 1998, at a briefing to the Defence Attachés Association Dragoljub Ojdanić presented a change in the role of the VJ to the effect that the VJ was now responsible for the protection of the lines of communication, garrisons, and defence of exercise areas, thus practically expanding the area where it could operate to include the whole of Kosovo.[1145] Ojdanić explained at the briefing that the MUP could no longer hold the situation together with the forces they had available.[1146] It was clear to Crosland from his observations on the ground that the MUP were heading the operations, while the VJ were giving heavy support. He believed that operational decisions were probably being reached at a coordination centre in Priština/Prishtinë.[1147] Later, at a meeting with John Crosland held on 6 November 1998 General Dimitrijević, the Chief of the Security Administration of the General Staff of the VJ, admitted that the VJ had overstepped the

[1140] Jan Kickert, Exhibit P478 p 4; Jan Kickert, Exhibit P479 (*Milutinović* transcript), T 11210.
[1141] Jan Kickert, Exhibit P478, pp 3-4; Jan Kickert, T 2587-2589; Jan Kickert, Exhibit P479 (*Milutinović* transcript), T 11216-11219, 11243; Exhibits P485; P486; P487.
[1142] Shaun Byrnes, Exhibit P1214 (*Milutinović* transcript), T 12149-12150, 12152.
[1143] Shaun Byrnes, Exhibit P1214 (*Milutinović* transcript), T 12151-12152; Shaun Byrnes, T 8169-8170.
[1144] Shaun Byrnes, Exhibit P1214 (*Milutinović* transcript), T 12153.
[1145] John Crosland, Exhibit P1400, paras 49, 50; John Crosland, T 9158, 9240.
[1146] John Crosland, Exhibit P1402 (*Milutinović* transcript), T 9803.
[1147] John Crosland, Exhibit P1400, para 55.

mark during the summer offensive and indicated that the VJ had to step in, in order to salvage the MUP.[1148]

333. In the meantime incidents of kidnappings of ethnic Serbs continued to take place. In the beginning of September 1998 two Serb members of the same family were kidnapped in Dečani/Deçan municipality.[1149]

334. On 10 September 1998 representatives of the Austrian Embassy in Belgrade accompanied Ambassador Parak of the European Community Monitoring Mission ("ECMM") in a visit to the area southeast of the town of Peć/Pejë.[1150] It was observed during this trip that the Albanian villages along the Priština/Prishtinë-Peć/Pejë road were deserted while the Serbian villages were still inhabited.[1151] The village of Junik still appeared almost completely deserted.[1152]

335. From 10 to 15 September 1998 MUP forces carried out an operation in the area of Bajgora/Bajgorë, a known KLA stronghold, and Stari Trg/Stantërg in Kosovska Mitrovica/Mitrovicë municipality. Members of the MUP unit entered Stari Trg/Stantërg on foot and searched houses.[1153] In one of the houses a witness saw members of the police raping a young woman and killing two older women and two men. The house was subsequently set on fire.[1154] In the village of Bajgora/Bajgorë a witness saw a police commander killing civilians in a house where the police had stayed overnight and setting the house on fire.[1155]

336. A PJP unit participated in the operations in the area Bajgora/Bajgorë and Mount Čičavica/Qiqavica, which stated purpose was to expel the KLA, and later in operations in the area of Drenica.[1156] Mortars were fired, following which PJPs entered the villages to "clean" the area.[1157] In KLA strongholds PJP units set fire to houses.[1158] The PJP units operated with the assistance of tanks and Pragas which were under the command of the VJ. The PJP detachment commander would communicate with the VJ commander who would then issue orders to the soldiers operating the tanks and the Pragas.[1159]

[1148] John Crosland, T 9180; Exhibit P1411, p 2, point 5.
[1149] Vukmir Mirčić, T 13258-13259; Exhibit D914.
[1150] Jan Kickert, Exhibit P478, p 4.
[1151] Jan Kickert, T 2582-2583; Jan Kickert, Exhibit P479 (*Milutinović* transcript), T 11211; Exhibit P484.
[1152] Jan Kickert, Exhibit P478, p 4; Jan Kickert, T 2583; Jan Kickert, Exhibit P479 (*Milutinović* transcript), T 11213.
[1153] K79, Exhibit P1259 (*Milutinović* transcript), T 9716-9717.
[1154] K79, Exhibit P1259 (*Milutinović* transcript), T 9626-9629, 9697, 9705; K79, T 8309-8311.
[1155] K79, Exhibit P1259 (*Milutinović* transcript), T 9631-9632, 9707-9708.
[1156] K79, Exhibit P1259 (*Milutinović* transcript), T 9617-9619; *see* also *infra,* para 337.
[1157] K79, Exhibit P1260 (*Milutinović* transcript), T 9607, 9609-9610.
[1158] K79, Exhibit P1260 (*Milutinović* transcript), T 9611, 9615, 9617.
[1159] K79, T 8314.

337. An offensive by the Serbian security forces took place in the Drenica region, in the municipalities of Srbica/Skenderaj, Glogovac/Gllogoc and Klina/Klinë at the end of September 1998.[1160] On 26 September 1998 when a witness visited the area, the village of Dobra Voda/Ujmirë was completely burned and was still burning. The village of Pločice/Pllaquicë[1161] and Gornje Obrinje/Abri-e-Epërme were also burning.[1162] Property, including livestock and food stores were destroyed.[1163] A mosque located in the Drenica region was damaged during the offensive in September 1998.[1164]

338. At approximately the same time representatives of the US-KDOM observed PJP units boarding buses and departing from a village near Mališevo/Malishevë, a few kilometres south of Kijevo/Kijevë, Klina/Klinë municipality. The village was in flames after the PJP units had left. Observers from the US-KDOM noted that while the regular police served in control functions at checkpoints and providing security, the PJP units were used in combat operations.[1165]

339. On 26 September 1998 Serbian security forces killed 21 members of the Delijaj family in the village of Gornje Obrinje/Abri-e-Epërme in Glogovac/Gllogoc municipality where members of the police (the evidence is inconsistent as to their number) had died during the fighting. 14 of the victims were killed in a nearby forest where they had been hiding, and seven in the Delijaj family compound.[1166] Among the victims were women, one of whom was pregnant, children, and elderly.[1167] In December 1998, following a meeting with a Finnish forensic team, the president of the district court in Priština/Prishtinë, agreed that exhumation of the bodies would be conducted. Investigative judge Danica Marinković was appointed for the task and the assistance of the MUP Staff and SUP Priština/Prishtinë with security during the exhumation was requested.[1168] However, this exhumation did not take place, after the Finnish forensic team requested that the investigative

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[1160] Frederick Abrahams, Exhibit P740 (*Milutinović* transcript), T 806.
[1161] Frederick Abrahams, T 3957; Frederick Abrahams, Exhibit P740 (*Milutinović* transcript), T 805.
[1162] Frederick Abrahams, Exhibit P738, Statement of 11 March 1999, p 7; Frederick Abrahams, Exhibit P740 (*Milutinović* transcript), T 805.
[1163] Frederick Abrahams, T 3957-3959.
[1164] Frederick Abrahams, T 3964-3965, 4031.
[1165] Shaun Byrnes, T 8171-8172.
[1166] Exhibit P753; Frederick Abrahams, Exhibit P738, Witness Statement of 24 January 2002, p 12; Witness Statement of 11 March 1999, p 8; Frederick Abrahams, T 3949, 3953; Žarko Braković, T 4290-4291. An unsuccessful attempt to carry out an exhumation was made by the police in December 1998, Žarko Braković, T 4241-4243; Exhibit D61.
[1167] Exhibit P753; Frederick Abrahams, Exhibit P738, Witness Statement of 24 January 2002, p 12; Witness Statement of 11 March 1999, p 8; Frederick Abrahams, T 3949, 3953, 3955-3956, 4015-4016; Frederick Abrahams, Exhibit P740 (*Milutinović* transcript), T 806; Exhibit P751.
[1168] Exhibit D61; Danica Marinković, Exhibit D854 (*Milutinović* transcript), T 23526, 23609; Danica Marinković, T 12992, 13116.

judge enter the village without heavy police escort, in order to avoid potential clashes with the KLA. On the investigative judge's recommendation they all returned to Priština/Prishtinë.[1169]

340. In late September 1998 Serbian security forces surrounded several villages in Vučitrn/Vushtrri municipality, including the villages of Kolo/Kollë, Dubovac/Duboc, Galica/Galicë, Becic/Beçiq, Ošlanje/Oshlan, and Žilivoda/Zhilivodë as well as the villages Ljubovac/Lubavec and Mikušnica/Mikushnicë in Srbica/Skenderaj municipality.[1170] A witness who visited these villages after the offensive observed that most of the houses in the villages had been shelled or burnt.[1171] In one of the villages, the witness found 11 dead bodies, which were naked and appeared to have been mutilated.[1172] 14 dead bodies were found in the village of Ošlanje/Oshlan and three further bodies were found in nearby villages.[1173] The village of Brusnik, Vučitrn/Vushtrri municipality was surrounded on 22 September 1998.[1174] Serbian security forces dressed in green camouflage uniforms and blue camouflage uniforms with helmets and bullet-proof vests, identified by a witness as MUP forces, searched houses in the village and forced people outside their homes.[1175] VJ units were positioned further away from the village.[1176]

341. In September 1998 MUP forces launched an operation against a number of villages located southeast of the town of Peć/Pejë.[1177] Fighting took place in the village of Lodje/Loxha, a predominantly Kosovo Albanian village southeast of the town of Peć/Pejë. Considerable damage was caused.[1178] The village was subsequently destroyed by bulldozers knocking out the front pillars of the houses causing them to crumble.[1179] The village of Lodja/Loxha had been taken by the KLA in July 1998 and the operation by the Serbian security forces in September 1998 had been aimed at retaking the village.[1180]

342. As a result of these operations, many Kosovo Albanians were driven out of their villages. Following a reaction in the international press the Serbian police sent forces to the area where the villagers had gathered and effectively herded them home.[1181] The US-KDOM teams reported that a

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[1169] Exhibit D61.
[1170] Sabit Kadriu, Exhibit P515, p 8.
[1171] Sabit Kadriu, Exhibit P516 (*Milutinović* transcript), T 5070; Sabit Kadriu, Exhibit P515, p 8.
[1172] Sabit Kadriu, Exhibit P515, p 8; Sabit Kadriu, Exhibit P516 (*Milutinović* transcript), T 5119; *see* Sabit Kadriu, T 3215-3216.
[1173] Sabit Kadriu, Exhibit P515, p 9.
[1174] Sabit Kadriu, Exhibit P515, p 8; Sabit Kadriu, Exhibit P516 (*Milutinović* transcript), T 5068.
[1175] Sabit Kadriu, Exhibit P516 (*Milutinović* transcript), T 5068-5070.
[1176] Sabit Kadriu, Exhibit P516 (*Milutinović* transcript), T 5068.
[1177] Shaun Byrnes, Exhibit P1214 (*Milutinović* transcript), T 12153-12154.
[1178] Frederick Abrahams, T 3962-3963, 4023.
[1179] Frederick Abrahams, Exhibit P738, Statement of 11 March 1999, pp 10-11.
[1180] Frederick Abrahams, T 4025.
[1181] Shaun Byrnes, Exhibit P1214 (*Milutinović* transcript), T 12153-12154.

number of Kosovo Albanians did not return to their homes.[1182] The US-KDOM observers saw and reported on evidence of use of heavy weapons including tanks and shell fire. As neither the MUP, nor the KLA had such weapons this was accepted as evidence of involvement of the VJ.[1183]

343. On 27 September 1998 the village of Vranić/Vraniq, Suva Reka/Suharekë municipality was shelled. The residents of the village fled to a valley where they spent the night. On the following day the police sent an elderly Albanian man to tell the people that the village was safe for them to come back while the police and military were waiting in the village. When the people returned to the village the police separated men from women. Some 250 men were detained and sent to Prizren. Two men of this group were killed in Vranić/Vraniq, others were beaten. The police then set the houses of the village on fire. The UNICEF and the International Management Group conducted surveys on the damage inflicted on the village and established that of the 300 houses in the village, 280 had been affected by the fire.[1184]

344. In September 1998 an operation was conducted also in Orahovac/Rahovec municipality. The villages of Pusto Selo/Pastasellë and Drenovac/Drenoc were shelled with large calibre artillery and "Katusha" ground to ground rockets.[1185] The residents of Pusto Selo/Pastasellë left their village and went to the hills of Koznik/Kaznik. There were some 2,000 to 3,000 people from the surrounding villages there, including from Ratkovac/Ratkoc, Radoste/Radostë, and Dobri Dol/Dobridol in Orahovac/Rahovec municipality.[1186] The Serbian forces were also shelling the hills. The villagers were unarmed and not resisting.[1187] VJ units were also present in the villages.[1188] After two days, the Serbian forces surrounded the villagers in the hills and took them back to Pusto Selo/Pastasellë, near the school where they were video taped.[1189] There the villagers were provided with some food.[1190] The recording was shown on a Prizren TV channel as an example of dealing with the KLA.[1191] Some young men, three or four, were taken inside the school, beaten up and some of them taken to Prizren, to serve a prison term.[1192] On the way to the school members of the Serbian security forces were telling the villagers "that this was Serbia" and were swearing at Kosovo Albanian political leaders. Following their return from the hills, the residents of Pusto Selo/Pastasellë found three quarters of their village destroyed by fire. The part of the

[1182] Shaun Byrnes, Exhibit P1214 (*Milutinović* transcript), T 12228-12229.
[1183] Shaun Byrnes, Exhibit P1214 (*Milutinović* transcript), T 12150-12151.
[1184] Frederick Abrahams, Exhibit P738, Statement of 11 March 1999, pp 9-10.
[1185] Avdyl Mazreku, Exhibit P987, p 2.
[1186] Avdyl Mazreku, T 6183; Avdyl Mazreku, Exhibit P987, p 2.
[1187] Avdyl Mazreku, Exhibit P987, p 2; Avdyl Mazreku, T 6180-6181.
[1188] Avdyl Mazreku, T 6182.
[1189] Avdyl Mazreku, Exhibit P987, p 2; Avdyl Mazreku, T 6183-6184.
[1190] Avdyl Mazreku, T 6184-6185.
[1191] Avdyl Mazreku, T 6187.
[1192] Avdyl Mazreku, T 6184, 6191.

village that remained undamaged was videotaped by the Serbian police.[1193] Four or five persons were killed in the village of Drenovac/Drenoc during this operation.[1194]

345. The number of internally displaced persons in Kosovo in September 1998 was very high. A British military report based on a visit to Kosovo on 6 and 7 September 1998 refers to "IDP concentration between 5,000 and 15,000 seen moving" towards the villages around Suva Reka/Suharekë. These were believed to be the people who had gathered in Pagaruša/Pagarushë valley in July, returning to their villages.[1195] A large number of displaced persons, a witness believed they may have been from 5,000 up to 20,000, were seen in the region of Drenica, Mount Čičavica/Qiqavica, and Bajgora/Bajgorë in September 1998.[1196] Policemen searched the displaced persons and took money and valuables from them.[1197] A British military report estimated that there were some 171,000 internally displaced persons within Kosovo at the time.[1198] According to other evidence, the UNHCR's estimates were that there were some 250,000 internally displaced persons in Kosovo in September 1998.[1199]

346. On 23 September 1998 the United Nations Security Council passed Resolution 1199 demanding that all parties, groups and individuals immediately cease hostilities and maintain ceasefire in Kosovo.[1200] The resolution called upon the authorities in the FRY and the Kosovo Albanian leadership to enter immediately into a meaningful dialogue.[1201] The resolution further demanded the FRY to cease all action by the security forces affecting the civilian population and order the withdrawal of security units used for civilian repression and to enable effective and continuous international monitoring in Kosovo. Resolution 1199 further urged States and international organisations represented in the FRY to make available personnel to carry out effective and continuous international monitoring in Kosovo.[1202]

347. On 3 October 1998 a meeting between representatives of the British Embassy, including Ambassador Donnelly, the British Ambassador to the FRY and John Crosland, the British defence attaché, and General Dimitrijević, the Chief of the Security Administration of the General Staff of the VJ took place.[1203] During this meeting John Crosland raised the issue of what he believed to be

[1193] Avdyl Mazreku, Exhibit P987, p 2; Avdyl Mazreku, T 6168, 6183.
[1194] Avdyl Mazreku, T 6205.
[1195] Exhibit P1413; John Crosland, T 9177-9179.
[1196] K79, Exhibit P1260 (*Milutinović* transcript), T 9634.
[1197] K79, Exhibit P1259 (*Milutinović* transcript), T 9635-9637, 9713.
[1198] Exhibit P1413; John Crosland, T 9177-9179.
[1199] Shaun Byrnes, Exhibit P1214 (*Milutinović* transcript), T 12163; Shaun Byrnes, T 8175.
[1200] Exhibit D160; Živadin Jovanović, T 10214-10219.
[1201] Exhibit D160.
[1202] Exhibit D160.
[1203] John Crosland, Exhibit P1400, para 52; Exhibit P1410.

a misuse by the VJ of antiaircraft artillery weapons to shell villages. He indicated that the use of these weapons was excessive force, against the Geneva Conventions.[1204]

C. Establishment of the Kosovo Verification Mission

348. In October 1998 three international agreements were concluded which laid the foundation for the establishment and functioning of an OSCE monitoring mission in Kosovo, the Kosovo Verification Mission or KVM.

1. KVM Agreement

349. On 12 or 13 October 1998 talks between the President of FRY Slobodan Milošević and the US Special Envoy Richard Holbrooke took place in Belgrade at which a political agreement was reached.[1205]

350. Following this political agreement, on 16 October 1998, the Chairman of the OSCE at the time, Bronislaw Geremec, and the Minister of Foreign Affairs of the FRY Živadin Jovanović signed an agreement establishing the OSCE Kosovo Verification Mission ("KVM Agreement").[1206] As stated in this agreement, the purpose of the KVM was to verify compliance by all parties in Kosovo with United Nations Security Council Resolution 1199 and to report instances of progress and/or non-compliance to the OSCE Permanent Council, the United Nations Security Council and other organisations. The KVM reports were also to be provided to the authorities of the FRY.[1207]

[1204] John Crosland, Exhibit P1400, para 53. The witness believed that the weapons in question were 20, 30, and possibly 40 millimetre cannons which are used against aircraft or armoured vehicles but not against personnel. John Crosland saw empty casings of this type of weapons outside Mališevo/Malishevë, around Ponoševac/Ponoshec, although he was not certain whether there had been 40 mm cannons, John Crosland, Exhibit P1402 (*Milutinović* transcript, T 9935-9936.

[1205] Živadin Jovanović, Exhibit D454 (*Milutinović* transcript), T 14006-14008; Živadin Jovanović, T 10223-10224. The witness could not confirm the existence of a signed agreement, Živadin Jovanović, T 10223, 10224.

[1206] Exhibit P835; Knut Vollebaek, Exhibit P1073, p 3; Knut Vollebaek, T 7207, 7209; Knut Vollebaek, Exhibit P1071 (*Milutinović* transcript), T 9517; Richard Ciaglinski, T 5254-5255; Richard Ciaglinski, Exhibit P834 (*Milutinović* transcript), T 6816; Richard Ciaglinski, Exhibit P833 (*Milošević* transcript), T 3140; Shaun Byrnes, Exhibit P1214 (*Milutinović* transcript), T 12155; Karol John Drewienkiewicz, T 6314, 6316; Karol John Drewienkiewicz, Exhibit P997 (*Milutinović* transcript), T 7863; Živadin Jovanović, Exhibit D454 (*Milutinović* transcript), T 14006-14008; Živadin Jovanović, T 10227.

[1207] Exhibit P835, item II (1). The Chamber notes the evidence of Kosta Novaković of the VJ liaison team that his liaison team (*see infra,* para 369) did not receive such reports, Kosta Novaković, T 11098. The Chamber notes that a variety of liaison bodies existed within the authorities of the FRY and Serbia and on the evidence is unable to make a conclusion as to whether such reports were sent to this particular liaison team. The Chamber refers here to its later findings that a number of meetings between the Head of the KVM, the Deputy Head and other KVM representatives and high ranking FRY and Serbian officials took place in the autumn of 1998 and in early 1999 and concludes that observations made by the KVM in relation to the security situation in Kosovo were brought to the attention of the authorities of the FRY and Serbia. The Chamber also notes Živadin Jovanović's evidence that the KVM did not adhere to its obligation under the KVM Agreement to forward reports to the authorities of FRY and Serbia (Živadin Jovanović, Exhibit D454 (*Milutinović* transcript), T 14043) and finds that irrespectively of whether or not such reports were sent, in light of the meetings and communications between the KVM representatives and senior FRY and Serbian representatives, information about KVM's conclusions with respect to events in Kosovo were made known to the FRY and Serbian authorities.

Pursuant to the KVM Agreement the KVM was to be staffed by 2000 unarmed verifiers from OSCE member states.[1208] The KVM was also to establish permanent presences at as many locations throughout Kosovo as necessary and to maintain close liaison with the FRY, Serbian, and other Kosovo authorities, as well as with political parties and international and non-governmental organisations.[1209] The agreement effectively gave KVM personnel access to locations throughout Kosovo at all times, thus including barracks, garrisons, installations, and police stations.[1210]

2. Setting up of the KVM

351. In October 1998 a meeting took place in Priština/Prishtinë in Hotel Grand attended by William Walker, Michael Phillips and General Drewienkiewicz representing the OSCE, Nicholas Turnbull from the EU-KDOM, Shaun Byrnes from the US-KDOM, Nikola Šainović, the Accused Vlastimir Đorđević, and Veljko Odalović, at which the arrival and the establishment of the KVM was discussed.[1211]

352. The first KVM officials were appointed in early November 1998 and the KVM staff started arriving in Kosovo.[1212] Ambassador William Walker was appointed Head of Mission for the KVM and General Karol John Drewienkiewicz from the UK, was appointed a Deputy Head.[1213] Other Deputy Heads of Mission were Ambassador Keller from France, Ambassador Borchardt from Germany, Ambassador Ivanovski from Russia, Major General Nygaard from Norway, and Judge Kessler from Italy.[1214]

353. By mid November the KVM was about 50 strong.[1215] In early December 1998 KVM became fully operational.[1216] When it evacuated from Kosovo on 20 March 1999 it had 1,379 staff.[1217]

354. Throughout December 1998 and in January 1999 various KDOM contingents were absorbed by the KVM.[1218] In addition, a large number of additional personnel and vehicles were to be brought into Kosovo.[1219]

[1208] Exhibit P835, items (IV)(1), (2), and (3); Živadin Jovanović, T 10227.
[1209] Exhibit P835, items II (1) and (2).
[1210] Richard Ciaglinski, T 5255, 5348; Živadin Jovanović, Exhibit D454 (*Milutinović* transcript), T 14022-14023.
[1211] Shaun Byrnes, T 8186-8187, 8243-8244; Shaun Byrnes, Exhibit P1214 (*Milutinović* transcript), T 12145. *See* also Karol John Drewienkiewicz, Exhibit P996, paras 11-15, 19-21; Karol John Drewienkiewicz, Exhibit P997 (*Milutinović* transcript), T 7730-7732; Karol John Drewienkiewicz, T 6309-6310, 6433-6434.
[1212] Karol John Drewienkiewicz, Exhibit P996, para 7; Karol John Drewienkiewicz, T 6305, 6429-6430, 6431; Shaun Byrnes, Exhibit P1214 (*Milutinović* transcript), T 12156-12157; Shaun Byrnes, T 8174-8175.
[1213] Karol John Drewienkiewicz, Exhibit P996, paras 7, 32, 34; Karol John Drewienkiewicz, T 6305, 6311-6312, 6429-6430-6431, 6448; Joseph Maisonneuve, Exhibit P851, paras 8-9; *see* also Knut Vollebaek, T 7214, 7245.
[1214] Karol John Drewienkiewicz, Exhibit P996, para 34. *See* also Joseph Maisonneuve, Exhibit P851, paras 8-9.
[1215] Karol John Drewienkiewicz, Exhibit P996, para 39.
[1216] Karol John Drewienkiewicz, T 6313, 6315.
[1217] Karol John Drewienkiewicz, T 6447.

355. The KVM established five regional centres in Kosovo. These were Regional Centre 1 (Prizren), headed by Brigadier General Joseph Maisonneuve, Regional Centre 2 (Kosovska Mitrovica/Mitrovicë), headed by Leif Windmar, Regional Centre 3 (Peć/Pejë), headed by Edward Sziagzek, Regional Centre 4 (Gniljane/Gjilan), headed by Richard Heaslip, and Regional Centre 5 (Priština/Prishtinë), headed by Matti Teraveinen.[1220] Each regional centre had a head, a deputy head, and three liaison officers for the MUP, the VJ, and the KLA, respectively[1221] and a small contingent of KVM verifiers.[1222] In 1998 Regional Centre 1 had 130 international and over 100 local staff. It was divided into coordination centres based in Orahovac/Rahovec, Prizren, and Suva Reka/Suharekë.[1223] The daily work of the centres consisted of patrolling the respective area by teams in armoured vehicles during daylight hours. Teams met with villagers, visited police stations and other locations.[1224]

356. Reports on events in Kosovo were sent through the KVM regional centres to the KVM headquarters in Priština/Prishtinë where KVM staff would review the incoming information, inform those involved in the immediate action, and compile an interim or daily report of the events in the preceding 24 hours.[1225] The information from all regional liaison officers was compiled by coordinating liaison officers for the VJ, the MUP, and the KLA. Richard Ciaglinski was the KVM coordinating liaison officer for the VJ, Guy Sands for the MUP and David Wilson and subsequently David Meyer, for the KLA.[1226] This information was then sent to the KVM Fusion Centre, a KVM body responsible for compiling of information and analysis, which was subordinated to the Deputy Head of Mission General Drewienkiewicz, in order to determine what occurred in the previous night and to identify trends.[1227] KVM daily reports were sent to the OSCE headquarters in

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[1218] Karol John Drewienkiewicz, Exhibit P996, para 42; Karol John Drewienkiewicz, Exhibit P997 (*Milutinović* transcript), T 7830; Karol John Drewienkiewicz, T 6448; Shaun Byrnes, Exhibit P1214 (*Milutinović* transcript), T 12169-12170l; Shaun Byrnes, T 8261-8262; Joseph Maisonneuve, Exhibit P853 (*Milutinović* transcript), T 11155; Joseph Maisonneuve, Exhibit P852 (*Milošević* transcript), T 5818. The KVM absorbed the KDOMs' staff and vehicles but not their archives, Karol John Drewienkiewicz, T 6459-6460.

[1219] Shaun Byrnes, Exhibit P1214 (*Milutinović* transcript), T 12169-12170l; Shaun Byrnes, T 8261-8262; Karol John Drewienkiewicz, T 6459-6460.

[1220] Karol John Drewienkiewicz, Exhibit P996, paras 44, 49; Karol John Drewienkiewicz, Exhibit P997 (Milutinović transcript), T 7741. *See* also Michael Phillips, T 8698.

[1221] Karol John Drewienkiewicz, Exhibit P996, para 50; Karol John Drewienkiewicz, Exhibit P997 (Milutinović transcript), T 7749.

[1222] Michael Phillips, T 8698.

[1223] Joseph Maisonneuve, Exhibit P851, para 14; Exhibit P855, para 15.

[1224] Joseph Maisonneuve, Exhibit P851, para 14.

[1225] Karol John Drewienkiewicz, T 6363-6364, 6403-6404, 6442-6443; Karol John Drewienkiewicz, Exhibit P997 (*Milutinović* transcript), T 7746, 7747-7748. These reports were referred to as "Interim Reports" until the KVM got full coverage over certain areas which was about 20 November 1998, after which they were referred to as "Daily Reports", Karol John Drewienkiewicz, Exhibit P997 (*Milutinović* transcript), T 7752.

[1226] Karol John Drewienkiewicz, Exhibit P996, paras 51, 53; Karol John Drewienkiewicz, T 6428, 6487-6488.

[1227] Karol John Drewienkiewicz, T 6400-6401, 6404, 6443, 6446; Karol John Drewienkiewicz, Exhibit P996, para 58; Karol John Drewienkiewicz, Exhibit P997 (*Milutinović* transcript), T 7739; Exhibit P1029. In addition to information contained in the interim or daily reports the KVM Fusion Centre also analyzed information available in the media and direct reports from individual coordination centres, and the KVM MUP, VJ, and KLA liaison

Vienna,[1228] the NATO headquarters in Kumanovo, FYROM[1229] and the European Union Monitoring Mission.[1230]

3. October Agreements

357. On 24 and 25 October 1998 meetings between international representatives and representatives of the FRY and Serbia took place in the White Palace in Belgrade.[1231] The purpose of the meetings was to discuss steps to be taken to achieve full compliance by the FRY with the requirements of the United Nations Security Council Resolution 1199.[1232] The meetings focused on the role and responsibility of the VJ and the size of its presence in Kosovo and on the role and responsibility of the police in Kosovo. These meetings had been arranged by General Clark and Slobodan Milošević. The international delegation included General Clark, Supreme Allied Commander Europe, General Naumann, Chairman of the Military Committee of NATO, and Shaun Byrnes, Head of US-KDOM. The delegation of the FRY and Serbia included Milan Milutinović, President of the Republic of Serbia, who presided over the plenary, Colonel General Perišić, Chief of the General Staff of the VJ, and the Accused Vlastimir Đorđević, in his capacity as Chief of the RJB of the MUP.[1233] General Aleksandar Dimitrijević, Chief of the Security Administration of the VJ General Staff, General Obrad Stevanović, Assistant Minister of Interior, and Sreten Lukić, Head of the MUP Staff were also present.[1234]

358. After the plenary session the participants broke into two groups, one focusing on the responsibilities of the police and one dealing with the responsibilities of the VJ.[1235] Shaun Byrnes, General Naumann and two US military officers participated on the international side in the negotiations on the role of the police. Vlastimir Đorđević led the Serbian delegation and was the main negotiator for the Serbian side.[1236] Obrad Stevanović, Sreten Lukić, Chief of the MUP Staff,[1237] and his deputy Colonel Mijatović were also present during these negotiations.[1238]

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officers, Karol John Drewienkiewicz, Exhibit P997 (*Milutinović* transcript), T 7748-7750, 7753. *See* also Michael Phillips, T 8752, 8756.

[1228] Karol John Drewienkiewicz, T 6363-6364, 6419; Karol John Drewienkiewicz, Exhibit P997 (*Milutinović* transcript), T 7750; Exhibits P1006; P1008; Knut Vollebaek, T 7210-7212; Exhibit P1075. If the OSCE office in Vienna was not clear about a certain piece of information, they would request more detailed information, Karol John Drewienkiewicz, T 6364.

[1229] Karol John Drewienkiewicz, T 6419; Karol John Drewienkiewicz, Exhibit P997 (*Milutinović* transcript), T 7728.

[1230] Karol John Drewienkiewicz, T 6419.

[1231] Shaun Byrnes, Exhibit P1214 (*Milutinović* transcript), T 12156-12157; Shaun Byrnes, T 8174-8175.

[1232] Exhibit P837, p 1.

[1233] Exhibit P837; Shaun Byrnes, Exhibit P1214 (*Milutinović* transcript), T 12156-12157; Shaun Byrnes, T 8174-8175.

[1234] Shaun Byrnes, Exhibit P1214 (*Milutinović* transcript), T 12156-12157; Shaun Byrnes, T 8174-8175.

[1235] Shaun Byrnes, Exhibit P1214 (*Milutinović* transcript), T 12157-12158; Shaun Byrnes, T 8175, 8239.

[1236] Shaun Byrnes, T 8178.

[1237] Shaun Byrnes, Exhibit P1214 (*Milutinović* transcript), T 12157-12158; Shaun Byrnes, T 8175, 8177.

[1238] Shaun Byrnes, T 8175. For Colonel Mijatović's position, *see* Shaun Byrnes, Exhibit P1214 (*Milutinović* transcript), T 12146; Shaun Byrnes, T 8168.

359. It was the impression of Shaun Byrnes that during the talks Vlastimir Đorđević demonstrated clear knowledge about the facts on the ground in Kosovo, including the location and deployment operations of the Serbian police. This became particularly obvious during the discussions on the specific locations in Kosovo where observation points should be placed.[1239] The number of MUP personnel in Kosovo was also discussed during the negotiations.[1240]

360. After discussions lasting for one day and most of the following night, the negotiators on the role and responsibility of the police reached an agreement.[1241] A document entitled "Understanding between KDOM and Ministry of Interior of the Republic of Serbia" was signed by Shaun Byrnes, for the international delegation and by Vlastimir Đorđević, for the Serbian side ("Byrnes-Đorđević Agreement").[1242] Pursuant to this agreement, all police checkpoints in Kosovo were to be dismantled and in their place 27 observation points were to be established.[1243] However, only one third of the observation points were to be manned at any one time.[1244] As the checkpoints were roadblocks and in fact physical barriers on the roads, the dismantling of the checkpoints was considered necessary to allow for the displaced persons to return to their homes.[1245]

361. The negotiations on the role and responsibility of the VJ, led by General Clark on the international side and Colonel General Perišić on the FRY side were also successful and an agreement was reached.[1246]

362. A document entitled "Record of Meeting in Belgrade, 25 October 1998" signed for the FRY authorities by Nikola Šainović, Deputy Prime Minister of the FRY, for the Republic of Serbia by Vlastimir Đorđević, Chief of the RJB of the MUP, and for NATO by General Klaus Naumann and General Wesley Clark ("October Agreement"), incorporates all the undertakings agreed to during the negotiations. As indicated in the document special police units deployed to Kosovo after February 1998 were to be withdrawn from Kosovo and the strength of the police forces in Kosovo was to be reduced to their February 1998 duty level.[1247] Heavy weapons and equipment brought to Kosovo or transferred to the police from the VJ after February 1998 were also to be withdrawn

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[1239] Shaun Byrnes, T 8180-8181, 8237.
[1240] Shaun Byrnes, T 8181.
[1241] Shaun Byrnes, Exhibit P1214 (*Milutinović* transcript), T 12158-12160; Shaun Byrnes, T 8177.
[1242] Shaun Byrnes, Exhibit P1214 (*Milutinović* transcript), T 12158-12160; Shaun Byrnes, T 8177-8178, 8239; Exhibit P836.
[1243] Exhibit P836; Shaun Byrnes, T 8179-8180; Richard Ciaglinski, T 5261; Richard Ciaglinski, Exhibit P833 (*Milošević* transcript), T 3142; Joseph Maisonneuve, T 5452; Vlastimir Đorđević, T 9649.
[1244] Exhibit P836, para 1; Richard Ciaglinski, T 5262; Karol John Drewienkiewicz, T 6324, 6449.
[1245] Shaun Byrnes, T 8179-8180; Richard Ciaglinski, T 5261-5262.
[1246] Shaun Byrnes, Exhibit P1214 (*Milutinović* transcript), T 12160-12164.
[1247] Exhibit P837; Shaun Byrnes, T 8182-8183. The date February 1998 was chosen because after March 1998 there was a big build-up of Serbian security forces, police and army, in Kosovo, Shaun Byrnes, T 8182-8183. *See* also Richard Ciaglinski, Exhibit P837, para 3; Richard Ciaglinski, T 5265.

from Kosovo or returned to the VJ.[1248] Further, all VJ units and additional equipment brought to Kosovo after February 1998 were to be withdrawn from Kosovo except for those VJ units that were augmenting the border guards, and all VJ elements remaining in Kosovo were to return to garrison, except for three company size units which would remain deployed to protect the following three communication lines: Peć/Pejë-Lapušnik/Lapushnik-Priština/Prishtinë, Đakovica/Gjakovë-Klina/Klinë and Prizren-Suva Reka/Suharekë-Priština/Prishtinë.[1249] The withdrawal and deployment of the MUP and VJ forces was to be completed by 27 October 1998. The VJ and the MUP were to provide KDOM/OSCE with detailed weekly reports of manning, weapons, and activities of their forces, and were to provide immediate notification to KDOM/OSCE of any deployment contrary to these provisions.[1250]

363. The Byrnes-Đorđević Agreement and the October Agreement ("October Agreements") were intended in part to allow displaced Kosovo Albanians to return to their homes before the winter.[1251] The October Agreements provided the basis for the KVM verification work on the ground.[1252]

4. Position of the FRY and Serbian authorities on the October Agreements

364. On 25 October 1998 a meeting of the heads of the SUPs in Kosovo, the chiefs of police sections and commanders of the PJP detachments was held in Priština/Prishtinë. The meeting was chaired by Assistant Minister Obrad Stevanović who informed those present of the KVM Agreement and the October Agreements.[1253] The conclusions of the meeting called, *inter alia,* for a plan starting on 27 October 1998 to reduce the number of police by 4,500.[1254] From July 1998 until the end of September 1998 there were some 14,570 policemen in Kosovo.[1255] After the reduction was completed, 10,021 members of the police were to remain in Kosovo of which 8,000 were active-duty and reserve police from Kosovo and 2,021 were from SUPs outside Kosovo.[1256] The conclusions of the meeting also called for reinforcement of Serb villages with reservists, "as required."[1257] Other conclusions of the meeting include withdrawal of weapons bigger than seven millimetre calibre and all armoured combat vehicles to base and lifting of all traffic control

[1248] Exhibit P837; Shaun Byrnes, T 8134. The special police units had been observed in the field with heavy weapons not normally associated with police activities. This issue was discussed with Đorđević during the negotiations, Shaun Byrnes, T 8134.
[1249] Exhibit P837; Shaun Byrnes, Exhibit P1214 (*Milutinović* transcript), T 12160-1264; Shaun Byrnes, T 8175.
[1250] Exhibit P837.
[1251] Shaun Byrnes, T 8175.
[1252] Karol John Drewienkiewicz, Exhibit P996, para 33.
[1253] Žarko Braković, T 4165-4166; Exhibit P769; Radomir Mitić, T 12655-12656; Vlastimir Đorđević, T 9651-9652.
[1254] Žarko Braković, T 4166; Exhibit P769, item 1.
[1255] Ljubinko Cvetić, T 6608.
[1256] Žarko Braković, T 4166; Exhibit P769, item 2; Ljubinko Cvetić, T 6608-6609, 6618; Exhibit P1038.
[1257] Žarko Braković, T 4166; Exhibit P769, item 13.

checkpoints by 26 October.[1258] As recorded in the conclusions of this meeting the police were to make a list of the numbers of personnel and armoured vehicles that were to be withdrawn, as well as routes and times of movement, to be notified to KDOM representative Shaun Byrnes.[1259] However, as it will be discussed below, KVM verifiers were not provided with this information.

365. At a meeting of the MUP Staff held in Priština/Prishtinë on 2 November 1998 the KVM Agreement and the October Agreements were discussed. The meeting was attended by all chiefs of SUPs and commanders of PJP detachments in Kosovo.[1260] As reflected in the conclusions of the meeting, a scheme was devised to keep members of the KVM as busy as possible by sending them information on terrorist activities every day and requesting them to remove terrorists from the field and to stop the terrorists' activities, and also to send them information about armed (Kosovo Albanian) villages and to request KVM to disarm them. It was also decided to move vehicles and weapons with a calibre larger than 7.9 millimetre.[1261] The conclusions of the meeting also called on those present to make sure that Serbs and members of the Reserve Police Squads (RPO) did not misuse weapons, or carry or show them in public in the presence of members of the KVM and to make sure that Serbs and members of the RPO do not state that Serbs were armed. If it became necessary to give an explanation about the weapons, the instruction was to state that only members of the guards were armed.[1262]

366. On 5 November 1998 a meeting was held at the MUP Staff in Priština/Prishtinë, attended by Milan Milutinović, the President of the Republic of Serbia, Vlajko Stojiljković, Minister of Interior; the Accused, Vlastimir Đorđević, Head of RJB; Rade Marković, Head of RDB; Sreten Lukić, Head of the MUP Staff; Nikola Šainović, Deputy Prime Minister of the FRY; Zoran Anđelković, President of the Executive Council of Kosovo and commander of the civil protection; Nebojša Pavković, commander of the 3rd Army of the VJ; all SUPs, OUPs, police station chiefs and all PJP detachments in Kosovo, RDB commanders from Kosovo and 13 VJ representatives from the Priština Corps.[1263] Sreten Lukić opened the meeting by briefing those present on the security situation in Kosovo and informing them of the readiness of police units to continue to carry out their duties and tasks.[1264] The floor was then given to Milan Milutinović who informed those present that he had attended a meeting with the President of the FRY Slobodan Milošević on 29 October 1998, during which the situation in the army and the police was discussed. Milutinović conveyed Milošević's words that the FRY were entering a difficult phase in the resolution of the

[1258] Exhibit P769, items 4, 9, 10.
[1259] Exhibit P769, item 12.
[1260] Žarko Braković, T 4167; Exhibit P690.
[1261] Exhibit P690, items 4, 5, 6.
[1262] Exhibit P690, item 8; Žarko Braković, T 4168.
[1263] Exhibit P770, p 3; Žarko Braković, T 4170.

Kosovo issue and that a long and difficult political struggle laid ahead. Milutinović then conveyed Milošević's view that with regard to the VJ and the police everything would stay the same as it had been up to that moment, clarifying that this meant the Joint Command would continue, VJ units would not withdraw, and that police forces would only be reduced by the number that had already been withdrawn.[1265] Milutinović also conveyed to the meeting Milošević's instruction with respect to the OSCE representatives in Kosovo, namely that the security forces should act wisely, "in an organised manner and in coordination" and that the VJ, the police and the politicians must agree as to who should be in contact with the OSCE and how. It was also said that the KVM verifiers did not have access to VJ and police facilities.[1266] It will be appreciated from what was said by Milutinović that the terms of the KVM Agreement and the October Agreements were being significantly ignored.

5. Meetings between representatives of the KVM and representatives of the FRY and the Serbian authorities

367. To facilitate the functions of the KVM, an FRY Commission on Cooperation with the OSCE was established on 18 October 1998.[1267] It was decided that the Commission would meet regularly and that Serbian representatives from the civil administration, the MUP, and the VJ would attend these meetings.[1268] Nikola Šainović was the chairman of the Commission, the Minister of Interior Vlajko Stojiljković and the Chief of the General Staff of the VJ were among its members.[1269] Later in 1998 General Dušan Lončar was appointed coordinator for the FRY in the Commission on Cooperation.[1270] Colonel Mijatović from the MUP Staff, Colonel Kotur from the VJ and other MUP and VJ officers would be present at the meetings of the Commission.[1271] On the KVM side, Karol John Drewienkiewicz, Richard Ciaglinski, occasionally the MUP or the KLA liaison officer and an interpreter would attend.[1272] General Drewienkiewicz testified that the Commission on Cooperation did not meet very often as neither side called many meetings and the

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[1264] Exhibit P770, p 3.
[1265] Exhibit P770, p 4; Žarko Braković, T 4172.
[1266] Exhibit P770, p 4.
[1267] Exhibit D388; Živadin Jovanović, T 10237. *See* also Kosta Novaković, T 11092, testifying that at the FRY level there was a team dealing with the OSCE KVM and NATO.
[1268] Karol John Drewienkiewicz, Exhibit P996, para 33; Richard Ciaglinski, Exhibit P834 (*Milutinović* transcript), T 6864; Richard Ciaglinski, Exhibit P833 (*Milošević* transcript), T 3271.
[1269] Exhibit D388.
[1270] Karol John Drewienkiewicz, Exhibit P996, paras 59, 70; Karol John Drewienkiewicz, T 6343; Richard Ciaglinski, T 5222, 5253; Exhibit P834 (*Milutinović* transcript), T 6815; Živadin Jovanović, T 10237. *See* also Joseph Maisonneuve, Exhibit P851, para 8.
[1271] Richard Ciaglinski, Exhibit P834 (*Milutinović* transcript), T 6864; Richard Ciaglinski, Exhibit P833 (*Milošević* transcript), T 3271; Karol John Drewienkiewicz, Exhibit P996, para 56. *See* also Joseph Maisonneuve, Exhibit P851, para 8.
[1272] Richard Ciaglinski, Exhibit P832, p 3; Richard Ciaglinski, T 5252-5253.

system fell into disuse.[1273] Good working relations, however, existed between the Deputy Head of the KVM, Karol John Drewienkiewicz and the FRY coordinator in the Commission, General Lončar.[1274]

368. Regular meetings between KVM representatives and Serbian officials were held in Priština/Prishtinë. These meetings were attended by Nikola Šainović, General Lončar and Sreten Lukić on the Serbian side and by Ambassador Walker, his Chief of Staff and special adviser Michael Phillips, and General Drewienkiewicz.[1275] At these meetings the KVM representatives raised the issue of excessive use of force by the Serbian forces in response to activities of the KLA. A common observation of the KVM verifiers was that the KLA were using small calibre weapons to which the Serbian security forces were responding with heavy weapons such as artillery.[1276]

369. At a VJ level, a team for liaison with the OSCE and NATO was appointed on 22 October 1998. This team was headed by General Obradović, Assistant Chief of the General Staff.[1277] There were VJ liaison teams also in the 2nd and 3rd Army, the air-force and the anti-aircraft defence. The liaison teams for the 3rd Army were mainly within the Priština Corps and the border battalions.[1278] The 3rd Army liaison team sent regular weekly reports to the VJ General Staff and the VJ liaison team. The VJ liaison team prepared its own reports based on these reports of the 3rd Army and similar reports from the air-force and the anti-aircraft defence, which it then sent to NATO and OSCE on a weekly basis.[1279]

370. Daily coordination meetings for the VJ were held at 1000 hours at which the KVM representatives would raise issues of which they have been informed by their regional centres and would communicate reports and information they had obtained. These meetings were also a chance for the FRY and Serbian representatives at the Commission to brief the KVM about the situation on the ground and to express concerns or requests.[1280]

371. A special representative was designated by the MUP Staff who was to liaise with the KDOMs and the KVM.[1281] The KVM liaison for the MUP attended daily briefings at 0900 hours at

[1273] Karol John Drewienkiewicz, Exhibit P996, para 22.
[1274] Karol John Drewienkiewicz, Exhibit P996, paras 21, 59, 185; Karol John Drewienkiewicz, T 6343.
[1275] Michael Phillips, Exhibit P1303 (*Milutinović* transcript), T 11829-11831; Michael Phillips, T 8687, 8692.
[1276] Michael Phillips, Exhibit P1303 (*Milutinović* transcript), T 11845-11846.
[1277] Kosta Novaković, T 11081-11082; Exhibit D582.
[1278] Kosta Novaković, T 11085.
[1279] Kosta Novaković, T 11089, 11100, 11115-11116, 11137; Exhibit D590, pp 5-6.
[1280] Richard Ciaglinski, T 5270.
[1281] Vlastimir Đorđević, T 9652-9653.

the police station in Priština/Prishtinë at which police officers recounted events from the previous day.[1282]

372. On or about 24 November 1998 a meeting between Slobodan Milošević, Nikola Šainović and Milan Milutinović, representing the authorities of the FRY and Serbia, and Ambassador Walker and Michael Phillips of the KVM and Mr Miles, Charge d'Affairs for the US Embassy in Belgrade took place at the White Palace in Belgrade.[1283] During the meeting, Ambassador Walker delivered a letter to Slobodan Milošević outlining the KVM's understanding of their mission and the type of cooperation that KVM were looking for from the Serbian authorities.[1284] The KVM representatives also put forward some requests with respect to security aspects of the mission.[1285] The meeting was friendly but inconclusive.[1286]

373. On 12 December 1998 the KVM Head of Mission Ambassador Walker sent a letter to Nikola Šainović expressing the concern of the KVM that these meetings did not include details on Serbian manpower and weapons and therefore did not provide the detail required by the October Agreements.[1287] At a meeting on 16 December 1998 the MUP agreed to provide full details regarding movement, including times, numbers, and locations.[1288] However, the MUP never provided such information.[1289]

374. On 15 December 1998 Ambassador Walker of the KVM and his Chief of Staff Michael Phillips attended a meeting at the White Palace in Belgrade with Slobodan Milošević. Richard Holbrooke, Wesley Clark and Nikola Šainović were also present. At the meeting non-compliance issues that were prohibiting and hindering the KVM were discussed.[1290]

6. General issues regarding implementation of the October Agreements

375. Pursuant to the October Agreements the VJ was supposed to reduce the number of troops and equipment in Kosovo to the level of February 1998; this was the baseline for verification for the KVM.[1291] The KVM made many requests to the FRY and Serbian authorities to be provided with information about the February 1998 level. Eventually, overall figures of heavy weapons, the units they belonged to, and their locations were provided but no further detail concerning the VJ was

[1282] Karol John Drewienkiewicz, Exhibit P996, para 55.
[1283] Michael Phillips, Exhibit P1303 (*Milutinović* transcript), T 11945, 12003; Michael Phillips, T 8690.
[1284] Michael Phillips, T 8688; Michael Phillips, Exhibit P1303 (*Milutinović* transcript), T 12003-12005.
[1285] Michael Phillips, T 8688-8689; Exhibit P838.
[1286] Michael Phillips, T 8689-8690.
[1287] Karol John Drewienkiewicz, T 6340-6341; Exhibit P1001.
[1288] Karol John Drewienkiewicz, T 6344; Exhibit P1002.
[1289] Karol John Drewienkiewicz, T 6345.
[1290] Michael Phillips, Exhibit P1303 (*Milutinović* transcript), T 11841, 11843-11846, 11946; Michael Phillips, T 8691.

provided.[1292] Neither was the KVM provided with baseline figures for police forces.[1293] Further, it was more difficult for the KVM to verify the figures of the MUP forces on the ground in Kosovo, because the MUP often went around in smaller groups, not always in uniforms, and because the MUP structure in Kosovo was obscure.[1294] The KVM itself had not sufficient staff until late January 1999.[1295]

376. Despite the provisions of the October Agreements, in reality, if an area was declared to be an operational area or a training area for the VJ or the MUP, it would be sealed off and access of KVM verifiers would be restricted.[1296] KVM staff were denied access by Serbian forces to specific areas or buildings on a number of occasions,[1297] and were often denied access to barracks, even if prior notice had been given.[1298] At a meeting at the KVM headquarters in Priština/Prishtinë on 9 December 1998 attended by General Drewienkiewicz, Ambassador Walker, the Deputy Prime Minister of Serbia Šainović and General Lončar, Šainović stated that the inspections proposed by the KVM were intrusive, that he would not allow the KVM to carry out such inspections, or that the FRY and Serbia would not, as requested by the KVM, reduce police presence in Mališevo/Malishevë or set up an office in Priština/Prishtinë to expedite the issuance of visas.[1299] No official protests against limitation of movements were filed by the KVM or the OSCE.[1300]

[1291] Karol John Drewienkiewicz, T 6317-6318, 6326-6327; Karol John Drewienkiewicz, Exhibit P977 (*Milutinović* transcript), T 7729-7730, 7858, 7863.

[1292] Karol John Drewienkiewicz, T 6327; Karol John Drewienkiewicz, Exhibit P997 (*Milutinović* transcript), T 7888-7889.

[1293] Joseph Maisonneuve, T 5457-5458.

[1294] Karol John Drewienkiewicz, Exhibit P996, para 43; Karol John Drewienkiewicz, Exhibit P997 (*Milutinović* transcript), T 7997-7998; Joseph Maisonneuve, T 5457-5458.

[1295] Karol John Drewienkiewicz, Exhibit P996, para 36; Karol John Drewienkiewicz, T 6315-6316.

[1296] Richard Ciaglinksi, T 5255; Richard Ciaglinski, Exhibit P834 (*Milutinović* transcript), T 6818.

[1297] Karol John Drewienkiewicz, T 6347; Exhibit P1003. On 9 and 10 December 1998 Karol John Drewienkiewicz was denied access to the Priština Brigade Barracks and to the Prizren Brigade Barracks, respectively. (Karol John Drewienkiewicz, Exhibit P996, paras 80, 84) This happened despite the fact that on 27 November 1998 General Drewienkiewicz and other OSCE officials had a meeting at the Ministry of Defence in Belgrade with General Dragoljub Ojdanić, at the time Chief of the General Staff of the VJ and other senior VJ officers informing them of the intention of the KVM to carry out inspections in the VJ barracks and other locations, necessary to verify the number of personnel, heavy weapons and other equipment, Karol John Drewienkiewicz, Exhibit P996, paras 63, 67; Exhibit P998, p 2, item 2.

[1298] Richard Ciaglinski, T 5255. The Chamber notes the evidence of Kosta Novaković that the KVM had absolute freedom of movement, except for entry to barracks (Kosta Novaković, T 11099; *see* also Kosta Novaković, T 11121, 11172-11173) but in light of the consistent evidence of several KVM representatives, it accepts that KVM's access to areas and facilities in Kosovo was restricted. Access to barracks appears to have been particularly controversial as the interpretation of the FRY authorities and the KVM of the relevant terms of the October Agreements differed, *see* Kosta Novaković, T 11099-11100, 11121; Exhibit D594, p 3. *See* also Exhibit P770, p 2, discussed above.

[1299] Karol John Drewienkiewicz, Exhibit P997 (*Milutinović* transcript), T 7779, 8007, 8008. Mališevo/Malishevë, an entirely Albanian village and one of the routes for smuggling of weapons into Kosovo, had endured particularly heavy fighting and was a tense area where the KLA were active; the KVM considered that the heavily fortified police station in the town was worsening the situation and had proposed that the KVM could step in to reduce the tension in return for a reduction of police, Karol John Drewienkiewicz, Exhibit P997 (*Milutinović* transcript), T 7779-7780, T 7988-7989. *See* also, *infra*, para 384.

[1300] Živadin Jovanović, T 10230.

377. The VJ and the MUP did not provide the KVM with detailed weekly reports and their notifications of deployment were not in accordance with the October Agreements.[1301] The KVM were occasionally informed verbally and on an ad hoc basis of events that were about to happen. This notification was always last minute and lacked detail.[1302]

378. One of KVM's main complaints was the disproportionate use of force by the Serbian forces.[1303] When KVM members observed disproportionate activities by FRY or Serbian forces they would report what they saw and would attempt to make contact with the commanders on the ground while the staff in Priština/Prishtinë would attempt to contact their counterparts in the VJ or the MUP.[1304] As discussed in the preceding section, the excessive use of force by the Serbian forces in response to KLA activities was raised regularly by KVM representatives at meetings with Serbian officials.[1305]

379. The issue of disproportionate use of force was raised by John Crosland in conversations with Generals Perišić and Dimitrijević throughout 1998 and in early 1999. John Crosland made the point that while accepting that there was an insurgency in Kosovo the force used against it was disproportionate.[1306]

D. Implementation of the October Agreements and armed violence in Kosovo from October to December 1998

1. Events in October and November 1998

380. The US-KDOM carried out a number of verifications of VJ weaponry without objections from the VJ.[1307] The KVM also confirmed that at the end of October 1998 FRY authorities had acted to comply with measures set out in the October Agreement[1308] and that the heavy weapons and equipment remaining under MUP control had been returned in accordance with the Agreement.[1309] Ljubinko Cvetić testified that after the October Agreements and the arrival of the KVM, one part of the police forces were withdrawn from the territory of Kosovo.[1310]

[1301] Karol John Drewienkiewicz, T 6320; Exhibit P837.
[1302] Karol John Drewienkiewicz, T 6321-6322.
[1303] Richard Ciaglinski, T 5280.
[1304] Karol John Drewienkiewicz, T 6322.
[1305] *See supra*, para 368.
[1306] John Crosland, Exhibit P1402 (*Milutinović* transcript), T 9851-9852.
[1307] Shaun Byrnes, Exhibit P1214 (*Milutinović* transcript), T 12200-12201.
[1308] Karol John Drewienkiewicz, T 6450, 6454; Karol John Drewienkiewicz, Exhibit P837, pp 2-3; Karol John Drewienkiewicz, Exhibit P997 (*Milutinović* transcript), T 7884-7885.
[1309] Richard Ciaglinski, T 5266.
[1310] Ljubinko Cvetić, T 6813.

381. A reduction of violent activity on both sides was observed by international verifiers in Kosovo in the first weeks after the signing of the October Agreements.[1311]

382. In certain sectors of Kosovo, where there was a significant KLA presence, the activities of the KLA seemed to increase after the signing of the October Agreements.[1312] Shaun Byrnes believed that the KLA saw the October Agreements as an opportunity to regroup and reform. The US-KDOM saw KLA training camps in the Pagaruša/Pagarushë valley in central Kosovo, between Mališevo/Malishevë and Suva Reka/Suharekë.[1313] The KLA in the Llap zone was moving to former VJ positions.[1314] After the October Agreements the KLA came to hold more territory.[1315]

383. At a meeting with John Crosland on 6 November General Dimitrijević expressed concern that locations, vacated by VJ and MUP forces were being filled by KLA units. He felt that if this situation continued there would be a forceful reaction by the MUP. He also indicated that General Perišić, at the time still Chief of the General Staff of the VJ, was visiting the troops in Kosovo making them aware of their responsibility not to respond to provocations.[1316]

384. On 8 November 1998 an armed attack was carried out by the KLA on the police station in Mališevo/Malishevë. The bodies of two policemen from the Priština/Prishtinë SUP who had been kidnapped earlier were recovered.[1317] In mid and late November 1998 Mališevo/Malishevë was besieged by heavy MUP activity. The village had been burned to the ground and its residents had fled to the hills. OSCE representatives brought the situation to the attention of Slobodan Milošević and Nikola Šainović in an attempt to get the MUP forces out of the village and to bring the residents back to their homes before the winter. Milošević and Šainović refused to pull out the MUP forces indicating their concerns that if they did the KLA would filter back into the village.[1318] The

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[1311] Shaun Byrnes, Exhibit P1214 (*Milutinović* transcript), T 12242. The KLA was not party to the October Agreements. It was the task of the international representatives to persuade the KLA to respect the Agreements, and the KLA had an interest in doing so as means to keep the international community and the USA in particular in Kosovo, Shaun Byrnes, Exhibit P1214 (*Milutinović* transcript), T 12242.

[1312] Shaun Byrnes, Exhibit P1214 (*Milutinović* transcript), T 12209. *See* also Ljubinko Cvetić, T 6813.

[1313] Shaun Byrnes, Exhibit P1214 (*Milutinović* transcript), T 12242-12243; Shaun Burnes, T 8249.

[1314] Shaun Byrnes, T 8248-8249. 6D2 testified that in the general area of Prizren there were 118 violations of the ceasefire by the KLA, although the time period is not specified, 6D2, T 12265. The witness gave examples of abductions by the KLA of persons perceived as friend of or spies for the Serbs, 6D2, T 12265-12667. *See* also Exhibits D308; D801; D736; D744; D745.

[1315] Shaun Byrnes, Exhibit P1214 (*Milutinović* transcript), T 12210; Ljubinko Cvetić, T 68136; D2, T 12265; Radomir Mitić, T 12657; Momir Stojanović, T 11722.

[1316] John Crosland, Exhibit P1400, para 56; Exhibit P1411; John Crosland, Exhibit P1402 (*Milutinović* transcript), T 9964.

[1317] Exhibit D888, p 632, item 397; 6D2, T12317-12318; Danica Marinković, T 12936; Exhibit D853, p 4.

[1318] Michael Phillips, Exhibit P1303 (*Milutinović* transcript), T 11876.

problem was resolved by a joint initiative of the FRY and the KVM reducing the number of MUP forces and by increasing the number of KVM observers in Mališevo/Malishevë.[1319]

385. At the end of November and in early December 1998 the security situation in Mališevo/Malichevë, Glogovac/Gllogoc and Podujevo/Podujevë was considered by the MUP Staff to be graver than in earlier periods.[1320] Towards the end of 1998 and early 1999 the area of Podujevo/Podujevë was also a serious concern for the MUP. The KLA had built trenches and kept certain areas under control.[1321] The minutes of a MUP Staff meeting on 2 December 1998 reflect that the KVM was perceived as siding with the Kosovo Albanians and the police were urged to be very cautious when communicating with the mission.[1322]

386. At a meeting held in Belgrade on 27 November 1998 Minister Stojiljković, the Chief of the RJB Vlastimir Đorđević, the Chief of the RDB Rade Marković, Assistant Ministers, Nikola Šainović and the Head of the MUP Staff, Sreten Lukić discussed the security situation in Kosovo and defined the further engagement of the police in Kosovo.[1323]

2. Events in December 1998

387. On 14 December 1998 a fire-fight between Serbian forces and the KLA took place near the Albanian border, five to seven kilometres from Prizren. KVM patrols invited by the VJ to inspect the scene observed dead bodies and a large amount of military equipment which appears to have been intended for distribution to KLA units.[1324] 34 or 35 KLA members were killed and nine were taken prisoner. Most of the KLA soldiers were wearing KLA uniforms.[1325]

388. On 18 December 1998 US-KDOM and KVM verifiers saw a company size battle group comprising VJ soldiers and PJP members being deployed from the Marshal Tito Barracks in

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[1319] Michael Phillips, Exhibit P1303 (*Milutinović* transcript), T 11876. KVM had the obligation to make sure that the Albanians who returned to Mališevo/Malishevë were peaceful and were not members of the KLA, Michael Phillips, T 8809.

[1320] Exhibit P689; Žarko Braković, T 4267. *See* also Danica Marinković, T 12939; Exhibit D853, p 4, testifying to an attack against the MUP in Glogovac/Gllogoc on 11 November 1998.

[1321] Žarko Braković, T 4266-4267.

[1322] Žarko Braković, T 4263.

[1323] Minutes of a meeting of the MUP Staff held on 2 December 1998 in Priština/Prishtinë record that the Head of the MUP Staff, Sreten Lukić stated that on 27 November 1998 he had attended a meeting at the MUP in Belgrade with Minister Stojiljković, the Chief of the RJB, Đorđević, the Chief of the RDB, Assistant Ministers and Nikola Šainović at which the security situation in Kosovo was discussed and the further engagement of the police in Kosovo were defined, Exhibit P689, pp 3-8.

[1324] Karol John Drewienkiewicz, Exhibit P996, paras 85-86. *See* also Joseph Maisonneuve, Exhibit P853 (*Milutinović* transcript), T 11128; Joseph Maisonneuve, Exhibit P851, para 13; Exhibit P854, pp 1-2.

[1325] Karol John Drewienkiewicz, Exhibit P996, para 87; Karol John Drewienkiewicz, Exhibit P997 (*Milutinović* transcript), T 7782, 7929.

Priština/Prishtinë to an area near Podujevo/Podujevë.[1326] This deployment was in violation of the October Agreement.[1327] The KVM brought the issue to the attention of the FRY authorities on 19 December 1998 at a meeting in Priština/Prishtinë. Colonel Kotur of the VJ stated that an armoured unit was there for the purpose of a tank driver training.[1328] The KVM had not been informed of this. The "training area" included an area with heavy KLA presence west of Podujevo/Podujevë which created a risk of clashes between the KLA and the Serbian forces. General Drewienkiewicz proposed to the VJ that such training take place east of Podujevo/Podujevë to prevent clashes but was told that the VJ would train where they considered it appropriate.[1329] A US-KDOM daily report of 21 December 1998 indicates that the same Serbian battle group was still in the area.[1330] Indeed, it remained in the Podujevo/Podujevë area at least until the end of March 1999, despite the objections raised by the KVM,[1331] confirming that the presence of this battle group was not for training as had been falsely suggested.

389. In December 1998 the security situation in Podujevo/Podujevë municipality had deteriorated significantly and was continuing to deteriorate. The KLA had blockaded almost half of the territory of the municipality. There was an effort to recruit more soldiers into the KLA.[1332] The KLA commander of the area was acting aggressively.[1333] There were reports that the Serbian population was leaving the area.[1334] The Serbian police and army held the road Niš-Podujevo/Podujevë but there were several occasions when the KLA shot at Serbian civilian vehicles which triggered a response by the Serbian security authorities. The Serbian police increased patrols which was consistent with the October Agreements. The main railroad from Priština/Prishtinë north to Niš, which ran parallel to this road was of enormous strategic importance because it was the route for army reinforcement from Niš in Serbia to Kosovo.[1335] It was the conclusion of international observers present in Kosovo at the time that the VJ and MUP deployment west of

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[1326] Shaun Byrnes, Exhibit P1214 (*Milutinović* transcript), T 12165-12169, 12235; Shaun Byrnes, T 8189, 8991-8193; Karol John Drewienkiewicz, Exhibit P996, para 95; Karol John Drewienkiewicz, T 6349; Exhibits P1246; P1247; John Crosland, Exhibit P1400, para 66. The KVM maintained observer posts in proximity to the garrisons and monitored the movement in and out the garrisons. Later US-KDOM placed a vehicle close to the battle group's encampment, Shaun Byrnes, T 8189, 8991-8193. This battle group was equipped with 15 T-55 tanks, six Pragas and associated vehicles, John Crosland, Exhibit P1400, para 66.

[1327] Shaun Byrnes, Exhibit P1214 (*Milutinović* transcript), T 12165-12169, 12235; Shaun Byrnes, T 8189, 8991-8193.

[1328] Karol John Drewienkiewicz, Exhibit P996, paras 94-95; Karol John Drewienkiewicz, T 6351; Shaun Byrnes, Exhibit P1214 (*Milutinović* transcript), T 12165-12169, 12235; Shaun Byrnes, T 8189, 8991-8193; Exhibit P1246.

[1329] Karol John Drewienkiewicz, Exhibit P996, para 97; Karol John Drewienkiewicz, Exhibit P997 (*Milutinović* transcript), T 7783, 7878; Karol John Drewienkiewicz, T 6354. *See* also Michael Phillips, Exhibit P1303 (*Milutinović* transcript), T 11847-11848; Michael Phillips, T 8710, 8726.

[1330] Exhibit P1248.

[1331] Shaun Byrnes, T 8206.

[1332] Shaun Byrnes, T 8256.

[1333] Shaun Byrnes, Exhibit P1214 (*Milutinović* transcript), T 12192; John Crosland, Exhibit P1402 (*Milutinović* transcript), T 9948-9949.

[1334] Richard Ciaglinski, Exhibit P834 (*Milutinović* transcript), T 6911; Momir Stojanović, T 11734; Exhibit D752. *See* also Shaun Byrnes, Exhibit P1214 (*Milutinović* transcript), T 12194-12196.

[1335] Shaun Byrnes, T 8246-8248; Richard Ciaglinski, Exhibit P834 (*Milutinović* transcript), T 6823.

Podujevo/Podujevë was to protect the strategically important road from Podujevo/Podujevë to Priština/Prishtinë, linking Kosovo with Serbia, which was not included in the October Agreements as a road along which the VJ could deploy forces.[1336]

390. On 24 December 1998, a column of two VJ companies and one MUP company left Priština/Prishtinë and entered the village of Gornja Lapaštica/Llapashticë-e-Epërme, located three to four kilometres northwest of Podujevo/Podujevë.[1337] A KVM report covering the events on 24 December 1998 records that on that day, around the Podujevo/Podujevë area, Serbian tank and mortar rounds were fired in addition to small arms during a confrontation between the KLA and the MUP/VJ.[1338] VJ and MUP forces were travelling in mixed units and not separately. MUP forces and their vehicles were spread throughout the column alongside the VJ.[1339] Exchanges of fire at the time took place in more than one village in the Podujevo/Podujevë area.[1340] In the morning of 24 December 1998 General Drewienkiewicz communicated to Sreten Lukić, the Chief of the MUP Staff, that the ongoing VJ and MUP operations around Podujevo/Podujevë constituted a serious breach of the cease-fire and that any casualties would be attributed directly to the FRY government.[1341]

391. On 26 December 1998 an elderly Serbian man was shot in the village of Obrandža/Obrançe near Podujevo/Podujevë.[1342] Negotiations took place between General Lončar, Colonel Kotur and Ambassador Walker of the KVM on how to remove the body from this predominantly Kosovo Albanian village without causing clashes with KLA operating in the area. While the negotiations were still ongoing a MUP unit entered the village and a fire-fight ensued.[1343] General Lončar claimed that the operation was carried out without the knowledge of the army, which was not accepted by the KVM as credible.[1344] Indeed, a US-KDOM report confirmed that on 26 December 1998 VJ armoured units and a Serbian police unit engaged the KLA in a fire-fight in the village of Obrandža/Obrançe which continued approximately two hours and included Serbian fire from heavy machine guns and 120 millimetre mortars.[1345]

[1336] Shaun Byrnes, T 8193-8195; Exhibit P1247.
[1337] Karol John Drewienkiewicz, Exhibit P996, para 99; Karol John Drewienkiewicz, T 6351.
[1338] Karol John Drewienkiewicz, T 6350; Exhibit P1004.
[1339] Karol John Drewienkiewicz, Exhibit P996, para 102; Karol John Drewienkiewicz, T 6349-6350.
[1340] Karol John Drewienkiewicz, Exhibit P997 (*Milutinović* transcript), T 7786..
[1341] Karol John Drewienkiewicz, T 6358; Karol John Drewienkiewicz, Exhibit P997 (*Milutinović* transcript), T 7786; Exhibit P1005.
[1342] Karol John Drewienkiewicz, Exhibit P996, para 109; Karol John Drewienkiewicz, T 6359; Karol John Drewienkiewicz, Exhibit P997 (*Milutinović* transcript), T 7787; Exhibit P1249.
[1343] Karol John Drewienkiewicz, Exhibit P996, paras 110-111; Karol John Drewienkiewicz, T 6359-6360; Karol John Drewienkiewicz, Exhibit P997 (*Milutinović* transcript), T 7787.
[1344] Karol John Drewienkiewicz, Exhibit P996, para 111; Karol John Drewienkiewicz, T 6359-6360.
[1345] Exhibit P1249; Shaun Byrnes, T 8199-8200.

392. On 26 December 1998 KLA members killed the last Serb who lived in Podujevo/Podujevë.[1346]

393. On 27 December 1998 at a meeting with General Lončar, Richard Ciaglinski was informed that a Serbian farmer had been abducted by KLA forces in the Podujevo/Podujevë area and that a MUP patrol had gone to rescue him but had come under fire and had sustained heavy injuries. At this meeting General Lončar stated that the VJ had ordered tanks to go in, that the MUP would lead the attack and that the VJ would supply the heavy armour.[1347] He said the KLA were bringing in additional forces and ammunition, and that there were some 1,000 to 2,000 KLA members there.[1348] Serbian forces began to amass.[1349] However, it was agreed that KVM representatives would intervene. A group of KVM representatives including Richard Ciaglinski and a representative of the Red Cross went to the area and succeeded in recovering the hostage, with a wounded MUP member and a wounded Kosovo Albanian.[1350]

E. Events from January to March 1999

394. On 8 January 1999 eight VJ soldiers were taken prisoner by the KLA at the village of Stari Trg/Stantërg, Kosovska Mitrovica/Mitrovicë municipality. KVM representatives entered into negotiations with the KLA and the VJ authorities and managed to obtain the release of the soldiers in exchange for nine KLA prisoners.[1351]

395. On the same day, 8 January 1999 the KVM started to receive reports about roadblocks set up by Serb civilians south of Priština/Prishtinë.[1352] General Drewienkiewicz observed armed Serbian civilians in Kosovo Polje/Fushë Kosovë driving around in black cars who appeared to be organising and inciting people.[1353] The police, who were usually present even when no disturbances occurred, were absent.[1354]

[1346] Richard Ciaglinski, Exhibit P834 (*Milutinović* transcript), T 6893-6894.
[1347] Richard Ciaglinski, Exhibit P832, Statement of 21-23 March 2000, p 4; Richard Ciaglinski, Exhibit P834 (*Milutinović* transcript), T 6821-6822; Rcihard Ciaglinski, Exhibit P833 (*Milošević* transcript), T 3164, 3191.
[1348] Richard Ciaglinski, Exhibit P834 (*Milutinović* transcript), T 6911; Rcihard Ciaglinski, Exhibit P833 (*Milošević* transcript), T 3164.
[1349] Richard Ciaglinski, Exhibit P834 (*Milutinović* transcript), T 6821-6822.
[1350] Richard Ciaglinski, Exhibit P832, Statement of 21-23 March 2000, p 4; Richard Ciaglinski, Exhibit P834 (*Milutinović* transcript), T 6824-6826; Richard Ciaglinski, Exhibit P833 (*Milošević* transcript), T 3288.
[1351] Karol John Drewienkiewicz, Exhibit P996, paras 116, 122-125, 130, 137; Karol John Drewienkiewicz, Exhibit P997 (*Milutinović* transcript), T 7742-7745; Richard Ciaglinski, T 5366-5367; Exhibit D163; Michael Phillips, T 8712, 8837. *See* also Jan Kicker, Exhibit P478, p 4. *See* also Živadin Jovanović, Exhibit D454 (*Milutinović* transcript), T 14115-14120, testifying to his involvement in the release of eight VJ soldiers in January 1999.
[1352] Karol John Drewienkiewicz, Exhibit P996, para 117.
[1353] Karol John Drewienkiewicz, Exhibit P996, para 118; Karol John Drewienkiewicz, T 6361, 6362.
[1354] Karol John Drewienkiewicz, Exhibit P996, para 119; Karol John Drewienkiewicz, T 6362.

1. Events in Račak/Raçak

(a) Findings

396. Extensive, and often conflicting, evidence about the events that occurred in Račak/Raçak on 15 January 1999 and the following days was presented in the trial by both parties. The Chamber has carefully considered and weighed this evidence to make the findings set out in the paragraphs below.

397. In the early morning of 15 January 1999, at about 0630-0700 hours, shooting was heard near the village of Košare/Koshare[1355], located some 10 minutes driving from Štimlje/Shtime.[1356] Traffic police had blocked the road from Uroševac/Ferizaj town to Štimlje/Shtime diverting traffic going to Štimlje/Shtime and Račak/Raçak. Račak/Raçak was an entirely Kosovo Albanian village located about a kilometre away from the Štimlje/Shtime police station.[1357] There were most unusual events at the police station in Štimlje/Shtime that morning. All active duty and reserve police had been called in.[1358] There was also one platoon of PJP members in green camouflage uniforms and about 10 to 12 SAJ members.[1359] They were under the command of Goran Radosavljević, aka Guri, an SAJ commander.[1360] Other evidence confirms that Goran Radosavljević, aka Guri, was assistant head for special police units at the MUP Staff.[1361] Also unusually, the Chief of the SUP and the chief of the police department in Uroševac/Ferizaj were present at the Štimlje/Shtime police station.[1362] It was said in the police station that there was an action underway in Račak/Raçak to arrest the persons responsible for the killing of a policeman who had died on 12 January 1999, two days after being shot on the road from Štimlje/Shtime to Uroševac/Ferizaj.[1363] On 8 January 1999 three other policemen had been killed in a KLA attack on a MUP patrol between Suva Reka/Suharekë and Štimlje/Shtime.[1364] From early in the morning on 15 January 1999 until 1500 or 1600 hours sporadic shooting could be heard in Štimlje/Shtime coming from the direction of Račak/Raçak.[1365]

[1355] The village of Košare/Koshare located at the border between the municipalities of Uroševak/Ferizaj and Štimlje/Shtime should not be confused with the village of Košare/Koshare located in Đakovica/Gjakovë municipality. Events occurring in the latter village are discussed elsewhere in this Judgement.
[1356] K86, T 5123-5124.
[1357] K86, T 5127, 5147.
[1358] K86, T 5123-5124.
[1359] K86, T 5124-5125, 5129-5130, 5132, 5225-5227.
[1360] K86, T 5129-5130.
[1361] Exhibit P57.
[1362] K86, T 5125.
[1363] K86, T 5126, 5160-5164; Exhibits D138; D139.
[1364] Joseph Maisonneuve, Exhibit P852 (*Milošević* transcript), T 5777; Joseph Maisonneuve, Exhibit P851, para 53; John Crosland, T 9183; Richard Ciaglinski, T 5366; Velibor Veljković, T 7114-7115; 6D2, T 12267-12268; Exhibits D308, D162.
[1365] K86, T 5126, 5127.

398. Despite the denial of the Accused, in the Chamber's finding, at about 0830 or 0900 hours on 15 January the Accused Vlastimir Đorđević arrived at the Štimlje/Shtime police station. This was a remarkable occurance. He stayed there over one hour, most of the time in an office with the Chief of SUP and the chief of the police department in Uroševac/Ferizaj. While Đorđević was there a person, who introduced himself as Nikola Šainović, in the Chamber's finding the Deputy Prime Minister, telephoned twice and spoke to Vlastimir Đorđević. The two telephone calls were some 30 minutes apart. Each call lasted for about two minutes.[1366]

399. The Chief of SUP and the chief of the police department in Uroševac/Ferizaj had instructed the police in Štimlje/Shtime to direct KVM representatives to SUP Uroševac/Ferizaj, if they inquired about the events in Račak/Raçak. The police in Štimlje/Shtime were not authorised to provide the KVM with information.[1367] The KVM was being kept out of the picture.

400. On 15 January 1999 the KVM started receiving reports from verifiers who were in the area, of a major operation taking place in Račak/Raçak.[1368] General Drewienkiewicz asked Brigadier General Maisonneuve to take command of the KVM activities relating to Račak/Raçak.[1369] Maisonneuve dispatched to Račak/Raçak two additional KVM patrols who were able to observe the operation from the heights surrounding the village.[1370]

401. From their position on the heights, on 15 January 1999 the KVM verifiers observed VJ Pragas and T-55 tanks on the hills overlooking Račak/Raçak firing into the village and into the surrounding hills, thus preventing the civilians from leaving the village safely.[1371] MUP armoured vehicles and infantry were seen entering the village and undertaking a house to house search.[1372] During the operation there was no outgoing fire from the village[1373] although prior to the operation, there had been a KLA presence in Račak/Raçak, including, it was thought, a KLA headquarters.[1374]

402. The VJ and MUP, both of which had been located in the hills overlooking Račak/Raçak for weeks prior to the incident[1375], coordinated their activities.[1376] It was a planned joint VJ and MUP

[1366] K86, T 5127-5129, 5131.
[1367] K86, T 5133.
[1368] Joseph Maisonneuve, T 5463-5464; Joseph Maisonneuve, Exhibit P851, para 34.
[1369] Joseph Maisonneuve, T 5464; Joseph Maisonneuve, Exhibit P852 (*Milošević* transcript), T 5778; Karol John Drewienkiewicz, Exhibit P996, para 138.
[1370] Joseph Maisonneuve, Exhibit P852 (*Milošević* transcript), T 5779; Joseph Maisonneuve, Exhibit P851, para 45; Exhibit P870.
[1371] Joseph Maisonneuve, Exhibit P851, para 36; Karol John Drewienkiewicz, Exhibit P996, para 141; Exhibit P1250.
[1372] Joseph Maisonneuve, Exhibit P852 (*Milošević* transcript), T 5781; Joseph Maisonneuve, Exhibit P851, para 45.
[1373] Joseph Maisonneuve, T 5466-5467; Joseph Maisonneuve, Exhibit P852 (*Milošević* transcript), T 5782, 5863.
[1374] K86, T 5165-5166.
[1375] Exhibit P1029, pp 9, 11, 15, 16.
[1376] Joseph Maisonneuve, Exhibit P851, para 36; Karol John Drewienkiewicz, Exhibit P996, para 141; Shaun Byrnes, T 8205-8206. On 16 January 1999 Joseph Maisonneuve met with the liaison officer of the VJ 243rd brigade who confirmed that while the MUP were the main force involved in the operation, the VJ had provided support, Joseph

operation. The VJ provided long-range fire support around the village for the operation carried out by the MUP.[1377] The heavy weaponry used in this operation was not ordinarily used in counter-insurgency operations, but in major combat engagements.[1378]

403. After the end of the shooting the KVM verifiers brought some of the injured civilians from the village to the local hospital.[1379] Villagers informed the KVM that people had been killed and injured and that some were arrested.[1380] Police insisted on the KVM verifiers leaving the village.[1381] They did, but Joseph Maisonneuve instructed the verifiers to return to the village on the following morning. Two more patrols from the KVM were also sent to the area.[1382]

404. In the evening hours of 15 January 1999 General Drewienkiewicz called Colonel Kotur. He expressed concern about the events during the day and warned Colonel Kotur that firing of anti-aircraft weapons into a village in which there were women and children could not be accepted as a police operation. General Drewienkiewicz requested that this action be ceased.[1383]

405. On 16 January the KVM began investigations in Račak/Raçak. In addition to the KVM patrols who had been in the village from 0700 hours, Joseph Maisonneuve, the Head of Regional Centre 1 arrived there at 0900 hours. He was informed by verifiers that there were over 25 bodies of civilians in the village, most of whom seemed to have been executed, and not to have died as a result of fighting. Maisonneuve observed the body of an elderly man who had been shot at close range. A number of media representatives had arrived in the village.[1384]

406. At 1115 hours on 16 January General Drewienkiewicz and Colonel Ciaglinski of the KVM met VJ General Lončar to inquire about the events in Račak/Raçak.[1385] At this and subsequent meetings with VJ representatives, the KVM officials were informed that the events in Račak/Raçak had occurred as a result of a firefight between MUP and KLA; they were also told that there were MUP casualties.[1386] General Lončar denied that the VJ had been involved. It was General

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Maisonneuve, Exhibit P852 (*Milošević* transcript), T 5786-5787; *see* also Joseph Maisonneuve, Exhibit P851, para 33; Exhibit P864. John Crosland believed that the operation in Račak/Raçak was a coordinated action between the MUP and the VJ because coordination between the various elements of the security forces was necessary for such action, John Crosland, T 9186-9187.

[1377] Joseph Maisonneuve, Exhibit P851, para 36; Joseph Maisonneuve, Exhibit P852 (*Milošević* transcript), T 5781; Karol John Drewienkiewicz, Exhibit P996, para 142.

[1378] Joseph Maisonneuve, Exhibit P852 (*Milošević* transcript), T 5782.

[1379] Joseph Maisonneuve, T 5467; Joseph Maisonneuve, Exhibit P851, para 34.

[1380] Karol John Drewienkiewicz, Exhibit P996, para 142.

[1381] Joseph Maisonneuve, Exhibit P851, para 34.

[1382] Exhibit P870.

[1383] Karol John Drewienkiewicz, Exhibit P996, para 221; Karol John Drewienkiewicz, T 6367-6268; Exhibit P1007.

[1384] Exhibit P870, p 1.

[1385] Karol John Drewienkiewicz, Exhibit P996, paras 144-145; Richard Ciaglinski, Exhibit P832, Statement of 21-23 March 2000, p 8. *See* also Exhibit P1026.

[1386] Richard Ciaglinski, Exhibit P832, Statement of 21-23 March 2000, p 8; Richard Ciaglinski, Exhibit P834 (*Milutinović* transcript), T 6845.

Drewienkiewicz's impression that General Lončar knew more about the events in Račak/Raçak than he indicated at the meeting.[1387] As it can be appreciated from what was happening on the ground as discussed in the Chamber's findings, Serbian denials of VJ involvement were false.

407. The Head of the KVM Mission, Ambassador Walker, the Deputy Head, General Drewienkiewicz and Michael Phillips, arrived in Račak/Raçak at 1330 hours on 16 January.[1388] As they were approaching the village they saw police and the press everywhere.[1389] On the hillside, VJ forces could be seen with heavy weapons, artillery and tanks.[1390] On arrival they were led to a farmhouse where they were shown the decapitated body of an elderly man.[1391] The KVM representatives continued their inspection in the village. They noticed a newly dug trench that did not appear to have been previously occupied or fought from.[1392] In a gully or a trail, they discovered over 20 dead bodies lying in a line.[1393] The bodies appeared to have been shot at close range in the head.[1394] 10 of the bodies appeared to have been mown down.[1395] The victims were all male, and were about 50-60 years old, some had traditional Albanian caps. They did not have uniforms.[1396] The bodies were covered in dew, which indicated that they were already there in the morning.[1397] A KVM representative videotaped the bodies.[1398] Further into the village KVM

[1387] Karol John Drewienkiewicz, Exhibit P996, para 145. Subsequently, the events in Račak/Raçak were discussed at a collegium of the General Staff of the VJ on 21 January 1999. (Exhibit P902, pp 7-13) General Dimitrijević raised the question whether the VJ was involved in the operation and if not why it was not reacting to statements of international organisations suggesting the opposite. He also pointed out that daily operation reports from the Priština Corps did not contain information about VJ involvement in Račak/Raçak (Exhibit P902, pp 7, 9; *see* also Branko Krga, T 10547-10548). In the Chamber's finding, the absence of information about VJ involvement in the operation in Račak/Raçak in official VJ reports and the fact that members of the Collegium of the Chief of the General Staff were not provided with such information indcates an attempt on behalf of members of the VJ leadership to conceal evidence of VJ involvement. At the meeting General Ojdanić admitted that "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, we know very well who must be asked for approval, if the FRY President orders, in spite of all the risk, that the Army be used, this decision must be carried out [...]". (Exhibit P902, p 11) In the Chamber's finding, the operation in Račak/Raçak was a joint MUP/VJ operation ordered by the Joint Command. *See* also *supra*, para 236 and, *infra*, para 2037.

[1388] Exhibit P870, p 1; Karol John Drewienkiewicz, Exhibit P996, para 147.

[1389] Karol John Drewienkiewicz, Exhibit P996, para 146; Michael Phillips, Exhibit P1303 (*Milutinović* transcript), T 11854.

[1390] Michael Phillips, T 8712; Michael Phillips, Exhibit P1303 (*Milutinović* transcript), T 11854.

[1391] Karol John Drewienkiewicz, Exhibit P996, para 147.

[1392] Karol John Drewienkiewicz, Exhibit P996, para 147, 148; Karol John Drewienkiewicz, Exhibit P997 (*Milutinović* transcript), T 7968. *See* also Joseph Maisonneuve, Exhibit P852 (*Milošević* transcript), T 5856.

[1393] Joseph Maisonneuve, Exhibit P852 (*Milošević* transcript), T 5795; Exhibit P870, p 1; Karol John Drewienkiewicz, Exhibit P996, para 147.

[1394] Joseph Maisonneuve, Exhibit P852 (*Milošević* transcript), T 5795, 5881; Exhibit P870, p 1; Karol John Drewienkiewicz, Exhibit P996, para 147.

[1395] Exhibit P870, p 1.

[1396] Joseph Maisonneuve, Exhibit P852 (*Milošević* transcript), T 5795, 5844; Karol John Drewienkiewicz, Exhibit P996, para 147.

[1397] Joseph Maisonneuve, Exhibit P852 (*Milošević* transcript), T 5796. A few days following the incident, Maisonneuve heard that verifiers had reported to KVM headquarters that during the operation in Račak/Raçak some 20 men had been separated from their wives and taken away, Joseph Maisonneuve, Exhibit P852 (*Milošević* transcript), T 5796.

[1398] Karol John Drewienkiewicz, Exhibit P996, para 148; Exhibit P1575.

verifiers observed four more bodies, including the bodies of an 18 year old woman and a 12 year old boy.[1399]

408. The numerous media representatives present in the village pressed Ambassador Walker to make a statement on the spot which he did. He also stated that he would give a statement from Priština/Prishtinë the same evening.[1400] Prior to Ambassador Walker and General Drewienkiewicz leaving, villagers moved the bodies into the mosque. The US-KDOM representatives agreed to remain present in the village overnight.[1401] By that time it had become clear that not less than 45 Kosovo Albanians had been killed during the operation in Račak/Raçak, 23 in close proximity to each other.[1402] Subsequently, the KVM representative Joseph Maisonneuve, became aware that the Serbian forces had suffered one non-fatal injury in the operation.[1403]

409. In the evening hours of 16 January Ambassador Walker gave a press conference in Priština/Prishtinë in which he explicitly condemned the FRY government for the events in Račak/Raçak. He called for the ICTY to be given visas so that a proper investigation could be carried out.[1404] As a result of this press conference, Ambassador Walker was declared *persona non grata* by the FRY government.[1405]

410. In the evening of 16 January General Lončar informed General Drewienkiewicz that there had been an unsuccessful attempt by an investigating judge to carry out an on-site investigation in Račak/Raçak, as described in the following paragraphs, and said that he would arrange for this investigative team to enter the village if the KVM could facilitate this.[1406] On the following morning, 17 January, General Drewienkiewicz met with Investigative Judge Marinković and her team at the police station in Štimlje/Shtime to discuss how the KVM could help her and the team enter the village.[1407] The KLA presence in Račak/Raçak was overt.[1408] General Drewienkiewicz stated that the KVM could not guarantee her safety if the judge insisted on entering with a heavy

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[1399] Exhibit P870, p 1.
[1400] Karol John Drewienkiewicz, Exhibit P996, para 150.
[1401] Karol John Drewienkiewicz, Exhibit P996, para 151.
[1402] Karol John Drewienkiewicz, Exhibit P996, para 152; Exhibit P1250.
[1403] Joseph Maisonneuve, Exhibit P852 (*Milošević* transcript), T 5803.
[1404] Karol John Drewienkiewicz, Exhibit P996, para 154.
[1405] Karol John Drewienkiewicz, Exhibit P996, para 154; Knut Vollebaek, Exhibit P1073, p 5; Knut Vollebaek, T 7214, 7254-7255; Knut Vollebaek, Exhibit P1072 (*Milošević* transcript), T 7724-7730.
[1406] Karol John Drewienkiewicz, Exhibit P996, para 156.
[1407] Karol John Drewienkiewicz, Exhibit P996, para 158; Karol John Drewienkiewicz, Exhibit P997 (*Milutinović* transcript), T 7971; Exhibit P871. *See* also Richard Ciaglinski, Exhibit P833 (*Milošević* transcript), T 3205-3206. *See* also Danica Marinković, T 12971-12972, 13076, testifying that on 17 January she and her team went to Štimlje/Shtime police station where she met General Drewienkiewicz of the KVM and told him that with proper security measures in place she could go to Račak/Raçak to conduct an on-site investigation.
[1408] Exhibit P871.

MUP presence.[1409] The judge was determined to enter the village with a heavy MUP escort and the KVM withdrew. The investigative team left for the village but returned after being fired upon; no one was injured.[1410]

411. While there is some variation in the evidence about attempts between 15 and 18 January to investigate events in Račak/Raçak, the Chamber records the evidence that on 15 January Investigative Judge Danica Marinković, with others, went to the Štimlje/Shtime police station where she was told by the Chief of SUP Uroševac/Ferizaj that in the early hours of 15 January there had been a clash between the police and terrorists in the village of Račak/Raçak, that the police had already secured the scene and that an on-site investigation could take place.[1411] Judge Marinković and her team arrived in Račak/Raçak at 1400 hours on 15 January, escorted by the police.[1412] They found weapons and military equipment bearing KLA insignia,[1413] but were fired upon, although no one was injured, and at the suggestion of the police left the village.[1414] On the following day, 16 January, at 1000 or 1030 hours Judge Marinković and her team set out again; they noticed that the police station in Štimlje/Shtime was deserted and continued to Račak/Raçak.[1415] On the way fire was opened on them, although again no one was injured, so they returned to Štimlje/Shtime.[1416] As discussed earlier the Judge and her team abandoned a further attempt to enter Račak/Raçak on 17 January.

412. On 18 January Investigative Judge Marinković with the deputy public prosecutor and SUP inspectors entered Račak/Raçak to conduct an on-site investigation.[1417] Judge Marinković was instructed by police that there were bodies in the mosque. There she found 40 bodies, all but one male, arranged in a circular fashion.[1418] The bodies she was shown had shoes which looked like military boots, some had dark grey, others navy blue, military trousers, and they had military belts on.[1419] The director of the Forensic Institute in Priština/Prishtinë Slaviša Dobričanin, who had joined Ms Marinković's investigative team, inspected each body visually and immediately stated

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[1409] Karol John Drewienkiewicz, Exhibit P996, para 159; Karol John Drewienkiewicz, Exhibit P997 (*Milutinović* transcript), T 7792-7793; Exhibit P871. The KVM knew from their discussions with KLA members that a large number of MUP vehicles in the village could spark confrontation, Richard Ciaglinski, Exhibit P833 (*Milošević* transcript), T 3205-3206. *See* also Joseph Maisonneuve, Exhibit P852 (*Milošević* transcript), T 5800. *See* also Danica Marinković, T 12972, 13076.

[1410] Karol John Drewienkiewicz, Exhibit P996, para 160; Karol John Drewienkiewicz, Exhibit P997 (*Milutinović* transcript), T 7792-7793; Exhibit D149, p 2; Richard Ciaglinski, Exhibit P833 (*Milošević* transcript), T 3205-3206. Danica Marinković, T 12973, 13075-13078.

[1411] Danica Marinković, T 12965-12966; 12969-12970; Radomir Mitić, T 12865-12866.

[1412] Danica Marinković, T 12967.

[1413] Danica Marinković, T 12967; Exhibit D896.

[1414] Danica Marinković, T 12967.

[1415] Danica Marinković, T 12970, 13076.

[1416] Danica Marinković, T 12970.

[1417] Danica Marinković, T 12975-12976 ; K86, T 5211-5212; Exhibit D148.

[1418] Danica Marinković, T 12976, 12112-12113; Exhibit D148.

[1419] Danica Marinković, T 12976, 13114.

that there were no indications that the bodies had been massacred.[1420] When the videotape recorded by the KVM on 16 January 1999 depicting corpses shot in a gully was shown to her, Danica Marinković testified that the bodies she observed in Račak/Raçak were different from the bodies depicted in the video.[1421] She testified that the bodies she was shown in the mosque did not have shots in the head,[1422] and that amongst the 40 bodies she saw there were no corpses that had been decapitated, although one or two of the bodies had some damage to the head which appeared to have been caused by birds or other animals.[1423] The bodies were then placed in body bags, loaded into a refrigerated truck in the presence of the OSCE representatives and taken to the Forensic Institute in Priština/Prishtinë.[1424] Following this, Judge Marinković and her investigative team, accompanied by OSCE representatives whom they had encountered on their way to Račak/Raçak, went through the village looking for other bodies. They came across what was described as a KLA headquarters where they found weapons, uniforms and supplies. They saw trenches in the village.[1425] They looked for the gully depicted in the KVM recording but were unable to find it, nor were they able to find any other casualties or traces of a massacre or blood.[1426]

413. Police transported the 40 bodies that had been shown to Judge Marinković from the mosque in Račak/Raçak to the forensic institute in Priština/Prishtinë.[1427] On 19 January autopsies of the 40 bodies transported from Račak/Raçak began.[1428] The bodies were identified by fingerprints. Paraffin glove tests were conducted according to which there were gunpowder traces on 37 of the bodies. Autopsies were conducted by FRY forensic officers and two from Belarus.[1429] It was concluded that the cause of death in all 40 cases was wounding by projectiles.[1430] Subsequently it was agreed that the OSCE could bring their own forensic team and about a week after the incident a team of forensic experts from Finland arrived in Kosovo.[1431] They prepared an extensive forensic report but stressed that, because of the time that had passed and the state of the evidence, they had

[1420] Danica Marinković, T 12971, 12976, 13085.
[1421] Danica Marinković, T 13083, 13090; Exhibit 1575; Exhibit D932.
[1422] Danica Marinković, T 13079-13080.
[1423] Danica Marinković, T 12976, 13079-13080.
[1424] Danica Marinković, T 12976, 13114-13115.
[1425] Danica Marinković, T 12977-12978.
[1426] Danica Marinković, T 12978.
[1427] K86, T 5135.
[1428] Danica Marinković, T 13087.
[1429] Knut Vollebaek, Exhibit P1073, p 5; Knut Vollebaek, T 7214; Knut Vollebaek, Exhibit P1072 (*Milošević* transcript), T 7652.
[1430] Danica Marinković, T 12988-12989; Exhibit D899.
[1431] Knut Vollebaek, Exhibit P1073, pp 5-6; Knut Vollebaek, T 7214-7215, 7256; Knut Vollebaek, Exhibit P1072 (*Milošević* transcript), T 7652 ; Danica Marinković, T 12981-12982; Exhibit D895.

encountered problems.[1432] The 40 bodies were returned to the village and buried in one grave on a hill facing the mosque.[1433]

414. Some of the matters discussed in the preceding paragraphs differ in material respects from what was seen by independent international observers in and around Račak/Raçak on 15 January 1999 and the following days. The Chamber was impressed by the honesty and the detailed account given by these international observers in the present trial. Their account is supported by contemporaneous written records and by a video recording depicting the bodies they observed in Račak/Raçak on 16 January which the Chamber accepts as authentic. The Chamber sees no reason to reject their evidence and to make contrary findings.

415. What was shown to Judge Marinković in Račak/Raçak on 18 January 1999, does not accord with what was seen by international observers on 15 and 16 January 1999 in the village. Judge Marinković was not shown the body of a child or a decapitated body. Her description of the dress of the bodies does not accord with the dress of dead bodies visible in the video film or as described in the oral evidence. She was not shown bodies that had been shot in the head. She was not shown the gully depicted in the film, yet she was shown an apparent KLA headquarters, which the KVM failed to see. As the judge confirmed in her evidence, discussed in the paragraphs above, what she was shown presented a quite different picture from what was seen by the KVM observers on 15 and 16 January. In the circumstances the Chamber finds that on 18 January the judge was shown a staged scene, set up by police, designed to give a false impression of the true events. The Chamber is satisfied that at least some of the bodies observed by Judge Marinković on 18 January were not the bodies observed by the KVM representatives on 16 January as depicted in the video exhibit.

416. In the Chamber's finding, not less than 45 Kosovo Albanians were killed in Račak/Raçak on 15 January 1999, including a woman and a child. At least one victim had been decapitated. Most of those killed were over 50 years of age. Many had been shot in the head apparently at close range. Those killed were wearing civilian clothes when killed.

417. On 20 or 21 January 1999 the Chairman of the OSCE, Knut Vollebaek met with the President of FRY, Slobodan Milošević to discuss the expulsion of Ambassador Walker.[1434] Milošević expressed the view that Ambassador Walker's report was a fabrication and that it was likely that the KLA had provoked the events at Račak/Raçak.[1435] Knut Vollebaek managed to

[1432] Knut Vollebaek, T 7215, 7258, 7267; Knut Vollebaek, Exhibit P1072 (*Milošević* transcript), T 7652, 7653.
[1433] K86, T 5189-5190.
[1434] Knut Vollebaek, T 7212, 7254-7255; Knut Vollebaek, Exhibit P1072 (*Milošević* transcript), T 7645, 7649; Knut Vollebaek, Exhibit P1073, p 5.
[1435] Knut Vollebaek, Exhibit P1073, p 5; Knut Vollebaek, Exhibit P1072 (*Milošević* transcript), T 7745.

secure Ambassador Walker's continued presence in Kosovo and his post as the Head of the KVM.[1436]

418. The killings at Račak/Raçak provoked anger in Brussels and Washington as a clear violation of the October Agreements by the Serbian side and raised a serious concern that an outbreak of a widespread conflict was about to happen.[1437] It is also noted by the Chamber that shortly prior to the events Serbian security forces, including the police, had passed through a US-KDOM patrol near Račak/Raçak and had ignored it completely. This caused international observers to believe that what was taking place in the village was in many respects a watershed.[1438] In the Chamber's view, this was correct.

(b) Other evidence considered by the Chamber

419. An account of the events in Račak/Raçak, in material respects different from the findings made above was presented by Defence witnesses. The Chamber does not accept the reliability of aspects of this evidence, which in many respects is not truthful. It is nevertheless set out to indicate the nature of the Defence case concerning these events in Račak/Raçak.

420. According to Defence witnesses, in the evening of 14 January 1999, the Chief of SUP Uroševac/Ferizaj briefed the chief of the police department of SUP Uroševac/Ferizaj, Radomir Mitić, Goran Radosavljević aka Guri, Milan Lecić, a PJP commander and Colonel Jelić of the VJ that arrests would be carried out on 15 January 1999 and that the operation would be led by Goran Radosavljević.[1439] The plan had been worked out by the MUP Staff.[1440] The overall commander of the operation on 15 January was Goran Radosavljević[1441], a PJP unit from SUP Uroševac/Ferizaj took part in the operation[1442], but not the VJ even though they were in the area.[1443]

421. There was evidence that Vlastimir Đorđević was in Priština/Prishtinë on 15 January with the Minister, to attend a meeting on the security situation in Kosovo. Following the meeting it is said that he saw Goran Radosavljević who informed him "in passing" that there had been an action against terrorists in Račak/Raçak and that there were terrorists killed.[1444] Đorđević conveyed this information to the Minister and other officials who at that time were having lunch.[1445] Đorđević did

[1436] Knut Vollebaek, T 7214; Knut Vollebaek, Exhibit P1072 (*Milošević* transcript), T 7651-7652.
[1437] Shaun Byrnes, T 8274-8275. *See* also *infra*, para 2016.
[1438] Shaun Byrnes, T 8201-8206.
[1439] Radomir Mitić, T 12676-12678, 12750, 12799-12800.
[1440] Radomir Mitić, T 12750.
[1441] Radomir Mitić, T 12756.
[1442] Radomir Mitić, T 12844-12845.
[1443] Radomir Mitić, T 12677-12678, 12747, 12748, 12755, 12760.
[1444] Vlastimir Đorđević, T 9666.
[1445] Vlastimir Đorđević, T 9666-9667.

not know anything about this action and did not visit Štimlje/Shtimle or Račak/Raçak on 15 January.[1446]

422. There was also evidence that on 16 January Đorđević flew to Prizren for a series of pre-planned meetings, returned to Priština/Prishtinë, went to Peć/Pejë to attend political talks and meetings and again returned to Priština/Prishtinë.[1447] Đorđević then called Radislav Stalević, an SAJ commander in Priština/Prishtinë and told him that he wished to go to Mount Kopaonik for a skiing trip.[1448] Radislav Stalević personally drove Vlastimir Đorđević to Mount Kopaonik.[1449] It is his evidence that on 16 January Đorđević did not receive any information about events in Račak/Raçak because he left immediately for Mount Kopaonik.[1450] Vlastimir Đorđević said he spent 17 January skiing[1451] with Radislav Stalević,[1452] but around noon he received a phone call from the Minister, who asked him to return to Priština/Prishtinë. He did so, being picked up by a helicopter later that day.[1453]

423. When he arrived at the MUP Staff in Priština/Prishtinë on 17 January, Đorđević was told that there had been attempts in Račak/Raçak to carry out on-site investigations on 16 and 17 January but these attempts were not successful due to ongoing terrorist activities. There is also evidence that the Head of the MUP Staff, Lukić, told Đorđević that on orders of the Minister, it was planned to return to Račak/Raçak and secure the location for an on-site investigation on 18 January.[1454] The chief of the crime police of SUP Uroševac/Ferizaj, Radomir Mitić also was informed by the Chief of the SUP that a de-blockade would be carried out with the participation of the PJP company of Uroševac/Ferizaj in order to enable an on-site investigation to take place on 18 January.[1455]

424. On his own evidence, on 18 January at about 0900 or 1000 hours Đorđević went to the police station in Štimlje/Shtimë to see for himself what the situation was.[1456] At the police station he met the Chief of SUP Uroševac/Ferizaj and his assistants and Judge Marinković's investigation

[1446] Vlastimir Đorđević, T 9667-9668.
[1447] Vlastimir Đorđević, T 9669.
[1448] Radislav Stalević, T 13792, 13855.
[1449] Radislav Stalević, T 13792.
[1450] Vlastimir Đorđević, T 9670.
[1451] Vlastimir Đorđević, T 9669-9670.
[1452] Radislav Stalević, T 13792.
[1453] Vlastimir Đorđević, T 9670-9671, 9886; Radislav Stalević, T 13792.
[1454] Vlastimir Đorđević, T 9671.
[1455] Radomir Mitić, T 12688.
[1456] Vlastimir Đorđević, T 9672-9673, 9887.

team.[1457] He said he spent about three to four hours at the police station in Štimlje/Shtime following which he returned to the MUP Staff in Priština/Prishtinë.[1458]

425. The account of Vlastimir Đorđević is unacceptable in many respects. It is unclear how Goran Radosavljević, would be able to inform "in passing" Vlastimir Đorđević at a meeting in Priština/Prishtinë attended by the Minister and other senior MUP officers, a few hours after the start of a major operation in Račak/Raçak of which he was the overall commander. Đorđević's supposed reaction after hearing about this operation, which was to inform the Minister over lunch, is also hard to accept. The Chamber is likewise not persuaded that on 15 and 16 January Đorđević had a series of meetings in Prizren and Peć/Pejë. There was a large media presence in Račak/Raçak on 16 January. The events in the village received extensive media coverage and were the focus of international attention during these two days. It is highly unlikely that the person in charge of crime police and investigation would not act on this matter but instead would continue with pre-planned meetings the subject of which had not been specified. Further, the Chamber cannot accept Vlastimir Đorđević's and Radislav Stalević's account of a skiing trip on 16 and 17 January. It is incongruous that, in circumstances as those at the time Vlastimir Đorđević, who was repeatedly described as a professional and reliable police officer, would abandon his duties to go on a skiing trip. In the Chamber's finding his presence at Štimlje/Shtime police station on at least 15 January 1999 confirms his awareness of the joint VJ and MUP operation in Račak/Raçak on 15 January and its importance, and reveals his ultimate responsibility for what occurred in Račak/Raçak, including the staged misrepresentation of bodies and other circumstances presented to Judge Marinković's team and the international representatives and the media on 18 January 1999.

2. Events in Rogovo/Rogovë

426. On 29 January 1999 MUP forces engaged in an action against KLA members in the village of Rogovo/Rogovë, Đakovica/Gjakovë municipality. There was protracted fighting.[1459] 25 people of Albanian ethnicity were killed in a farmhouse in Rogovo/Rogovë, most of them, KLA members.[1460] General Drewienkiewicz went to the scene and upon arrival was directed to a farm compound with walls three to four metres high; the gate was closed. The General was not allowed to inspect the scene until an investigating judge from Đakovica/Gjakovë had finished an on-site investigation.[1461] Later he entered the compound.

[1457] Vlastimir Đorđević, T 9673; Radomir Mitić, T 12690-12691, 12760; Danica Marinković, T 12975.
[1458] Vlastimir Đorđević, T 9673-9674, 10155.
[1459] Joseph Maisonneuve, Exhibit P853 (*Milutinović* transcript), T 11059, 11171.
[1460] Joseph Maisonneuve, T 5489; Joseph Maisonneuve, Exhibit P852 (*Milošević* transcript), T 5892, 5895; Joseph Maisonneuve, Exhibit P853 (*Milutinović* transcript), T 11059, 11170.
[1461] Karol John Drewienkiewicz, Exhibit P996, paras 165, 167; Karol John Drewienkiewicz, T 6372.

427. Two types of police were present at the scene in Rogovo/Rogovë, ordinary police in blue camouflage uniforms and a group wearing light grey coveralls with a slight bluish colour and a shoulder patch of red, white, and blue in vertical wings. This group of police were better equipped.[1462] One member of the special police unit had been killed.[1463] General Lončar was at the scene and appeared clearly in charge of the situation, giving orders to the police.[1464]

428. Inside the courtyard, there was a minibus containing five bodies. There were two bodies outside the minibus, five bodies in a shed nearby, four bodies in a meeting room and one body in a toilet.[1465] It was General Drewienkiewicz's assessment of what he saw at the scene that the compound had been stormed by a special police unit in the morning during which a member of this unit was killed, and that after this initial storming a number of Kosovo Albanians were killed.[1466] A KVM daily activity report of 29 January 1999 records Joseph Maisonneuve's conclusion that the amount of force employed by the Serbian security forces was not proportional, that not all persons killed were members of the KLA, and that there was little evidence of fighting back by the KLA.[1467] The report also indicates that the VJ had informed the OSCE that they had performed a supporting role in the MUP operation.[1468] This was confirmed by Joseph Maisonneuve who observed VJ soldiers in the vicinity providing support.[1469]

3. Other acts of violence

429. At the end of January 1999 John Crosland witnessed VJ and MUP units razing the village of Gornje Lapaštica/Llapashticë-e-Epërme and Donja Lapaštiaca/Llapashticë-e-Pshtme, located west of Podujevo/Podujevë, as well as the villages of Bradaš/Bradash and Dobrotin/Dobratin.[1470] A VJ armoured brigade had held a line about two kilometres west of town and a VJ battalion had been deployed along the Priština/Prishtinë main road.[1471]

430. An inspection of the observation posts carried out by the KVM in January 1999 confirmed that most of the 27 posts were occupied by the MUP, while under the terms of the Byrnes-Đorđević

[1462] Karol John Drewienkiewicz, Exhibit P996, para 166; Karol John Drewienkiewicz, T 6372-6373, 6481; Karol John Drewienkiewicz, Exhibit P997 (*Milutinović* transcript), T 7799, 8002-8003; Exhibit P1008, p 3; Joseph Maisonneuve, Exhibit P853 (*Milutinović* transcript), T 11172.

[1463] Karol John Drewienkiewicz, T 6372; Karol John Drewienkiewicz, Exhibit P997 (*Milutinović* transcript), T 7974; Jospeh Maisonneuve, Exhibit P851, para 43.

[1464] Karol John Drewienkiewicz, Exhibit P996, para 166; Karol John Drewienkiewicz, T 6370-6372. *See* also Joseph Maisonneuve, Exhibit P853 (*Milutinović* transcript), T 11172; Joseph Maisonneuve, Exhibit P852 (*Milošević* transcript), T 5895; Joseph Maisonneuve, Exhibit P851, para 43.

[1465] Karol John Drewienkiewicz, Exhibit P996, para 167.

[1466] Karol John Drewienkiewicz, T 6370, 6478-6479.

[1467] Exhibit P1008; Karol John Drewienkiewicz, T 6370.

[1468] Exhibit P1008; Karol John Drewienkiewicz, T 6370-6371.

[1469] Joseph Maisonneuve, Exhibit P851, para 43.

[1470] John Crosland, Exhibit P1400, para 68.

[1471] John Crosland, Exhibit P1400, para 68; John Crosland, Exhibit P1402 (*Milutinović* transcript), T 9843.

Agreement, only nine should have been occupied.[1472] In February 1999 Richard Ciaglinski arranged a spot unannounced verification by sending 40 teams of verifiers to each of the locations identified in the October Agreements as observation posts by the MUP.[1473] It was found that the MUP had established nine or 10 observation posts, additional to the agreed 27. Further, instead of nine, at least 27 observations posts were manned[1474] by the MUP at the time. The operation confirmed that the MUP were acting in breach of the Agreement.[1475] These findings were reported to the Serbian Commission for Cooperation but no follow-up action was undertaken by it.[1476]

431. At the beginning of 1999 KLA attacks on police and army became more frequent.[1477] On 20 January 1999 the police station in Suva Reka/Suharekë was attacked.[1478] In February 1999 KLA forces ambushed a police column between Lipovica/Lipovicë and Magura/Magurë, some 20 kilometres from Priština/Prishtinë, and injured 15 policemen.[1479] On 22 February1999 the OUP building in Orahovac/Rahovec was attacked.[1480] On 21 March 1999 the police station in Zrze/Xërzë, Orahnovac/Rahovec municipality, was attacked with infantry weapons.[1481]

4. Negotiations in Rambouillet and Paris

432. In February 1999, in a further effort to resolve the conflict in Kosovo the international community organised talks in Rambouillet between the FRY government and a delegation from Kosovo, which included Ibrahim Rugova, the President of the LDK, representatives of other civil society organisations and representatives of the KLA.[1482] The negotiations were organised by the French Minister of Foreign Affairs Hubert Védrine and were co-chaired by the British Foreign Secretary Robin Cook.[1483] Representatives of the countries in the Contact Group, *i.e.* United States, France, Britain, Italy, and Russia were heavily involved in the negotiations.[1484] The Chairman of

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[1472] Richard Ciaglinski, T 5341-5342; 5343-5344; Exhibit P844, entry for 5 January 1999.
[1473] Richard Ciaglinski, Exhibit P833 (*Milošević* transcript), T 3146.
[1474] Richard Ciaglinski, T 5263.
[1475] Richard Ciaglinski, Exhibit P832, Statement of 21-23 March 2000, p 3; Richard Ciaglinski Exhibit P833 (*Milošević* transcript), T 3147.
[1476] Richard Ciaglinski, T 5263.
[1477] Ljubinko Cvetić, T 6813; Radomir Mitić, T 12670-12675; Exhibit D133 referring to a KLA attack in the village of Račak/Raçak in November 1998; *see* also Exhibit D138 (discussed in the section on Račak/Raçak); Exhibit D841 referring to an attack on a police patrol and a military column on 12 March 1999.
[1478] Exhibit D888, p 655, item 397; 6D2, T12318.
[1479] Richard Ciaglinski, T 5372.
[1480] Exhibit D888, p 669, item 457; 6D2, T12318-12319.
[1481] Exhibit D888, p 691, item 543; 6D2, T12319-12320.
[1482] Knut Vollebaek, Exhibit P1071 (*Milutinović* transcript), T 9522; Ibrahim Rugova, Exhibit P285, pp 7-8; Ibrahim Rugova, Exhibit P286 (*Milošević* transcript), T 4217-4218, 4324; Veton Surroi, T 283, 345; Adnan Merovci, Exhibit P416, para 33; Adnan Merovci, Exhibit P417 (*Milutinović* transcript), T 8432.
[1483] Knut Vollebaek, Exhibit P1071 (*Milutinović* transcript), T 9521.
[1484] Knut Vollebaek, T 7220; Knut Vollebaek, Exhibit P1071 (*Milutinović* transcript), T 9522; Veton Surroi, T 284, 289.

the OSCE was present as observer.[1485] Initially, the procedure agreed upon was shuttle diplomacy, the FRY delegation and the Kosovo delegation did not meet directly but through mediators and legal experts.[1486] The talks lasted for about three weeks but final agreement could not be reached.[1487] The international mediators asked the parties to sign a declaration of intent indicating their willingness to continue and sign the agreement, which they did.[1488] The negotiations were then interrupted and both delegations returned home.[1489]

433. The talks reconvened three weeks later in Paris but broke down immediately because both sides had changed their attitude and the draft agreement was not signed.[1490]

434. In the recess period between the negotiations in Rambouillet and in Paris, Knut Vollebaek, the Chairman of the OSCE met with Slobodan Milošević to discuss an expansion of the KVM to include armed presence. This possibility was rigidly refused by Slobodan Milošević.[1491]

5. Events in Kosovo following the negotiations

435. During the negotiations in Rambouillet there was a substantial reduction of the level of violence in Kosovo.[1492] Following the negotiations, however, international observers noted a change in the strategy of the Serbian forces in Kosovo. While in the beginning of February the MUP and the VJ were responding to incidents in the same way as in December and January, namely by conducting an operation, consolidating their gains and withdrawing, at the end of February they began leaving a platoon size unit of about 30 to 40 men behind on the ground after an operation. These men were permanently out of the barracks and remained in the area.[1493] There was a build up of Serbian troops consisting of both VJ and MUP units on a scale not seen before. There were two additional VJ brigades deployed in the area of Kuršumlija.[1494] By 3 March 1999, the VJ had the equivalent of 15 companies deployed, based on a count of about 2000 personnel and

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[1485] Knut Vollebaek, Exhibit P1071 (*Milutinović* transcript), T 9521; Knut Vollebaek, Exhibit P1072 (*Milošević* transcript), T 7709.

[1486] Ibrahim Rugova, Exhibit P285, p 8; Ibrahim Rugova, Exhibit P286 (*Milošević* transcript), T 4217-4218, 4324; Veton Surroi, T 285-286.

[1487] Knut Vollebaek, T 7220-7221, 7268-7269; Knut Vollebaek, Exhibit P1071 (*Milutinović* transcript), T 9520; Ibrahim Rugova, Exhibit P285, p 8; Adnan Merovci, Exhibit P416, para 36.

[1488] Ibrahim Rugova, Exhibit P285, p 5; Ibrahim Rugova, Exhibit P286 (*Milošević* transcript), T 4217-4220; Exhibit P1501, item 4.

[1489] Knut Vollebaek, T 7220-7221, 7223, 7269; Knut Vollebaek, Exhibit P1071 (*Milutinović* transcript), T 9520-9521; Knut Vollebaek, Exhibit P1072 (*Milošević* transcript), T 7710; Ibrahim Rugova, Exhibit P285, p 8.

[1490] Knut Vollebaek, T 7220-7221, 7223, 7269; Knut Vollebaek, Exhibit P1071 (*Milutinović* transcript), T 9520-9521; Knut Vollebaek, Exhibit P1072 (*Milošević* transcript), T 7710.

[1491] Knut Vollebaek, T 7224; Exhibit P1076, p 1.

[1492] Karol John Drewienkiewicz, Exhibit P997 (*Milutinović* transcript), T 8019.

[1493] Karol John Drewienkiewicz, Exhibit P996, para 187; Karol John Drewienkiewicz, T 6373-6374. A company sized team would consist of up to 150 soldiers and some 10 to15 armoured vehicles, Karol John Drewienkiewicz, T 6320.

associated equipment, while under the October Agreement they were only allowed three companies.[1495] The VJ then proceeded to conduct "search and destroy" operations against the KLA on an area-by-area basis using the locations they had secured on the ground.[1496] In early March 1999 a build up of VJ and MUP presence, much more than permitted by the October Agreements, was visible in many parts of Kosovo.[1497]

436. Minutes of a meeting of the MUP Staff held on 17 February 1999 in Priština/Prishtinë attended also by Minister Stojiljković and the Accused Vlastimir Đorđević, RDB Chief Rade Marković, Assistant Minister Obrad Stevanović, all members of the MUP Staff, all chiefs of SUPs and PJP and SAJ commanders, confirm that considerable police and VJ forces had been engaged in the Podujevo/Podujevë area to secure the Priština/Prishtinë-Niš road and that RPOs in nearly all villages inhabited by Serbs were very active.[1498] The minutes also indicated that the RJB had prepared a plan to prevent and thwart the entry of NATO troops into Kosovo.[1499] The minutes record further that the MUP Staff planned, when it was ordered, to carry out three "mopping up" operations in the areas of Podujevo/Podujevë, Dragobilje/Dragobil and Drenica and had allotted for this purpose 4,000 policemen, about 70 policemen of the highly trained OPG (operative pursuit group) and around 900 police reservists.[1500] It was also discussed at the meeting that "Albanian terrorists" were conducting additional training and arming themselves, that their numbers were increasing, and that they had gained control in a number of areas.[1501] At the meeting the police were tasked with approaching and engaging volunteers carefully linking their engagement through the reserve police force when this was assessed to be necessary.[1502]

437. Armed clashes took place in early March 1999 in the area of Podujevo/Podujevë. The Chairman of OSCE, Knut Vollebaek, who visited Kosovo on 2 March 1999, saw that smaller villages surrounding Podujevo/Podujevë were destroyed, that the roofs of the houses had been blown off and that there was evidence of shelling and fighting.[1503] In a telephone conversation with the President of the FRY Slobodan Milošević on 24 March 1999 Knut Vollebaek conveyed his

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[1494] John Crosland, Exhibit P1400, para 69; John Crosland, Exhibit P1402 (*Milutinović* transcript), T 9751, 9833; John Crosland, T 9148.
[1495] Karol John Drewienkiewicz, Exhibit P996, para 187; Karol John Drewienkiewicz, T 6316, 6320, 6374; Karol John Drewienkiewicz, Exhibit P997 (*Milutinović* transcript), T 7943-7944.
[1496] Karol John Drewienkiewicz, Exhibit P996, para 187.
[1497] Knut Vollebaek, Exhibit P1073, p 9; Knut Vollebaek, T 7284-7285; Exhibit P844, p 9; Exhibit P1071 (*Milutinović* transcript), T 9510, 9552.
[1498] Exhibit P85.
[1499] Exhibit P85; Žarko Braković, T 4174.
[1500] Exhibit P85; Žarko Braković, T 4174, 4268.
[1501] Exhibit P85.
[1502] Exhibit P85, p 3.
[1503] Knut Vollebaek, Exhibit P1073, p 6; Knut Vollebaek, T 7215-7216, 7272-7273, 7259, 7262; Knut Vollebaek, Exhibit P1071 (*Milutinović* transcript), T 9510.

observations from his visit to Kosovo.[1504] A KVM spot report covering the period from 26 February to 4 March 1999 indicates that the KLA in the Podujevo/Podujevë area had managed to carry out an attack on the town of Podujevo/Podujevë.[1505] A KLA post was located in close proximity to a position of the Serbian forces, with civilian population being caught between the two fronts.[1506] A number of people on horse-carts and tractor trailers with all their belongings were leaving the area.[1507] On 5 March 1999 Richard Ciaglinski observed shelling of an area south of Podujevo/Podujevë. VJ tanks and artillery were lined up along the main road between Podujevo/Podujevë and Priština/Prishtinë and were shelling the hillside. There were KLA positions there, but they were also shelling villages.[1508]

438. On 16 March 1999 the KVM was informed by General Lončar that the service of conscripts had been extended by 30 days, that the border zone was to be enlarged from five to 10 kilometres, and that the KVM would have to move its personnel out of the widened region.[1509] New conscripts were rotated into Kosovo but the ones due to rotate out had their service extended and remained in Kosovo and, as a result, the number of VJ personnel increased by several thousands.[1510] In March 1999, the KVM found out that newer, more modern and larger, more powerful equipment was being brought into Kosovo by the Serbian forces.[1511] In particular, on 16 March 1999, the KVM reported the introduction of T-72's tanks by rail into Kosovo. Prior to this, the only tanks that were declared as permanently stationed in Kosovo were T-55 tanks, which had much more limited capabilities.[1512] The introduction of this new equipment was a violation of existing agreements.[1513] The MUP brought in a lot of equipment by road, including a completely new generation of APCs.[1514] The reinforcement of the Serbian forces was not occurring by stealth, but overtly.[1515] The extension of the border zone between Kosovo and Albania and FYROM from five

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[1504] Knut Vollebaek, Exhibit P1073, pp 9, 10; Knut Vollebaek, T 7284-7285.
[1505] Kunt Vollebaek, T 7259; Exhibit D157, p 2.
[1506] Knut Vollebaek, T 7216.
[1507] Knut Volleabek, Exhibit P1073, p 9; Knut Vollebaek, T 7216-7217.
[1508] Richard Ciaglinski, Exhibit P833 (*Milošević* transcript), T 3160.
[1509] Karol John Drewienkiewicz, Exhibit P996, para 168, 188; Karol John Drewienkiewicz, T 6529-6530.
[1510] Karol John Drewienkiewicz, Exhibit P996, paras 66, 188; Richard Ciaglinski, Exhibit P833 (*Milošević* transcript), T 3147.
[1511] Richard Ciaglinski, T 5267-5268.
[1512] Karol John Drewienkiewicz, Exhibit P996, para 188; Karol John Drewienkiewicz, T 6374. The T-72 tanks were a completely different model tank with a different method of operations and for this reason the witness believes that accompanying these tanks must have been at least one new VJ unit that could operate these tanks, Karol John Drewienkiewicz, Exhibit P996, para 188; Karol John Drewienkiewicz, Exhibit P997 (*Milutinović* transcript), T 7809-7810. *See* also Richard Ciaglinski, T 5267; Richard Ciaglinski, Exhibit P833 (*Milošević* transcript), T 3147, testifying that new T-84 tanks were being brought into Kosovo in March 1999.
[1513] Karol John Drewienkiewicz, Exhibit P997 (*Milutinović* transcript), T 7810; Richard Ciaglinski, Exhibit P833 (*Milošević* transcript), T 3154.
[1514] Richard Ciaglinski, T 5268.
[1515] Karol John Drewienkiewicz, T 6380-6381; Karol John Drewienkiewicz, Exhibit P997 (*Milutinović* transcript), T 7810-7811; Exhibit P1010.

to 10 kilometres made the work of the KVM very difficult.[1516] Access to the border area became more difficult.[1517] From that point on, KVM monitors were stopped and harassed more often in the border zone.[1518]

439. In March 1999 the number of policemen in Kosovo increased to over 14,500. As discussed earlier, following the October Agreements this number had been about 10,000. The Head of the MUP Staff urged all SUPs in Kosovo to undertake all necessary measures to mobilize members of the reserve force.[1519]

440. Acts of violence by the KLA continued to occur. On or about 22 March 1999, a Serb civilian was killed in Suva Reka/Suharekë town.[1520] A witness testified that in retaliation the police killed 11 Kosovo Albanians who were unconnected to the murder.[1521]

6. Events in Kačanik/Kaçanik and Vučitrn/Vushtrri in late February and mid March 1999

441. In late February to mid-March 1999, large operations occurred in the Kačanik/Kaçanik and Vučitrn/Vushtrri areas. These operations occurred in areas of responsibility of at least two VJ brigades indicating that these operations were planned at least at VJ corps level.[1522] The VJ and MUP conducted an offensive and sealed off the areas where they were conducting operations, denying entry to the KVM.[1523] During the operations in March 1999, the VJ and the MUP cooperated together in a practised fashion: the VJ would secure the perimeter of a village or area and offered artillery support if required, while the MUP entered the village or area.[1524]

442. On 25 February 1999 the KLA attempted to open a new zone of operations in the Kačanik/Kaçanik area.[1525] On 8 March 1999 the VJ commenced a counter operation and pushed the KLA off the high ground, which dominated the main road between Priština/Prishtinë and Skopje, on either side of the gorge. The Chamber will discuss the ensuing events later in this

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[1516] Karol John Drewienkiewicz, T 6530; Richard Ciaglinski, Exhibit P833 (*Milošević* transcript), T 3182.
[1517] Richard Ciaglinski, Exhibit P833 (*Milošević* transcript), T 3180.
[1518] Karol John Drewienkiewicz, Exhibit P997 (*Milutinović* transcript), T 8018-8019.
[1519] Ljubinko Cvetić, T 6608-6609. To achieve this ratio SUP Kosovska Mitrovica had to mobilize some 665 reserve policemen, Ljubinko Cvetić, T 6609.
[1520] Velibor Veljković, T 7115-7116; 6D2, 12270; Exhibit D17; Halit Berisha, T 3389.
[1521] Halit Berisha, T 3389-3390.
[1522] Karol John Drewienkiewicz, Exhibit P996, para 190. *See* also John Crosland, Exhibit P1400, para 71.
[1523] Karol John Drewienkiewicz, Exhibit P996, para 190; Karol John Drewienkiewicz, T 6375, 6516. KVM verifiers would attempt to follow and track the movement of a convoy of military and police into these areas, but would be denied access for alleged safety reasons, Karol John Drewienkiewicz, T 6375, 6516.
[1524] Karol John Drewienkiewicz, Exhibit P996, para 197.
[1525] Karol John Drewienkiewicz, Exhibit P996, para 191; Karol John Drewienkiewicz, T 6481-6482; Karol John Drewienkiewicz, Exhibit P997 (*Milutinović* transcript), T 7932. Several days after the operation, the KVM received information that the KLA that were in Kačanik/Kaçanik had crossed the border at Đeneral Janković/Han-i-Elezit, from FYROM, Karol John Drewienkiewicz, T 6484; Karol John Drewienkiewicz, Exhibit P997

Judgement.[1526] Once the gorge was secured, the VJ left platoon-sized units at key locations along the road to the Đeneral Janković/Han-i-Elezit border crossing with FYROM.[1527]

443. In March 1999 the KLA controlled the ground west of and up to the railway parallel to the Kosovska Mitrovica/Mitrovicë-Priština/Prishtinë road going through Vučitrn/Vushtrri municipality.[1528] The KLA held in particular the area between Čičavica/Qiqavica, Slakovce/Sllakoc, Donja Sudimlja/Studime-e-Poshtëme with the exception of the neighbourhood of Rašica/Rashica which was located on a hill, the neighbourhood of Llapzoviq in the village of Samodrezhe/Samodreža and the town of Ceceli/Cecelija.[1529] However, the KLA did not have control over the railway.[1530]

444. On 15 March 1999 VJ and MUP forces launched an offensive in the Vučitrn/Vushtrri area which succeeded in pushing the KLA westwards over the high ground dominating the lines of communication in the area of Vučitrn/Vushtrri.[1531] Special MUP forces arrived from outside Kosovo in large numbers. They had modern Kevlar helmets, better weapons, better radios, different shoulder patches; they behaved like soldiers.[1532] The forces would often remove their insignia which made it difficult for the international monitors observing their action to know where they were from.[1533] Large amounts of smoke rising from burning villages could be seen during the operation.[1534] General Drewienkiewicz, who managed to get into this area himself, testified that associated with these attacks were one or two company sized units of the MUP, each comprising about 100 or more fitter looking personnel who wore green camouflage uniforms with the words "Milicija" on the back and carried rifle-launched grenades on their backs.[1535] As reported to General Drewienkiewicz on 12 March 1999, VJ and MUP forces were already in action in the area of Vučitrn/Vushtrri. Special forces and paramilitary units from Serbia had been observed in the area. The behaviour of the VJ and MUP was encouraging Serb civilians to participate in the operations against civilian Albanians and against the KVM. As reported to General Drewienkiewicz the VJ and MUP were coordinating their activities in a "much better way" and it became obvious that they were planning operations against the Kosovo Albanian population and

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(*Milutinović* transcript), T 7931-7932; Exhibit D157. *See* also Knut Vollebaek, T 7269-7270. Richard Ciaglinski, T 5382.

1526 *See infra*, paras 1102-1111.

1527 Karol John Drewienkiewicz, Exhibit P996, para 191.

1528 Karol John Drewienkiewicz, Exhibit P996, para 192.

1529 Shukri Gerxhaliu, Exhibit P512, para 6; Shukri Gerxhaliu, Exhibit P513(*Milutinović* transcript) T 2494-2499, 2532; Shukri Gerxhaliu, T 3107-3109, 3143; Shukri Gerxhaliu, Exhibit P514.

1530 Shukri Gerxhaliu, T 3138-3139, 3142-3143; Shukri Gerxhaliu, Exhibit D69.

1531 Karol John Drewienkiewicz, Exhibit P996, para 192; Exhibit P844, p 7.

1532 Richard Ciaglinski, Exhibit P832, Statement of 21-23 March 2000, pp 9-10; Richard Ciaglinski, T 5279.

1533 Richard Ciaglinski, T 5279.

1534 Karol John Drewienkiewicz, Exhibit P996, para 190; Karol John Drewienkiewicz, T 6406-6407; Exhibit P1029.

not, as before, single responses to KLA attacks.[1536] KVM monitors expected that VJ and MUP operations to clear the entire area of KLA would result in the displacement of the Albanian population who lived there as they were suspected of giving assistance to the KLA.[1537]

7. Departure of international organisations from Kosovo

445. The KVM staff was evacuated from Kosovo on 20 March 1999.[1538] The decision to evacuate the KVM was made by the Chairman of the OSCE, Knut Vollebaek, in consultation with the OSCE "troika" leadership, members of the Contact Group and Ambassador Walker.[1539] All KVM staff, by that time some 1379, withdrew to FYROM.[1540] As KVM personnel were leaving Kosovo they saw VJ and MUP forces leaving their positions in columns and heading towards areas known to be KLA strongholds.[1541]

446. The UNHCR withdrew from Kosovo a day later, on 21 March 1999. Their staff observed that after the withdrawal of the KVM the areas where the KVM had been active were subject to attacks by Serbian forces.[1542]

447. On 24 March 1999 at 2020 hours NATO commenced its aerial bombing campaign on the territory of the FRY.[1543]

[1535] Karol John Drewienkiewicz, Exhibit P996, para 190; Karol John Drewienkiewicz, T 6375-6376, 6377-6379; Karol John Drewienkiewicz, Exhibit P997 (*Milutinović* transcript), T 7808-7809; Exhibit P316.
[1536] Karol John Drewienkiewicz, T 6378-6379; Exhibit P1009.
[1537] Karol John Drewienkiewicz, T 6378.
[1538] Karol John Drewienkiewicz, Exhibit P996, para 171; Karol John Drewienkiewicz, Exhibit P997 (*Milutinović* transcript), T 7813.
[1539] Knut Vollebaek, Exhibit P1072 (*Milošević* transcript), T 7667, 7669, 7681; Karol John Drewienkiewicz, Exhibit P997 (*Milutinović* transcript), T 7951.
[1540] Karol John Drewienkiewicz, Exhibit P996, para 171; Karol John Drewienkiewicz, Exhibit P997 (*Milutinović* transcript), T 7813.
[1541] Karol John Drewienkiewicz, T 6393-6394; Karol John Drewienkiewicz, Exhibit P997 (*Milutinović* transcript), T 7814-7815; Exhibit P1027.
[1542] Karol John Drewienkiewicz, T 6393-6394; Karol John Drewienkiewicz, Exhibit P997 (*Milutinović* transcript), T 7814-7815; Exhibit P1027.
[1543] Veton Surroi, T 291.

VI. EVENTS IN KOSOVO FROM MARCH 1999 TO 20 JUNE 1999

A. Orahovac/Rahovec municipality

448. The municipality of Orahovac/Rahovec is in the south-west of Kosovo. It is surrounded by the municipalities of Klina/Klinë to the north, Suva Reka/Suharekë to the east, Prizren to the south and Đakovica/Gjakovë to the west. The main town of Orahovac/Rahovec is in the centre of the municipality and to the south and south-west are the neighbouring villages of Bela Crkva/Bellacërkë, Celina/Celinë, Nogavac/Nagavc, Velika Kruša/Krushë-e-Madhe and Mala Kruša/Krushë-e-Vogël. The municipality is close to Prizren municipality and Đakovica/Gjakovë municipality. To the north-west of Orahovac/Rahovec town is the village of Pusto Selo/Pastasellë. The population of Orahovac/Rahovec was close to 60,000 people and the overwhelming majority were Kosovo Albanians.[1544]

449. In the lead up to the NATO bombing, which commenced 24 March 1999, the KLA had established areas of responsibility in its Pashtrik operational zone, that included the municipality of Orahovac/Rahovec.[1545] The area of Mališevo/Malishevë and Pagaruša/Pagarushë, to the north of Orahovac/Rahovec, was specifically referred to as one of the KLA strongholds and local headquarters were said to be established in Velika Kruša/Krushë-e-Madhe, Brestovac/Brestoc and Donje Retimlje/Retia-e-Poshtme.[1546]

450. On 23 March 1999, the Joint Command for Kosovo issued an order assigning elements of a reinforced VJ Priština Corps, comprised of the 549th Motorised Brigade, the 243rd Mechanised Brigade and the 202nd logistics base, in cooperation with the "armed non-KLA population", to undertake an operation to provide support in "blocking, crushing and destroying" the KLA forces in the general areas of Orahovac/Rahovec and Velika Kruša/Krushë-e-Madhe.[1547]

451. In line with this Joint Command order, on 23 March 1999, Božidar Delić, commander of the 549th Motorised Brigade, and the direct subordinate of Lieutenant-General Vladimir Lazarević who then commanded the Priština Corps, ordered the 37th Company of the Niš PJP of the MUP, the 4th Company of the Prizren PJP of the MUP and the 4th Company of the Đakovica/Gjakovë PJP of the MUP to act in coordination with the 549th Motorised Brigade. These combined Serbian forces were

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[1544] Exhibit P983, p 9.

[1545] The following KLA brigades were operating in the Pashtrik zone at the time of the NATO bombing: 121st, 122nd, 123rd, 124th and 125th brigade, Byslim Zypari, Exhibit P427, para 16; Byslim Zypari, T 2472-2473, 2493-2494, 2500; Exhibit P430; *See infra,* para 1550.

[1546] *See* Exhibit P889, p 1; Exhibit P85, p 2; Exhibit P898; Exhibit P970; Exhibit P350, p 1; Byslim Zypari, T 2491-2493; Exhibit P447, pp 3-4; K25, Exhibit P341-A (*Milutinović* transcript), T 7861; 6D2, T 12217-12218; *see* also, Exhibit D790.

[1547] Exhibit P350, pp 1, 2, 4.

tasked with lifting the blockade of the Suva Reka/Suharekë-Orahovac/Rahovec road and the Prizren-Zrze/Xërxë road, that passes just to the south of the villages of Mala Kruša/Krushë-e-Vogël, Velika Kruša/Krushë-e-Madhe, Celina/Celinë and Bela Crkva/Bellacërkë.[1548] An object of these orders was to break up and destroy KLA in villages including, Celina/Celinë, Velika Kruša/Krushë-e-Madhe and Mala Kruša/Krushë-e-Vogël and to prevent the KLA from withdrawing from the Mališevo/Malishevë area towards the municipality of Prizren.[1549] However, the forces were also to "mop-up" the area and push the KLA back towards Mališevo/Malishevë and to "gather up the civilian population" as they came out of the operation.[1550] It was also intended that the forces establish control of the territory between Bela Crkva/Bellacërkë and Nogavac/Nagavc, which covers the area of Celina/Celinë, and from Velika Hoca/Hoçë-e-Madhe to Mala Hoca/Hoçë-e-Vogël.[1551] The Joint Command for Kosovo was in command and control of all Serbian forces during the combat operation. The operation was ordered to begin at 0500 hours on 25 March 1999.[1552]

452. On the evening of 24 March 1999, there was a lot of movement in the Orahovac/Rahovec area by VJ and MUP forces. Trucks and armoured vehicles were seen moving along a road between Zrze/Xërxë and Orahovac/Rahovec and along the main road in the south of the Orahovac/Rahovec municipality.[1553] The KLA took up defensive positions to follow the movement of Serbian forces in the area.[1554]

453. At around 0500 hours on 25 March 1999, the operation ordered by the Joint Command began. The 549th Motorised Brigade was deployed along numerous axes, including, an axis to the south east of Orahovac/Rahovec town, incorporating the villages of Velika Hoca/Hoçë-e-Madhe and Donje Retimlje/Retia-e-Poshtme, and an axis to the south west of Orahovac/Rahovec town, the line of attack passing through Bela Crkva/Bellacërkë to Mala Hoca/Hoçë-e-Vogël and down to Velika Kruša/Krushë-e-Madhe, bypassing the villages of Celina/Celinë and Nogavac/Nagavc.[1555] The Serbian forces had also been tasked with continuing the attack and breaking through the KLA defence line from Mala Kruša/Krushë-e-Vogël to Nogavac/Nagavc and into the municipalities to the north-east of Prizren and Suva Reka/Suharekë.[1556] Following the initial attack on 25 March 1999, additional Joint Command orders were issued, dated 28 and 29 March 1999, that

[1548] Exhibit P1316, p 2; Exhibit P1317, p 3.
[1549] Exhibit P350, pp 1-3; Exhibit P1316, p 3.
[1550] K25, Exhibit P340-A, p 8.
[1551] Exhibit P1316, p 3.
[1552] Exhibit P350, p 3.
[1553] Sabri Popaj, Exhibit P1082, p 2.
[1554] Byslim Zypari, Exhibit P428 (*Milutinović* transcript), T 5991-5993.
[1555] The 243rd Motorised Brigade was also deployed to the area surrounding Orahovac/Rahovec in the municipality of Suva Reka/Suharekë, Exhibit P350, pp 2-3.
[1556] Exhibit P350, pp 1-3.

tasked the VJ and MUP forces with continuing the operation ordered on 25 March 1999 of "blocking, routing and destroying the KLA" in the general area of Mališevo/Malisheva, including into Orahovac/Rahovec municipality.[1557] It was reported that the cooperation between the VJ and MUP forces functioned well.[1558]

454. Following the initial Serbian attacks on 25 and 26 March 1999, it was reported to the former Chief of the General Staff of the KLA, Byslim Zypari, that Serbian forces had surrounded villages in Orahovac/Rahovec with tanks, armoured vehicles and heavy machine guns.[1559] All KLA units in the area were ordered to consolidate and organise a line of defence.[1560] The line of defence went through Brestovac/Brestoc, Mala Hoca/Hoçë-e-Vogël, Nogavac/Nagavc and Mala Kruša/Krushë-e-Vogël and into the municipality of Đakovica/Gjakovë.[1561] As Serbian forces began attacking villages within Orahovac/Rahovec from 25 March 1999, the KLA began to withdraw along with the civilian population.[1562] KLA members threw away their weapons, changed into civilian clothes and fled.[1563]

455. Following the operational activity throughout the Orahovac/Rahovec municipality, as will be discussed below, reports to the Priština Corps Command were received that confirmed that VJ and MUP forces were present in the municipality between 25 March 1999 and 3 April 1999.[1564] The presence of these forces was also confirmed by the evidence of members of the Serbian forces who were deployed, or involved in the deployment of forces, to various areas in the Orahovac/Rahovec municipality.[1565] It was recorded that during the operation that took place in the municipality from 25 March 1999 around 2000 members of the Serbian forces were deployed, some 1020 of which were members of the MUP.[1566] VJ units involved in the operation (in the municipality of Orahovac/Rahovec) included: the 101st Military Territorial Detachment,[1567] the 243rd Motorised Brigade,[1568] the 15th Armoured Brigade,[1569] the 120th Mortar Company,[1570] and the

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1557 Exhibit P970, p 3; Exhibit P898, p 2.
1558 Exhibit P1317, pp 3, 5.
1559 Specifically, the witness referred to the territory under the command of the 124th and 125th brigade. Byslim Zypari, T 2439.
1560 Byslim Zypari, T 2440.
1561 Byslim Zypari, T 2473, 2448.
1562 Byslim Zyrapi, Exhibit P428 (*Milutinović* transcript), T 5991-5992.
1563 Exhibit D37, p 4; Exhibit P1317, pp 2, 5; Exhibit P944, p 2.
1564 *See,* Exhibit P1317; *See* also, Exhibit P944.
1565 K79, Exhibit P1260 (*Milutinović* transcript), T 9644-9651; *See,* K25, Exhibit P340-A; *See* also, Exhibit D37.
1566 *See,* Exhibit P1317; *See* also Exhibit P944.
1567 The 101st military territorial detachment was deployed as of 27 March 1999 to act in coordination with 549th Motorised Brigade in the area of Zrze/Xërxë, Orahovac/Rahovec, Velika Hoca/Krushë-e-Vogël and Opteruša/Opterushë. Exhibit P896, p 5.
1568 *See,* Exhibit P350; *See* also, Exhibit P898; *See* also, Exhibit P1316.
1569 Exhibit P898, p 2.
1570 *See* Confidential Annex.

2nd Motorised Battalion.[1571] The MUP forces deployed in the area of the operation as of 25 March 1999 included: the 37th Niš PJP detachment,[1572] the 23rd PJP detachment,[1573] the 5th Company of the Priština/Prishtinë PJP[1574] and the 4th Company of the Đakovica PJP detachment.[1575] Evidence of the activities of these PJP detachments and VJ forces in specific villages will be discussed further below when dealing with events and villages scheduled in the Indictment.

1. Bela Crkva/Bellacërkë

456. The evidence of Isuf Zhuniqi and Sabri Popaj dealt with the events in Bela Crkva/Bellacërkë as charged in paragraph 72(a)(i) and 75(b) of the Indictment. Despite Defence challenges to their credibility, in particular in regards to KLA presence in the village and the area at the time, the Chamber is satisfied that the general evidence provided by these two witnesses about events in and around the village of Bela Crkva/Bellacërkë is reliable.

457. Bela Crkva/Bellacërkë is located about 10 kilometres from Orahovac/Rahovec.[1576] In 1999 the population of Bela Crkva/Bellacërkë was approximately 3,000 people and the village was made up of about 350 houses.[1577] All of the inhabitants were Kosovo Albanian.[1578]

458. As early as about 18 March 1999, about 40 Serbian police and soldiers arrived in Bela Crkva/Bellacërkë. They had trucks, armoured vehicles and APCs.[1579] The police wore blue camouflage uniforms and the VJ soldiers green camouflage uniforms.[1580] The Serbian forces dug bunkers overlooking the village.[1581] A villager who lived close to these bunkers was told by members of the Serbian forces to leave his house.[1582] Other villagers living close to the army and police positions also left their homes out of fear for their safety. On the evening of 24 March 1999, there was a substantial amount of movement by the police and army forces and trucks and armoured

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[1571] *See*, Exhibit D37.
[1572] Exhibit P1316, p 4; Exhibit P1317, p 3.
[1573] Exhibit P1317, p 3.
[1574] Exhibit P1317, p 3.
[1575] Exhibit P1316, p 4.
[1576] Isuf Zhuniqi, Exhibit P1252 (*Milošević* transcript), T 6446.
[1577] Isuf Zhuniqi, Exhibit P1251, p 2; Isuf Zhuniqi, Exhibit P1252 (*Milošević* transcript), T 6460; Sabri Popaj, Exhibit P1082, p 2.
[1578] Sabri Popaj, Exhibit P1082, p 2.
[1579] Sabri Popaj, Exhibit P1082, p 2; Sabri Popaj, Exhibit P1083 (*Milutinović* transcript), T 5653.
[1580] Sabri Popaj was challenged in cross-examination about his ability to distinguish the uniforms worn by the Army from the Police. In particular, in the view of the Chamber, Sabri Popaj demonstrated a clear appreciation of the difference in the uniforms and could recall different occasions when he saw the different uniforms being worn. He identified the different uniforms patterns on an exhibit (Sabri Popaj, Exhibit P1083 (*Milutinović* transcript), T 5653; Exhibit D314; Sabri Popaj, T 7402-7404). The Chamber is satisfied and finds that from about 18 March 1999 members of the VJ and MUP were present in Bela Crkva/Bellacërkë. In reaching this finding the Chamber has taken into account the issue of the naming and description of some colours according to the dialect used in that area which initially, at least, caused some confusion (Sabri Popaj, Exhibit P1083 (*Milutinović* transcript), T 5657; Sabri Popaj, T 7402-7405).
[1581] Sabri Popaj, Exhibit P1082, p 2; Sabri Popaj, Exhibit P1083 (*Milutinović* transcript), T 5653

vehicles were seen moving along the road between Zrze/Xërxë, which is some two kilometres away from Bela Crkva/Bellacërkë and Orahovac/Rahovec.[1583]

(a) Events on or about 25 March 1999

459. In the early morning of 25 March 1999, at sometime between 0200 hours and 0330 hours, 12 VJ tanks approached Bela Crkva/Bellacërkë from the direction of Orahovac/Rahovec town.[1584] These tanks stopped by the mosque in the centre of the village.[1585] At around the same time, five more VJ tanks entered the village from the direction of Đakovica/Gjakovë and Prizren.[1586] Two of these tanks went to the schoolyard and the other three tanks continued past the mosque and to a position on a hill above Celina/Celinë.[1587] The troops from the tanks in the schoolyard were seen to be dressed in army uniforms.[1588] There were other tanks located on the main road that came from Prizren and Đakovica/Gjakovë towards Zrze/Xërxë and Orahovac/Rahovec.[1589]

460. Shortly after the tanks had positioned themselves on the hill, automatic gunfire was directed at the village from the direction of the bunkers dug by VJ and MUP forces from about 18 March 1999.[1590] This automatic gunfire however was directed over the tops of the houses. The villagers understood this to be a warning to leave their houses and the village.[1591] Many villagers did leave. Sometime around 0400 and 0500 hours, Sabri Popaj decided to flee from the village with his family. As they were heading to the outskirts of the village he saw Serbian forces entering the village and police, dressed in blue camouflage uniforms, who were setting houses in the village on fire with petrol and flamethrowers.[1592] Army and police on foot surrounded Bela Crkva/Bellacërkë.[1593]

[1582] Sabri Popaj, Exhibit P1083 (*Milutinović* transcript), T 5653; Exhibit D314; Sabri Popaj, Exhibit T 7402-7404.
[1583] Sabri Popaj, Exhibit P1082, p 2.
[1584] Isuf Zhuniqi, Exhibit P1251, p 2; Isuf Zhuniqi, Exhibit P1253 (*Milutinović* transcript), T 4111; Isuf Zhuniqi, Exhibit P1252 (*Milošević* transcript), T 6448, 6449.
[1585] Isuf Zhuniqi, Exhibit P1251, p 2; Exhibit P1253 (*Milutinović* transcript), T 4100-4101; Exhibit P1254.
[1586] Sabri Popaj, Exhibit P1082, p 3; Sabri Popaj, Exhibit P1083 (*Milutinović* transcript), T 5651-5652; Exhibit P1084.
[1587] There was some uncertainty whether all five tanks moved to the hill overlooking Celina/Celinë. A closer analysis of the evidence reveals that only the three that moved initially towards the mosque went on to the hill, while the other two remained at the schoolyard until 4 May 1999, Sabri Popaj, Exhibit P1082, p 3; Sabri Popaj, Exhibit P1083 (*Milutinović* transcript), T 5652-5653, 5691-5693; Isuf Zhuniqi, Exhibit P1251, p 2; Isuf Zhuniqi, Exhibit P1253 (*Milutinović* transcript), T 4112; Exhibit P1084.
[1588] Sabri Popaj, T 7402-7404; Exhibit D314.
[1589] Sabri Popaj, Exhibit 1083 (*Milutinović* transcript), T 5692.
[1590] Sabri Popaj, Exhibit P1082, p 2; Sabri Popaj, Exhibit P1083 (*Milutinović* transcript), T 5654; Isuf Zhuniqi, Exhibit P1251, p 2; Isuf Zhuniqi, Exhibit P1253 (*Milutinović* transcript), T 4111; Isuf Zhuniqi, Exhibit P1252 (*Milošević* transcript), T 6449, 6450.
[1591] Sabri Popaj, Exhibit P1082, p 3.
[1592] Sabri Popaj, Exhibit P1083 (*Milutinović* transcript), T 5654; Exhibit D314; Sabri Popaj, T 7402, 7404; Isuf Zhuniqi, Exhibit P1251, p 2; Isuf Zhuniqi, Exhibit P1253 (*Milutinović* transcript), T 4111; Isuf Zhuniqi, Exhibit P1252 (*Milošević* transcript), T 6449, 6450; Exhibit P1254.
[1593] Isuf Zhuniqi, Exhibit P1251, p 3; Isuf Zhuniqi, Exhibit P1253 (*Milutinović* transcript), T 4102; Isuf Zhuniqi, Exhibit P1252 (*Milošević* transcript), T 6450, 6454-6455.

461. Fearing for their safety, Isuf Zhuniqi and his family headed to a stream close to the village. About 700 villagers had gathered there.[1594] The stream was about 900 metres from Isuf Zhuniqi's house and it had steep, high banks which provided shelter and hid them.[1595] These villagers from Bela Crkva/Bellacërkë then moved toward the railway bridge, known as the Belaja Bridge,[1596] because it connected Zrze/Xërxë with Prizren, and since Bela Crkva/Bellacërkë had been surrounded by this time it was the only way to get out of the village and to reach Zrze/Xërxë or Rogovo/Rogovë.[1597] As they moved, gunfire and explosions could be heard coming from Bela Crkva/Bellacërkë.[1598] When the villagers reached the Belaja Bridge they took shelter near the bridge and under the bridge in an irrigation canal.[1599]

462. Meanwhile, after getting his family clear of Bela Crkva/Bellacërkë, Sabri Popaj returned to the village to look after livestock.[1600] From his house he went to investigate what he thought sounded like crying children coming from the direction of the Belaja River, located about 300 metres away.[1601] In the river he saw six members of the Zhuniqi family from Bela Crkva/Bellacërkë, including Clirim Zhuniqi, Lumturie Zhuniqi, Dardane Zhuniqi, Dardan Zhuniqi, Dhurata Zhuniqi and Dibran Zhuniqi. There were also eight members of the Spahiu family from Opteruša/Opterushë. These eight members included Xhemal Spahiu, Marigona Spahiu, Iliriana Spahiu, Lirim Spahiu, Fikrit Spahiu, Labinot Spahiu, Qamile Spahiu and an unidentified Spahiu family member. They were heading in the direction of Rogovo/Rogovë.[1602] Sabri Popaj helped them across the stream and for about 600 metres further until they rested. He then returned towards Bela Crkva/Bellacërkë.[1603] On the way back to Bela Crkva/Bellacërkë, Sabri Popaj heard shooting and bullets were landing on the ground close to him so he crawled for about 100 metres and then hid in a hole.[1604]

[1594] Isuf Zhuniqi, Exhibit P1251, p 3; Exhibit P1084.
[1595] Isuf Zhuniqi, Exhibit P1251, p 3; Isuf Zhuniqi, Exhibit P1253 (*Milutinović* transcript), T 4102.
[1596] Although it is not clear from the evidence whether all of them did so. Isuf Zhuniqi, Exhibit P1251, pp 2-3; Isuf Zhuniqi, Exhibit P1252 (*Milošević* transcript), T 6454-6455; Isuf Zhuniqi, (*Milutinović* transcript), T 4102-4103, 4113-4114; Exhibit P1085.
[1597] Isuf Zhuniqi, Exhibit P1252 (*Milošević* transcript), T 6455.
[1598] Isuf Zhuniqi, Exhibit P1251, p 3.
[1599] Isuf Zhuniqi, Exhibit P1251, p 3; Isuf Zhuniqi, Exhibit P1252 (*Milošević* transcript), T 6454; Isuf Zhuniqi, Exhibit P1253 (*Milutinović* transcript), T 4102-4103; Exhibit P1255.
[1600] Sabri Popaj, Exhibit P1082, p 3; Exhibit P1084.
[1601] Sabri Popaj refers to the Belaja River as the Belles Stream, but it is the same stream and so for consistency the Belaja River has been used instead of Belles Stream. Sabri Popaj, Exhibit P1082, p 2; Exhibit P1084.
[1602] The witness was unable to name the members of the Spahiu family, however, seven of the eight members were identified following the exhumation of their bodies by the British forensic team, Exhibit P1151, K0138761. The Chamber is satisfied that those bodies exhumed, as discussed below, belonged to the seven members of the Spahiu family that Sabri Popaj identified. The remains of one individual have never been located, Sabri Popaj, Exhibit P1082, p 3; Exhibit P1084 (Photograph with the marking "1" made by the witness to indicate where he assisted the two families).
[1603] Sabri Popaj, Exhibit P1082, p 3.
[1604] Sabri Popaj, Exhibit P1082, p 3; Exhibit P1084 (Photograph with marking of an "x" in the top right corner to indicate where the witness hid).

463. From where Sabri Popaj was hiding, he saw a group of approximately 12 police[1605] approaching on his side of the stream, and many more police on the other side of the stream, coming from the direction of Bela Crkva/Bellacërkë.[1606]

464. The uniforms of the police had a pattern of blue and green camouflage.[1607] They also had headbands of different colours.[1608] Isuf Zhuniqi saw a badge on the sleeve of the uniforms. He was unable to recall what the badge looked like but he also saw that the police had white armbands and wore greenish helmets.[1609] They carried AK47 rifles and had long knives in scabbards attached to their belts; some of them had pistols in holsters attached to their belts.[1610] Isuf Zhuniqi recognised one of the policemen as a Serb regular police officer he had seen in Orahovac/Rahovec prior to the war when he wore a blue uniform.[1611] The Chamber recalls its earlier finding that MUP forces were wearing the described uniforms.[1612] The group of police approached the 14 people Sabri Popaj had helped across the stream.[1613] Sabri Popaj then heard the police swear at them and shout "Ask NATO for help now".[1614] Isuf Zhuniqi heard a policeman shout "shoot".[1615] The police then opened fire on the group of 14 people.[1616] The 14 people fell to the ground.[1617]

465. Following this, the police continued along the stream and a few minutes later Sabri Popaj saw them find an old man from the village who was trying to hide; he then heard a short burst of

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[1605] Both Sabri Popaj and Isuf Zhuniqi referred to the police at one stage as "paramilitary forces". Sabri Popaj explained that what he meant by paramilitaries were just members of the ordinary police, Sabri Popaj, Exhibit P1083 (*Milutinović* transcript), T 5737-5738, 5765-5767; Sabri Popaj, T 7401. Isuf Zhuniqi explained that he called them paramilitaries because he had never seen a policeman with a knife before performing ordinary police duties, Isuf Zhuniqi, Exhibit P1251, p 3; Isuf Zhuniqi, Exhibit P1252 (*Milošević* transcript), T 6442, 6451-6452. The Chamber finds that these comments by the witnesses do not affect their evidence that they identified members of the MUP.

[1606] In *Milutinović,* Sabri Popaj was cross-examined about the direction from which the police came because in a statement he had said they were coming from Rogovo/Rogovë. In this trial he confirmed that the police were coming from the direction of Bela Crkva/Bellacërkë and not Rogovo/Rogovë (Sabri Popaj, Exhibit P1082, p 3-4; Sabri Popaj, Exhibit P1083 (*Milutinović* transcript), T 5737-5738, 5765-5767; Exhibit P1084; Sabri Popaj, T 7401). Isuf Zhuniqi also confirmed that the police came from the direction of Bela Crkva/Bellacërkë, Isuf Zhuniqi, Exhibit P1251, p 3; Isuf Zhuniqi, Exhibit P1252 (*Milošević* transcript), T 6442, 6451-6452.

[1607] *See supra,* paras 53-54; Sabri Popaj, Exhibit P1082, p 3; Sabri Popaj, Exhibit P1083 (*Milutinović* transcript), T 5657, 5681, 5727, 5753, 5766; Sabri Popaj, T 7402-7404; Exhibit D314; Isuf Zhuniqi, Exhibit P1251, p 3; Isuf Zhuniqi, Exhibit P1253 (*Milutinović* transcript), T 4126.

[1608] Sabri Popaj, Exhibit P1082, p 3; Sabri Popaj, Exhibit P1083 (*Milutinović* transcript), T 5657, 5681, 5727, 5753, 5766; Sabri Popaj, T 7402-7404; Exhibit D314; *See supra,* para 55.

[1609] Isuf Zhuniqi, Exhibit P1251, p 3; Isuf Zhuniqi, Exhibit P1253 (*Milutinović* transcript), T 4126; Exhibit D314.

[1610] Isuf Zhuniqi, Exhibit P1251, p 3; Isuf Zhuniqi, Exhibit P1252 (*Milošević* transcript), T 6452-6453; Isuf Zhuniqi, Exhibit P1253 (*Milutinović* transcript), T 4126-4128.

[1611] Isuf Zhuniqi, Exhibit P1251, p 4; Isuf Zhuniqi, Exhibit P1253 (*Milutinović* transcript), T 4107.

[1612] *See supra,* paras 53-55.

[1613] Sabri Popaj, Exhibit P1082, pp 3-4; Isuf Zhuniqi, Exhibit P1251, p 3; Isuf Zhuniqi, Exhibit P1252 (*Milošević* transcript), T 6442.

[1614] Sabri Popaj, Exhibit P1082, pp 3-4.

[1615] Isuf Zhuniqi, Exhibit P1251, p 3; Isuf Zhuniqi, Exhibit P1252 (*Milošević* transcript), T 6442.

[1616] Sabri Popaj, Exhibit P1082, p 4; Isuf Zhuniqi, Exhibit P1251, p 3; Isuf Zhuniqi, Exhibit P1252 (*Milošević* transcript), T 6442.

[1617] The Chamber notes that the Indictment alleges that 12 people were involved in this incident. Nevertheless, the Chamber accepts based on eyewitness evidence that there were 14 people in the stream.

gunfire. The 12 policemen crossed to the other side of the stream and headed in the direction of the main road between Prizren and Đakovica/Gjakovë.[1618] After the police had left the area Sabri Popaj went to where the 14 people had been shot. He saw blood on their clothes and bullet holes on their bodies.[1619] Of the 14 people who were shot at in the Belaja River, 10 were women and children.[1620] 13 of the 14 people were dead. The 13 dead victims were Clirim Zhuniqi, Lumnie Zhuniqi, Dardane Zhuniqi, Dardan Zhuniqi, Dhurata Zhuniqi[1621], Xhemal Spahiu, Marigona Spahiu, Iliriana Spahiu, Lirim Spahiu, Fikrit Spahiu, Labinot Spahiu, Qamile Spahiu and an unidentified Spahiu family member.[1622] The only survivor of the incident was Dibran Zhuniqi, a two year old boy.[1623] The bodies of these 13 dead people were later buried by local villagers. In June 1999 a grave containing all but one of these bodies was exhumed at this location by the British forensic team as detailed later in this Judgement.[1624] Based on the totality of the evidence, including eyewitness accounts, the Chamber finds that all 13 people, identified by the eyewitness survivor, were killed at the Belaja River.[1625] They were all Kosovo Albanians and none of the victims were participating in the conflict. The Chamber accepts that they were targeted because they were Kosovo Albanians. Forensic examinations by the British forensic team, discussed later in this Judgement, established that 12 of these people died as a result of gunshot wounds.[1626] The Chamber accepts that, on the basis of eyewitness identification, the only reasonable inference in the circumstances is that the 13th victim, an unnamed member of the Spahiu family, also died as a result of gun shot wounds.

466. After identifying these 13 people, Sabri Popaj went to the place where he had seen the old man shot. He found him dead. He identified the old man as Halim Fetoshi, about 66 years old,

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[1618] Sabri Popaj, Exhibit P1082, p 4.

[1619] Sabri Popaj, Exhibit P1082, p 4; Exhibit P1084 (Photograph with the marking number "1" to show where he saw the 14 people shot); Isuf Zhuniqi, Exhibit P1252 (*Milošević* transcript), T 6457.

[1620] In his evidence Isuf Zhuniqi appears to refer to 13 people not 14 people, however it appears that this calculation does not include the two year old boy who survived. Therefore, the Chamber is satisfied it was a group of 14 people. Isuf Zhuniqi, Exhibit P1251, p 3; Isuf Zhuniqi, Exhibit P1252 (*Milošević* transcript), T 6442.

[1621] The Chamber notes that the Prosecution listed this victim as a four year old male. The forensic evidence however established that she was female and approximately nine or ten years old, Exhibit P1151, K0138760. The Chamber does not find that this discrepancy impacts upon its finding. These details are reflected in the Victim Chart, related to Bela Ckva/Bellacërkë, annexed to this Judgement.

[1622] Isuf Zhuniqi, Exhibit P1251, p 3; Isuf Zhuniqi, Exhibit P1252 (*Milošević* transcript), T 6456-6457; Exhibit P1088; Sabri Popaj, Exhibit P1082, p 5; Exhibit P1151, K0138761.

[1623] Sabri Popaj, Exhibit P1082, p 4.

[1624] *See infra,* para 1391-1392; Isuf Zhuniqi, Exhibit P1251, p 3; Isuf Zhuniqi, Exhibit P1254 (*Milošević* transcript), T 6456-6457; Exhibit P1088; Sabri Popaj, Exhibit P1082, p 5; Exhibit P1151, K0138792.

[1625] The Chamber notes that the Indictment alleges that 12 people were killed in the stream and not 13. Nevertheless, as stated earlier the Chamber found that 14 people were shot at in the stream and only one two year old boy survived the shooting. Furthermore, the Prosecutions Schedule B to the Indictment listed by name 10 of these victims; the Chamber has listed the additional three victims in the Victims Charts, related to Bela Crkva/Bellacërkë, annexed to this Judgement.

[1626] Exhibit P1151, K0138760-K0138761; *see infra,* para 1393; *see infra,* Schedule: Victim Charts.

from Bela Crkva/Bellacërkë.[1627] Halim Fetoshi is not scheduled as a victim known by name in the schedule to the Indictment and no forensic evidence was received in regards to this victim.

467. The same group of police then approached the Belaja Bridge where Isuf Zhuniqi and a large number of other villagers were hiding. As the police reached the bridge they took up positions on each side of the banks of the stream and another about six or seven policemen arrived and took up a position on the Belaja Bridge.[1628] Villagers were still hiding under or by the bridge. They may have been the same people who had left the village with Sabri Popaj earlier. Isuf Zhuniqi was hiding with them. The police ordered these people to put their hands behind their heads, climb out of the stream and to separate into three groups, one comprising women and children and two groups of men.[1629] It is not clear from the evidence how many people there were.[1630] The men were ordered to undress down to their underwear.[1631] One of the police picked up Isuf Zhuniqi's jacket, took his passport from it and asked "Who is Isuf Zhuniqi"?[1632] He identified himself and then was told by the police that he may as well be dead as there was no life for him in Kosovo.[1633] Following this his passport, identity card and drivers licence were ripped up and 1,200 German marks taken from his jacket by the police officer he had identified as hailing from Orahovac/Rahovec.[1634] At the same time, the other men were also ordered to hand over their identity documents, money and other valuables including jewellery.[1635] The men were then ordered to get dressed and gather in one group. At gunpoint the women and children were ordered to leave and to follow the railway track to Zrze/Xërxë.[1636] They did so.

[1627] Sabri Popaj, Exhibit P1082, p 4; Exhibit P1084; Isuf Zhuniqi, Exhibit P1252 (*Milošević* transcript), T 6457.

[1628] Isuf Zhuniqi, Exhibit P1251, p 4 ; Isuf Zhuniqi, Exhibit P1252 (*Milošević* transcript), T 6452; Isuf Zhuniqi, Exhibit P1253 (*Milutinović* transcript), T 4102-4103, 4127; Isuf Zhuniqi, Exhibit P1255 (Photo marked with letter "B" to indicate the direction from which the police approached and a letter "C" to indicate where they positioned themselves); Sabri Popaj, Exhibit P1082, p 4; Sabri Popaj, Exhibit P1083 (*Milutinović* transcript), T 5662-5663; P1085 (Photograph marked with the number "2" indicates where the killings took place and where the Belaja Bride crossed the railway line).

[1629] Isuf Zhuniqi, Exhibit P1251, p 4; Isuf Zhuniqi, Exhibit P1252 (*Milošević* transcript), T 6452; Isuf Zhuniqi, Exhibit P1253 (*Milutinović* transcript), T 4102-4103; Exhibit P1255 (Photo marked with letter "C" to indicate where they were positioned when they ordered Isuf Zhuniqi and the rest of the group out of the stream. The three dots close to, and on, the railway line indicate where the three groups separated); Sabri Popaj, Exhibit P1082, p 4; Sabri Popaj, Exhibit P1083 (*Milutinović* transcript), T 5728, 5663.

[1630] It is difficult to establish the number of people present at the time as Isuf Zhuniqi says that original some 700 people walked with him to the stream however he and his family then walked towards the Belaja Bridge (Isuf Zhuniqi, Exhibit P1251, p 3; Isuf Zhuniqi, P1252 (*Milošević* transcript), T 6442). Sabri Popaj saw a group of about 50 men getting out of the stream but he said these could have already been separated from other villagers (Sabri Popaj, Exhibit P1083 (*Milutinović* transcript), T 5728).

[1631] Isuf Zhuniqi, Exhibit P1251, p 4; Exhibit P1086.

[1632] Isuf Zhuniqi, Exhibit P1251, p 4.

[1633] Isuf Zhuniqi, Exhibit P1251, p 4; Isuf Zhuniqi, Exhibit P1252 (*Milošević* transcript), T 6443.

[1634] Isuf Zhuniqi, Exhibit P1251, p 4; Isuf Zhuniqi, Exhibit P1252 (*Milošević* transcript), T 6443; Isuf Zhuniqi, Exhibit P1253 (*Milutinović* transcript), T 4105; Sabri Popaj, Exhibit P1083 (*Milutinović* transcript), T 5663-5664; Exhibit P1086.

[1635] Isuf Zhuniqi, Exhibit P1251, p 4; Sabri Popaj, Exhibit P1082, p 4; Sabri Popaj, Exhibit P1083 (*Milutinović* transcript), T 5663-5664; Exhibit P1086.

[1636] Isuf Zhuniqi, Exhibit P1251, p 4; Sabri Popaj, Exhibit P1083 (*Milutinović* transcript), T 5664; Exhibit P1086.

468. When the women and children were about 100 metres away, one young man, 17 year old Shendet Popaj, was kicked to the ground by a policeman and then the leader of the police put his boot on his throat. At this point, Nisim Popaj, Shendet Popaj's uncle, said "Leave us alone. We are simple farmers. We are not KLA".[1637] From two metres away, Isuf Zhuniqi saw the man he concluded was the leader of the group shoot Nisim Popaj in the chest, and then shoot Shendet Popaj in the head. It appeared they both died instantly.[1638] Isuf Zhuniqi concluded that this police officer, that he knew from Orahovac/Rahovec, was the leader of the group.[1639] He had three or four stars on his shoulders,[1640] and spoke in Serbian although he also spoke Albanian. He ordered the firing that followed, as described below, in Serbian.[1641] Isuf Zhuniqi was able to describe the man whom he identified from a set of unmarked photographs as the person who shot Nisim and Shedent Popaj.[1642] He was told his name was Nenad Matić.[1643] There is evidence that Nenad Matić was a reserve police member of the SUP in Orahovac/Rahovec.[1644] Sabri Popaj was told by his uncle's son, a survivor of the shootings at the Belaja Bridge, that he recognised two of the police at the Belaja Bridge as Zlatko Bozanić and a man by the name of Dejan. Sabri Popaj did not recognise these two men at the shooting as he was too far away but he knew they were policemen from villages in the Orahovac/Rahovec municipality.[1645] The Defence attempted to challenge the credibility of Sabri Popaj and his identification of the forces as police because Zlatko Bozanić was not a member of the regular or reserve VJ or MUP forces.[1646] The Chamber is unable to verify the presence of Zlatko Bozanić at the Belaja Bridge, however, Sabri Popaj knew he was a policeman in the Orahovac/Rahovec municipality. The Defence provided no evidence to support their contention that Zlatko Bozanić was not a member of the reserve VJ or MUP forces. The Chamber finds no reason to question the credibility of Sabri Popaj in describing the police at the Belaja Bridge.

[1637] Isuf Zhuniqi, Exhibit P1251, p 4.

[1638] In his earlier evidence Sabri Popaj said he saw these men (his brother and son) shot, however, in *Milutinović* he said that he saw them being taken to where they were executed, heard the gunfire but did not see the shooting. In this case he reaffirmed that he had seen the shooting. Having evaluated these matters and its impression of Sabri Popaj's honesty and credibility, the Chamber accepts Sabri popaj also saw the shooting of these two people. Isuf Zhuniqi, Exhibit P1251, p 4; Isuf Zhuniqi, Exhibit P1252 (*Milošević* transcript), T 6443-6444, 6456; Sabri Popaj, Exhibit P1082, p 4; Sabri Popaj, Exhibit P1083 (*Milutinović* transcript), T 5662, 5665, 5738-5739.

[1639] Isuf Zhuniqi, Exhibit P1251, pp 3, 4; Isuf Zhuniqi, Exhibit P1253 (*Milutinović* transcript), T 4107.

[1640] Isuf Zhuniqi, Exhibit P1251, pp 3, 4; Isuf Zhuiqi, Exhibit P1253 (*Milutinović* transcript), T 4128.

[1641] *See infra,* para 469; Isuf Zhuniqi, Exhibit P1251, p 4; Isuf Zhuniqi, Exhibit P1252 (*Milošević* transcript), T 6455-6456; Isuf Zhuniqi, Exhibit P1253 (*Milutinović* transcript), T 4128.

[1642] Isuf Zhuniqi, Exhibit P1251, p 4; Isuf Zhuiqi, Exhibit P1253 (*Milutinović* transcript), T 4128.

[1643] Isuf Zhuniqi, Exhibit P1251, p 4; Isuf Zhuniqi, Exhibit P1252 (*Milošević* transcript), T 6460.

[1644] A list was requested by the ICTY from the Ministry of Foreign Affairs in Serbia detailing individuals who served in the VJ or MUP and individuals who held MUP reservist status. The list received by the ICTY included Nenad Matić as a reserve member of the SUP Orahovac, Exhibit P1289, p 4.

[1645] Sabri Popaj. Exhibit P1082, p 7.

[1646] Defence Final Brief, para 744.

469. Following the shooting of Nisim and Shedent Popaj, some of the men at the Belaja Bridge were ordered to return to the village. About 65 men[1647] were not allowed to return to the village and were ordered back down into the stream.[1648] The leader of the police then ordered the other police to open fire at the men in the stream. The MUP opened fire at the group of men.[1649] Isuf Zhuniqi, who was among the men ordered into the stream, was hit in the shoulder and fell down. Other men fell on top of him.[1650] He remained conscious and lay very still, pretending to be dead.[1651] After approximately five minutes of continual gunfire, Isuf Zhuniqi heard a voice say "this one is still breathing", after which a single shot was fired.[1652] A few minutes later he heard a voice say "Well, now everyone is dead let's go".[1653] The Chamber accepts that these voices were those of members of the police. The police then left and followed the stream in the direction of Celina/Celinë.[1654] Isuf Zhuniqi pretended to be dead for about another 20 minutes to be sure the police had left.[1655] He then managed to get up and he saw many dead bodies. Some had sustained horrible injuries from the gunfire. He was able to identify by name 41 bodies in the stream.[1656] There were another 11 men lying dead in the stream, but he could not remember their names.[1657] Following this, he made his way to Zrze/Xërxë. In an attack on Nogavac/Nagavc on 2 April 1999, Isuf Zhuniqi was injured and he was taken across the border to Kukës in Albania.[1658]

470. Sabri Popaj confirmed the evidence of Isuf Zhuniqi that after the shooting at the Belaja Bridge on 25 March 1999, the police followed the stream in the direction of Celina/Celinë. After

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[1647] The Chamber notes that following the shooting only 53 men were identified by survivors (Isuf Zhuniqi, Exhibit P1251, pp 4, 5-6; Isuf Zhuniqi, Exhibit P1252 (*Milošević* transcript), T 6444; Isuf Zhuniqi, Exhibit P1253 (*Milutinović* transcript), T 4104-4105; Exhibit P1088 (Photographs of victims of the Bela Crkva/Bellacërkë massacre); Sabri Popaj, Exhibit P1082, p 5). However, Isuf Zhuniqi estimated that there was "about 65 men" when they were forced down into the stream (Isuf Zhuniqi, Exhibit P1251, p 4; Isuf Zhuniqi, Exhibit P1252 (*Milošević* transcript), T 6444, 6456; Sabri Popaj, Exhibit P1083 (*Milutinović* transcript), T 5665). The Chamber received evidence that about nine men survived the shootings (Sabri Popaj, Exhibit P1082, p 5) making the number "about 65 men" in the stream.

[1648] Isuf Zhuniqi, Exhibit P1251, p 4; Isuf Zhuniqi, Exhibit P1252 (*Milošević* transcript), T 6444, 6456; Sabri Popaj, Exhibit P1083 (*Milutinović* transcript), T 5665.

[1649] Isuf Zhuniqi, Exhibit P1251, p 4; Isuf Zhuniqi, Exhibit P1252 (*Milošević* transcript), T 6444.

[1650] Isuf Zhuniqi, Exhibit P1251, p 4; Isuf Zhuniqi, Exhibit P1253 (*Milutinović* transcript), T 4107; Exhibit P1257; Frederick Abrahams, T 3968-3969, 4032-4033.

[1651] Isuf Zhuniqi, Exhibit P1251, p 4; Isuf Zhuniqi, Exhibit P1253 (*Milutinović* transcript), T 4097; Exhibit P1257.

[1652] Isuf Zhuniqi, Exhibit P1251, p 4; Isuf Zhuniqi, Exhibit P1252 (*Milošević* transcript), T 6444; Sabri Popaj, P1082, p 4.

[1653] Isuf Zhuniqi, Exhibit P1251, p 4.

[1654] Sabri Popaj, Exhibit P1082, p 4.

[1655] Isuf Zhuniqi, Exhibit P1251, p 4.

[1656] The names of these men are detailed below in the list of Kosovo Albanian men killed at the Belaja Bridge. Isuf Zhuniqi, Exhibit P1251, pp 4, 5; Isuf Zhuniqi, Exhibit P1252 (*Milošević* transcript), T 6444; Isuf Zhuniqi, Exhibit P1253 (*Milutinović* transcript), T 4104-4105; Exhibit P1088; Sabri Popaj, Exhibit P1082, p 5.

[1657] The Chamber accepts that these victims included Ardian Fethoshi, Hysni Fetoshi, Fatmir Fetoshi and Haxhi Popaj. These four victims are not listed in Schedule B of the Indictment. However, there remains were found in the same grave as the other identified Kosovo Albanian men killed at the Belaja Bridge. The Chamber therefore accepts that these were four of the 11 men that were seen by the witness but not identified by name. Isuf Zhuniqi, Exhibit P1251, p 5-6; Isuf Zhuniqi, Exhibit P1253 (*Milutinović* transcript), T 4104.

[1658] *See infra,* para 510; Isuf Zhuniqi, Exhibit P1251, p 6. Sabri Popaj saw Isuf Zhuniqi on the other side of the railway shouting and waving his arms and that he then left the scene. Sabri Popaj, T 7362-7364, 7421.

five minutes he heard more gunfire from the direction taken by the police but could not see what was happening.[1659] When he considered it safe, Sabri Popaj joined his remaining family members who were on the railway tracks about 120 metres away from the Belaja Bridge.[1660] After gathering the wounded onto a tractor, Sabri Popaj with family members and a group of other people continued on to Zrze/Xërxë.[1661] The Chamber is satisfied, as discussed later in this Judgement, that these people were forcibly transferred from Bela Crkva/Bellacërkë.[1662]

471. In the evening of 26 March 1999, Sabri Popaj returned with his wife and neighbours to take the bodies from the stream. The next day they placed the bodies in plastic and blankets and buried them during the evening. The witness recalled 38 bodies in total and explained that these were buried in a mass grave approximately 20 metres from the stream and Belaja Bridge.[1663] 35 of the bodies were buried together in a mass grave, lying on their backs next to each other. Isuf Popaj and Mehmet Popaj were buried in a grave together a couple of metres from the mass grave and Hazer Popaj was buried separately in the village.[1664] Sabri Popaj also provided a list of the bodies he buried.[1665]

472. The Chamber notes, as detailed later in this Judgement, that the bodies of the men killed at the Belaja Bridge were later recovered from grave sites that correspond to the description given by Sabri Popaj, in June 1999 by the British forensic team.[1666] The Chamber has not received any evidence of Serbian authorities conducting investigations into these killings.[1667] Based on the eyewitness evidence and forensic examinations that were conducted, it has been established that no less than 41 men were shot by MUP forces on 25 March 1999 at the Belaja Bridge. They were all of Kosovo Albanians and unarmed at the time of the shooting.[1668] It is accepted that they were specifically targeted and killed because they were ethnic Albainans. As detailed later in this

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[1659] Sabri Popaj, Exhibit P1082, p 4.
[1660] Sabri Popaj, Exhibit P1083 (*Milutinović* transcript), T 5664.
[1661] Sabri Popaj, Exhibit P1082, p 5; Sabri Popaj, T 7359-7361.
[1662] *See infra,* para 1618.
[1663] Sabri Popaj, Exhibit P1082, p 6; Sabri Popaj, Exhibit P1083 (*Milutinović* transcript), T 5673-5674, 5748-5749.
[1664] Sabri Popaj, Exhibit P1082, p 6, addendum; Sabri Popaj, Exhibit P1083 (*Milutinović* transcript), T 5673-5674.
[1665] Sabri Popaj, Exhibit P1082, p 7.
[1666] From all the sites in Bela Crkva/Bellacërkë a total of 54 bodies were exhumed; 12 of these bodies remained unidentified. The Chamber did not receive forensic evidence relating to the cause of death of four of the villagers identified by Isuf Zhuniqi as being present at the Belaja Bridge when the men were shot at by MUP forces on 25 March 1999. These four men were, Morina Musa, Alban Popaj, Lindrit Popaj and Muhammet Zhuniqi. Nevertheless, on the basis of eyewitness accounts, and as 12 bodies exhumed remained unidentified, the Chamber finds in the circumstances the only reasonable inference is that these four people were shot and killed by the MUP force in Bela Ckva/Bellacërkë on 25 March 1999. Isuf Zhuniqi, Exhibit P1251, p 3; Isuf Zhuniqi, Exhibit P1254 (*Milošević* transcript), T 6456-6457; Exhibit P1088; Sabri Popaj, Exhibit P1082, p 5; Eric Baccard, Exhibit P1139 (expert report), pp 30-31; Exhibit P1151, K0138792; *see infra,* para 2097.
[1667] *See infra,* para 2097.
[1668] Sabri Popaj, Exhibit P1082, p 6; *see,* Exhibit P477.

Judgement, all 41 Kosovo Albanian men died as a result of gunshot wounds.[1669] Of these 41 men the following 38 were named as victims in the schedule to the Indictment,

Murat Berisha, Fadil Gashi, Musa Morina, Bajram Zhuniqi, Qemal Zhuniqi, Abedin Zhuniqi, Destan Zhuniqi, Ibrahim Zhuniqi, Biladh Zhuniqi, Shemsi Zhuniqi, Muharrem Zhuniqi, Reshit Zhuniqi, Muhamed Zhuniqi, Qamil Zhuniqi, Eshref Zhuniqi, Fatos Zhuniqi, Labinot Zhuniqi, Kassim Zhuniqi, Adulullah Popaj, Alban Popaj, Agon Popaj, Bedrush Popaj, Belul Popaj, Ethem Popaj, Hazer Popaj, Hysni Popaj, Isuf Popaj[1670], Kreshnik Popaj, Lindrit Popaj, Mehmet Popaj, Mersel Popaj, Nazmi Popaj, Nisim Popaj, Rrustem Popaj, Sahid Popaj, Shendet Popaj, Vehap Popaj, Xhavit Popaj.[1671]

The Chamber also accepts that three other victims, who were not scheduled as victims known by name in the Indictment, were killed by MUP forces at the Belaja Bridge. These persons were: Ardian Fetoshi, Hysni Fetoshi and Fatmir Fetoshi.[1672]

473. The next day, 28 March 1999, at about 0300 hours, Sabri Popaj located the bodies of his two nephews, Sedat Popaj and Irfan Popaj, and four others whom he identified as Hajrullah Begaj,[1673] Hysni Zhuniqi, Mhedi Zhuniqi and Agim Zhuniqi. He described finding these bodies in a channel leading from the Belaja River in the direction of Celina/Celinë, about 70 to 85 metres from the Belaja Bridge in a position which corresponded with that from which he had heard further shooting on 26 March 1999 some five minutes after the police moved on from the Belaja Bridge.[1674] Sabri Popaj then buried these bodies at about 2100 hours.[1675] As discussed later in this Judgement, six bodies were exhumed from this location in June 1999 by the British forensic team.[1676] In the Chamber's findings these six men were shot by the police who had, shortly earlier, killed most of the people at the Belaja stream and bridge on 25 March 1999. The six dead men were all Kosovo Albanians and the Chamber accepts that this is the reason they were killed. There is no evidence to suggest that they were armed at the time of the shootings. Forensic examinations by the British

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[1669] For victim Ardian Fetoshi, the British forensic team stated the cause of death could not be ascertained. Based on eyewitness and forensic evidence the Chamber is satisfied, when regard was had to the circumstances, that the only reasonable inference is the victim died as a result of the shooting by MUP forces at the Belaja Bridge. *See infra,* paras 1393-1394.

[1670] Listed as Haxhi Isuf Popaj in the British forensic report, *see* Exhibit P1151, K0138848.

[1671] Isuf Zhuniqi, Exhibit P1251, pp 4, 5; Isuf Zhuniqi, Exhibit P1252 (*Milošević* transcript), T 6444; Isuf Zhuniqi, Exhibit P1253 (*Milutinović* transcript), T 4104-4105; Exhibit P1088; Sabri Popaj, Exhibit P1082, pp 5, 7.

[1672] Isuf Zhuniqi, Exhibit P1251, pp 4, 5; Isuf Zhuniqi, Exhibit P1252 (*Milošević* transcript), T 6444; Isuf Zhuniqi, Exhibit P1253 (*Milutinović* transcript), T 4104-4105; Exhibit P1088; Sabri Popaj, Exhibit P1082, pp 5, 7.

[1673] The Chamber notes that the name listed in the Indictment is Abdullah Begaj. Based on the evidence, and the fact that this victim was identified as being found with the other six men, the Chamber is satisfied that this is the same person. The difference in spelling does not affect the Chambers findings.

[1674] Sabri Popaj, Exhibit P1082 pp 7-8; Sabri Popaj, T 7412; Exhibit P1085; Exhibit P1087.

[1675] Sabri Popaj, Exhibit P1082, p 5.

[1676] *See infra,* para 1392; Eric Baccard, Exhibit P1151, K0138792.

forensic team found that all six men died as a result of multiple gunshot wounds.[1677] All six men were scheduled as victims known by name in the Indictment.[1678]

474. Following the burial of the six bodies, Sabri Popaj spent time in Celina/Celinë assisting in the burial of other bodies that were found there. He often returned to his property in Bela Crkva/Bellacërkë.[1679] On 13 May 1999, he decided to leave the area and join his family that had gone to Albania.[1680] Sabri Popaj travelled with a group of people from Banja/Banjë and when they reached the border at Morini the Serbian border police demanded identification papers.[1681] In his view the border police were in fact regular policemen because of their uniform and a band on the arm of the uniform that had "policijia" written on it.[1682] When the group of people handed over their identification papers, the papers were burnt by the police.[1683] They were then told by the border police to cross over into Albania. They did so.

475. The Defence argued that Sabri Popaj chose to leave Kosovo to go to Albania to meet his family members. The Chamber accepts this argument, however, it does not alter the Chamber's findings that the other villagers were forced by the MUP forces to leave Bela Crkva/Bellacërkë.[1684]

(b) Destruction of the mosque and other buildings in Bela Crkva/Bellacërkë

476. When Sabri Popaj returned to Bela Crkva/Bellacërkë on 26 March 1999, he found that his house and that of his parents had been completely destroyed by fire. His brother's house was also damaged. All the houses of his family had been looted.[1685] Isuf Zhuniqi heard from other Bela Crkva/Bellacërkë villagers he met in the mountains around 30 March 1999 that the whole village had been destroyed. Only two of the approximately 350 houses in the village had not been burnt down.[1686]

477. Prior to the war, the mosque in the centre of Bela Crkva/Bellacërkë featured a 46 metre tall minaret and had surrounding walls.[1687] On or about 28 March 1999, Sabri Popaj testified that he was standing on the side of the mountain in his field from where he could see Bela

[1677] Exhibit P1151, K0138760; *See supra,* paras 1393-1394.
[1678] Schedule B of the Indictment.
[1679] Sabri Popaj, Exhibit P1082, pp 8-10; *See infra,* para 532.
[1680] Sabri Popaj, Exhibit P1082, p 12.
[1681] Sabri Popaj, Exhibit P1082, p 12; Sabri Popaj, Exhibit P1083 (*Milutinović* transcript), T 5753.
[1682] Sabri Popaj, T 7364-7366, 7420.
[1683] Sabri Popaj, Exhibit P1082, p 12; Sabri Popaj, T 7365.
[1684] *See supra,* para 470; *see infra,* para 1618.
[1685] Sabri Popaj, Exhibit P1082, p 6, Addendum.
[1686] Isuf Zhuniqi, Exhibit P1251, p 6.
[1687] Sabri Popaj, Exhibit P1083 (*Milutinović* transcript), T 5678.

Crkva/Bellacërkë, Celina/Celinë and Rogovo/Rogovë.[1688] He heard an explosion and when he looked to Bela Crkva/Bellacërkë the mosque was no longer standing.[1689] The Chamber notes that the Serbian forces were still present in Bela Crkva/Bellacërkë on 28 March 1999 and that all the local villagers had fled from the area on 25 March 1999.[1690] As discussed in more detail later in this Judgement, the Chamber accepts that the mosque in Bela Crkva/Bellacërkë was substantially destroyed by Serbian forces.[1691]

(c) Serbian forces in the village

478. The 549th VJ Motorised Brigade, in cooperation with the 4th Company of the Đakovica PJP detachment, the 37th Company of the Nis PJP and the 5th Company of the Prizren PJP, was tasked with attacking and searching the village of Bela Crkva/Bellacërkë.[1692] The Chamber also notes that "non-KLA armed civilians" were also deployed to the area with these forces.[1693] The War Diary of the 2nd Motorised Battalion, records that on 25 March 1999 at 0130 hours, the Serbian forces were marched along a line towards Bela Crkva/Bellacërkë and were tasked to "mop up" the village of Bela Crkva/Bellacërkë.[1694] A report on the operation recorded that on 25 March 1999, the objectives of the operation were met and a PJP force of the MUP had made what was officially reported as a "fierce breakthrough" from the direction of Bela Crkva/Bellacërkë towards Celina/Celinë and Mala Hoca/Hoçë-e-Vogël.[1695] The Chamber notes that this evidence confirms the eyewitness accounts of VJ and MUP forces being present in the villages during the time of the crimes discussed above, although the Chamber does not accept that a "fierce breakthrough" is a reliable description of what occurred.

2. Mala Kruša/Krushë-e-Vogël

479. Mala Kruša/Krushë-e-Vogël is situated on the border of the municipalities of Prizren/Prizren and Orahovac/Rahovec.[1696] The villages surrounding Mala Kruša/Krushë-e-Vogël are

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[1688] Celina/Celinë was located a kilometre and a half from Bela Crkva/Bellacërkë and Rogovo/Rogovë was 800 metres further from the Belaja River. Sabri Popaj testified that he was standing on the side of the mountain that allowed him to see Bela Crkva/Bellacërkë, Celina/Celinë and Rogovo/Rogovë. In cross-examination in *Milutinović* the issue of whether Sabri Popaj was standing in the field or on the side of the mountain was raised. The witness explained that the mountain was part of the field, Sabri Popaj, Exhibit P1082, p 11; Sabri Popaj, Exhibit P1083 (*Milutinović* transcript), T 5650, 5678-5679, 5729-5730.

[1689] Sabri Popaj states that the Rogovo mosque was also blown up on 28 March 1999. This allegation is dealt with in the Đakovica/Gjakovë municipality. Sabri Popaj, Exhibit P1083 (*Milutinović* transcript), T 5729-5730, 5650, 5678-5679.

[1690] Exhibit P1317, p 1.

[1691] *See infra,* para 1811.

[1692] Exhibit P1316, pp 1-2, 4.

[1693] Exhibit P350, pp 1-2, 4.

[1694] Exhibit D37, p 3.

[1695] Exhibit P1317, p 4.

[1696] Exhibit P301; Mehmet Krasniqi, T 978.

Celina/Celinë, Nogavac/Nagavc, Zrze/Xërxë and Velika Kruša/Krushë-e-Madhe.[1697] Prior to the NATO bombing campaign, the population of the village was around 800 people.[1698] There were about 100 households in Mala Kruša/Krushë-e-Vogël, 73 of which were of Albanian ethnicity, three were Roma and the remaining 24 were Serbian.[1699] Up until March 1999, the different ethnicities had good relations with one another.[1700]

(a) Events on 25 and 26 March 1999

480. At 0400 hours on 25 March 1999, Serbian tanks, APCs, Pragas and anti-aircraft artillery travelled along the Prizren-Đakovica/Gjakovë main road and stopped at the junction which turned into the village of Mala Kruša/Krushë-e-Vogël.[1701] There were about 30 to 40 vehicles parked on the main road. The APCs were the normal blue MUP colour. The Pragas were the normal green VJ colour, they were armed with machine guns and cannons.[1702] The tanks were camouflaged and had steel tracks. The tanks and anti-aircraft artillery were VJ equipment. The tanks positioned themselves on the outskirts of the village almost near Velika Kruša/Krushë-e-Madhe.[1703] The village of Mala Kruša/Krushë-e-Vogël was completely surrounded by Serbian forces.[1704]

481. At around 0500 hours on 25 March 1999, a PJP detachment of the MUP was transported by the VJ to the area of Mala Kruša/Krushë-e-Vogël where it deployed along the Prizren-Đakovica/Gjakovë main road, in the general area of Mala Kruša/Krushë-e-Vogël.[1705] Armoured vehicles provided support to the PJP unit and these were under VJ command.[1706]

482. At approximately 0500 hours, Lutfi Ramadani saw Serbian policemen or militia entering the village; they started shooting and setting homes on fire.[1707] Lutfi Ramadani explained that these forces wore various coloured uniforms. Some wore black uniforms and some wore camouflage

[1697] Exhibit P301; Mehmet Krasniqi, T 978-979.
[1698] Lutfi Ramadani, Exhibit P306 (*Milutinović* transcript), T 4284.
[1699] Lutfi Ramadani gave evidence that there were 70 Albanian households and 30 Serbian households. Mehmet Krasniqi, T 977; Lutfi Ramadani, Exhibit P306 (*Milutinović* transcript), T 4285; Lutfi Ramadani, T 1080.
[1700] Mehmet Krasniqi, T 978; Lutfi Ramadani, Exhibit P306 (*Milutinović* transcript), T 4285-4286; Lutfi Ramadani, T 1081.
[1701] Mehmet Krasniqi, T 980, 1024-1025; Lutfi Ramadani, Exhibit P306 (*Milutinović* transcript), T 4285; Lutfi Ramadani, Exhibit D29, p 3; Lutfi Ramadani, T 1109, 1161, 1164; K25, Exhibit P340-A, p 13.
[1702] Lutfi Ramadani, Exhibit D29, p 3.
[1703] As discussed elsewhere in this Judgement, corresponding evidence of tanks arriving in the area of Velika Kruša/Krushë-e-Madhe at 0400 hours was heard from witnesses in Velika Kruša/Krushë-e-Madhe (Ali Hoti, Exhibit P628 (*Milutinović* transcript), T 4140-4141, 4163). Lutfi Ramadani, Exhibit P306 (*Milutinović* transcript), T 4285-4286, 4354-4355; Lutfi Ramadani, T 1162-1164.
[1704] Lutfi Ramadani, Exhibit P306 (*Milutinović* transcript), T 4285; Lutfi Ramadani, T 1109, 1161, 1164.
[1705] K25, Exhibit P340-A, p 8-9; K25, Exhibit P341-A (*Milošević* transcript), T 7824; K25, Exhibit P342 (*Milutinović* transcript), T 4656-4657, 4706-4708; K25, T 1596.
[1706] K25, Exhibit P341-A (*Milošević* transcript), T 7824, 7829.
[1707] Lutfi Ramadani, Exhibit P306 (*Milutinović* transcript), T 4286, 4318; Exhibit P312; Lutfi Ramadani, T 1109-1110.

uniforms. There were others wearing blue camouflage uniforms or green camouflage uniforms.[1708] With the Serbian forces were local Serbians, many in black militia uniforms but some in ordinary clothes and not uniforms.[1709] Some not wearing uniforms had white and red bandannas on their heads.[1710] As discussed earlier in this Judgement, these descriptions of the uniforms and clothing are consistent with the uniforms worn by the Serbian forces, both VJ and MUP.[1711] The Serbian forces were being guided by local Serbian villagers, who would identify which houses were Albanian and then, with members of the Serbian forces, they would set Albanian houses on fire.[1712] There is evidence that these local Serbians had been assigned duties as reserve policemen.[1713]

483. Because the Serbian forces were shooting and setting fire to houses, out of fear, some 400 to 500 Kosovo Albanians fled from the village.[1714] Serb residents remained in their houses.[1715] One group of Albanian villagers, including Lutfi Ramadani, fled to the stream near Adem Isufi's house and from there made their way to Sedj Batusha's house, located on the periphery of the village, arriving there at about 1900 hours.[1716] About 500 Kosovo Albanian people gathered there.[1717] Another group of villagers, including Mehmet Krasniqi and his family, fled to the forest.[1718] From the forest, he was able to see houses on fire in the village.[1719] He also heard what he determined to be "gun-fire coming from military machinery" being fired towards the forest from the direction of the road where Serbian forces had positioned themselves earlier.[1720] Mehmet Krasniqi and his

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[1708] Lutfi Ramadani, Exhibit P306 (*Milutinović* transcript), T 4285-4286, 4318; Lutfi Ramadani, Exhibit D29, p 3; Lutfi Ramadani, T 1122-1124.

[1709] Lutfi Ramadani, Exhibit P306 (*Milutinović* transcript), T 4285-4286, 4318, 4321, 4335; Lutfi Ramadani, Exhibit D29, p3; Lutfi Ramadani, T 1122-1124.

[1710] Lutfi Ramadani, Exhibit P306 (*Milutinović* transcript), T 4286-4287.

[1711] *See supra,* paras 53-54, 162.

[1712] Lutfi Ramadani recognised the following Serbian villagers taking part in the events in the village at the time, Dimitri Nikolić, Ranko Nikolić, Momcilo Nikolić, Sava Nikolić, Slatko Đorđevic, Ranko Petković, Sveta Tasić, Djordje Čvetković (Lutfi Ramadani, T 1103). John Sweeney, a journalist, visited Mala Kruša/Krushë-e-Vogël in June 1999 and came across photographs in the Serbian houses that he then showed to some Kosovo Albanians who had returned to Mala Kruša/Krushë-e-Vogël. From these photographs they identified the following perpetrators they believed to have committed the killings, Dimitri Nikolić, Momcilo Nikolić, Sveta Tasić and Sava Nikolić. He also found a guard rota referring to Sveta Tasić and Sava Nikolić dated 16 and 17 April 19999 and another document listing persons in three shifts including Sava Nikolić and Sveta Tasić (Lutfi Ramadani, Exhibit P306 (*Milutinović* transcript), T 4286-4287; Exhibit P312 (List of names of police in the village provided by the witness); Lutfi Ramadani, 1103; Exhibit P298 (documentary video about killings at Mala Kruša/Krushë-e-Vogël); Exhibit P299 (notebook with handwritten lists of names); Exhibit P300 (Handwritten list of names of Serbs who lived in Mala Kruša/Krushë-e-Vogël); John Sweeney, T 897-899, 902, 905-907, 911, 912, 967).

[1713] K25, Exhibit P340-A, p 7.

[1714] Lutfi Ramadani, Exhibit P306 (*Milutinović* transcript), T 4288; Lutfi Ramadani, T 1081, 1110; Mehmet Krasniqi, T 980, 1025.

[1715] Lutfi Ramadani, T 981.

[1716] Lutfi Ramadani, Exhibit P306 (*Milutinović* transcript), T 4287-4288; Exhibit P307; Lutfi Ramadani, T 1081, 1087-1088, 1110-1111.

[1717] Lutfi Ramadani, Exhibit P306 (*Milutinović* transcript), T 4290; Lutfi Ramadani, T 1076, 1112.

[1718] Mehmet Krasniqi, Exhibit P302; Mehmet Krasniqi, T 981-982.

[1719] Mehmet Krasniqi, T 982, 1036

[1720] Mehmet Krasniqi referred in his evidence to gun-fire from the village. However, during cross-examination he clarified this to mean "gun-fire coming from military machinery" such as those he saw attached to the APCs. The Chamber did not accept the Defence assertion that the witness was providing inconsistent evidence about the type

family stayed in the forest until the next morning. Other villagers with small children decided to leave the forest and take refuge with the others at Sedj Batusha's house.[1721]

484. At sometime between 0800 hours and 0900 hours on 25 March 1999, members of the PJP captured men in houses on the road between Prizren and Đakovica/Gjakovë. The first six captured Albanian men wore part KLA uniforms and all had some form of KLA insignia.[1722] The witness, K25, did not see that these captured men had any weapons. These six men were handed over to three local members of the MUP.[1723] About 15 minutes later, these six men were marched towards the Drini River by the local MUP officers and then taken into a house. A short while later automatic gunfire was heard from the house. Following this, two local MUP officers returned and three additional captured Kosovo Albanian men were handed over to them; one of the three men had KLA insignia on his clothes. These three men were taken to another house and shortly thereafter the local MUP officers returned without the captured men.[1724] Later during the day, K25 went to the house where the six men had been taken. There he saw dead bodies. He was unable to confirm whether these were the bodies of the six Albanian men; though he did think they were.[1725] He did not go to the other house where the other three men had been taken. However, later that day the house was burnt down.[1726] A PJP member reported these incidents to his commander; he was told to draft a report.[1727] The evidence does not indicate whether there was ever any inquiry into the incident. Nevertheless, the Chamber is satisfied that these nine men were killed that day by local MUP officers. While they were apparently KLA members, when they were killed they were unarmed captives of the MUP forces, and were unable to take any active part in the fighting. They were *hors de combat.* No further evidence was received about these nine victims nor are they charged as murder in the Indictment.

485. During the day of 25 March 1999, nine Kosovo Albanian villagers, who had refused to leave their homes, were burnt to death inside their own houses by Serbian forces. They were all civilians not taking part in any conflict. The remains of these nine people were found and identified by Lutfi Ramadani.[1728] The bodies were buried in a common grave at the time, but were later exhumed, identified and reburied in individual graves.[1729] The Chamber did not receive any forensic evidence

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of gun-fire, Lutfi Ramadani also provided evidence that the Serbs were shelling on 25 March 1999, Mehmet Krasniqi, D27, p 2; Mehmet Krasniqi, T 982-983, 1027, 1029-1037; *See* also Lutfi Ramadani, T 1082.

[1721] Mehmet Krasniqi, Exhibit P302; Mehmet Krasniqi, T983.

[1722] K25, Exhibit P340-A, p 13; K25, Exhibit P341-A (*Milošević* transcript), T 7837.

[1723] K25, Exhibit P340-A, p 14; K25, Exhibit P341-A (*Milošević* transcript), T 7837, 7838; K25, T 1609.

[1724] K25, Exhibit P340-A, p 14; K25, Exhibit P341-A (*Milošević* transcript), T 7838; K25, T 1610.

[1725] K25, Exhibit P340-A, p 14; K25, Exhibit P341-A (*Milošević* transcript), T 7838, 7873.

[1726] K25, Exhibit P340-A, p 14; K25, Exhibit P341-A (*Milošević* transcript), T 7838; K25, Exhibit P342 (*Milutinović* transcript), T 4702.

[1727] K25, Exhibit P342 (*Milutinović* transcript), T 4688.

[1728] Exhibit P312; Lutfi Ramadani, T 1135.

[1729] Lutfi Ramadani, T 1114, 1129, 1132.

about these nine victims. Although only three of these victims, Sali Shehu, Demir Rashkaj and Nexhat Shehu, are listed in Schedule C of the Indictment, the Chamber accepts from the evidence that all nine people were burnt to death by Serbian forces that day in the village. The names of the six victims not listed by name in the Schedule of the Indictment are: Dervish Shehu, Raif Shehu, Isnija Rashkaj, Reshat Shehu, Sejdi Emerllahu and Nazmi Rashkaj. These nine people were killed in their homes during the course of the attack in Mala Kruša/Krushë-e-Vogël and charged as murder in the Indictment. The Chamber recalls that these victims were all Kosovo Albanians and it is further accepted that this is the reason that they were targeted and killed. No evidence suggests that they were armed at the time or participating in the conflict. The Chamber accepts that these nine villagers were burnt to death in their houses by Serbian forces during their attack on the village of Mala Kruša/Krushë-e-Vogël on 25 March 1999.

486. At about 0800 hours on 26 March 1999, Serbian forces began shelling and shooting from the Prizren-Đakovica/Gjakovë road towards Mala Kruša/Krushë-e-Vogël.[1730] At this time, the VJ was positioned along the Prizren-Đakovica/Gjakovë road and on the hills. They did not come into the village.[1731] Green VJ tanks climbed the hill behind Mala Kruša/Krushë-e-Vogël and then spread out.[1732] In the village members of the MUP, with the assistance of local Serbs, some in police uniforms and others in civilian clothes, were firing their weapons and looting valuables from Albanian houses in the village.[1733] After houses were looted they were set on fire.[1734] In due course police approached Sedje Batusha's house where many Albanian villagers had gathered. These police were dressed in blue uniforms and they had automatic weapons, pistols and knives.[1735] As discussed earlier in this Judgement, this description is consistent with the uniforms worn by MUP forces, including members of the PJP and local reservists.[1736] As the MUP forces approached the house, a villager, Hysen Ramadani, was shot in his courtyard by police.[1737] There is no evidence as to what happened to his body. The evidence does not indicate that he was armed or dressed in uniform. It is accepted that he was targeted and killed because he was a Kosovo Albanian. Although the killing of Hysen Ramadani is not specifically charged in the Indictment, his name is listed as a victim in Schedule C of the Indictment.[1738] The Chamber finds, based on the specific eyewitness evidence of Lufti Ramadani, that Hysen Ramadani died as a result of being shot by MUP forces in the course of the attack on Mala Kruša/Krushë-e-Vogël on 26 March 1999.

[1730] Lutfi Ramadani, T 1082.
[1731] Lutfi Ramadani, Exhibit P306 (*Milutinović* transcript), T 4334; Lutfi Ramadani, T 1085.
[1732] Mehmet Krasniqi, Exhibit D27, p 2.
[1733] Lutfi Ramadani, Exhibit P306 (*Milutinović* transcript), T 4290; Lutfi Ramadani, T 1082; Mehmet Krasniqi, T 1082.
[1734] Mehmet Krasniqi, Exhibit P306 (*Milutinović* transcript), T 4290-4291; Mehmet Krasniqi, T 1082.
[1735] Lutfi Ramadani, T 1082-1083.
[1736] *See supra,* paras 53-54, 91.
[1737] Lutfi Ramadani, Exhibit P306 (*Milutinović* transcript), T 4291-4292; Lutfi Ramadani, T 1084.

487. Following the shooting of Hysen Ramadani, the police continued approaching Sedje Batusha's house, setting fire to other houses along the way. They then occupied two houses near to that of Sedje Batusha and aimed their weapons at the group of villagers in Sedje Batusha's house. Aziz Shebu, an elderly villager, was ordered by the police to go and gather the people who had fled to the nearby forest.[1739]

488. Aziz Shedu went to the forest and told the villagers there, including Mehmet Krasniqi and his family, that the police had ordered them to return to the village.[1740] The villagers left the forest and went to the courtyard of Sedje Batusha's house. At approximately 0900 hours, the villagers gathered in the courtyard were ordered out onto the road.[1741] On the road the police separated the men from the women and children.[1742] These police wore dark blue camouflage uniforms with white and yellow bands on their upper arms.[1743] As the men and women were being separated, a policeman Đorđe Čvetković, ordered that boys 13 years and older were to be brought to the men's side.[1744] Lutfi Ramadani's 14 year old son was one of the boys brought to the men's group.[1745] When some of the women initially refused to let their children go, police threatened to kill them. Police then told the women that they had only two options, either to drown themselves in the Drini River or go to Albania.[1746] No woman took the first option. The women and children then left in a column. They were ordered to go to Albania.[1747] The police then ordered an elderly man, Adem Asllani, to collect all the wallets and documents from the male villagers and place them in a pile at the feet of one of the police.[1748] The male villagers were then ordered by the police to form three columns, put their hands above their heads and to walk along the road to Batusha's barn.[1749] As

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[1738] Hysen Ramadani was also known by the name of Hysen Kanjusha. Lutfi Ramadani, Exhibit P306 (*Milutinović* transcript), T 4291-4292; Lutfi Ramadani, T 1084.

[1739] Lutfi Ramadani, Exhibit P306 (*Milutinović* transcript), T 4292; Lutfi Ramadani, T 1084.

[1740] Mehmet Krasniqi, T 983-984, 1040-1041, 1068-1069.

[1741] Lutfi Ramadani, Exhibit P306 (*Milutinović* transcript), T 4292; Lutfi Ramadani, T 1084; Exhibit P302; Mehmet Krasniqi, T 984, 985, 1044, 1046.

[1742] Exhibit P302 (photo map with the marking number "3" to indicate the road where the villagers were taken); Lutfi Ramadani, Exhibit P306 (*Milutinović* transcript), T 4292; Lutfi Ramadani, T 1084; Mehmet Krasniqi, T 984, 985, 1044, 1046.

[1743] Mehmet Krasniqi, T 984, 985, 1044, 1046.

[1744] Lutfi Ramadani, Exhibit P306 (*Milutinović* transcript), T 4293.

[1745] The men ranged in age from 13 to 75 years old. Lutfi Ramadani, Exhibit P306 (*Milutinović* transcript), T 4296; Lutfi Ramadani, T 1087.

[1746] Lutfi Ramadani, P306 (*Milutinović* transcript), T 4293, 4294; Lutfi Ramadani, T 1086; Mehmet Krasniqi, T 984, 1045.

[1747] The Chamber also heard evidence that at this time, a group of men in uniforms with black masks arrived and asked for keys. They then left shortly after without beating any of the group. Mehmet Krasniqi, T 984-985, 1085.

[1748] Mehmet Krasniqi, T 985, 1045; Lutfi Ramadani, Exhibit P306 (*Milutinović* transcript), T 4295; Lutfi Ramadani, T 1086.

[1749] Lutfi Ramadani refers to it as Qazim Batusha's barn, however, Mehmet Krasniqi refers to it as Rasim Batusha's barn. This discrepancy in the first name of the owner of the barn does not affect the Chamber's finding that the group of men were forced to walk along the road to the barn, Mehmet Krasniqi, T 984, 1045; Lutfi Ramadani, Exhibit P306 (*Milutinović* transcript), T 4295; Exhibit P307; Lutfi Ramadani, T 1086, 1089.

discussed later in this Judgement, the women and children were forcibly transferred from Mala Kruša/Krushë-e-Vogël.[1750]

489. As the group of men were walking along the road, Mehmet Krasniqi recognised three Serbs Dimitrije Nikolić, Zvesdan Nikolić and Sava Nikolić whom he had known since he was a child.[1751] They were wearing police uniforms and were armed with Kalashnikovs. They came from the lower part of the village to the junction leading to the Batusha barn.[1752] As the group of men approached the barn, Lutfi Ramadani also recognised Dimitrije Nikolić, Ranko Nikolić, Momicilo Nikolić, Sava Nikolić, Zlatko Djordević, Ranko Petković, Sveta Tasić and Djorde Cvetković.[1753] These were local villagers who were members of the regular police. Some were dressed in uniforms, while others were in civilian clothes with red and blue armbands.[1754]

490. At about 1100 hours, when the group of male villagers arrived at the Batusha barn, they were forced by the police into two rooms and the corridor of the barn.[1755] The Chamber finds that approximately 114 men and boys were forced into the Batusha barn.[1756] Mehmet Krasniqi went into one of the rooms. It was about 16 square metres and had two windows.[1757] Lutfi Ramadani stood in the corridor.[1758] Sahit Hadjarim, a villager who was disabled and sitting in his wheelchair, was used by the Serbian forces to block the entrance door of the corridor.[1759] When all the village men and boys were inside the barn, the police positioned themselves in the doorways and the windows and shot them with automatic rifles.[1760] Some of the men were killed instantly, while others were screaming. When the shooting stopped, Shefqat Shehu looked out of a window and was then shot. Mehmet Krasniqi could not see by whom he was shot. He could see a machine gun on a box at one of the windows with the barrel of the gun reaching inside the room.[1761] After the

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[1750] *See infra,* para 1620.
[1751] Exhibit P302; Mehmet Krasniqi, 994-996; Exhibit P1288, p 2.
[1752] Exhibit P302; Mehmet Krasniqi, T 994-996, 1051.
[1753] Exhibit P1288 lists the following people that Mehmet Krasniqi saw who were known to have served in the Serbian forces in Kosovo, Dimitrije Nikolić, Ranko Nikolić, Momicilo Nikolić, Sava Nikolić, Zlatko Djordević and Sveta Tasić. He saw these people as he was being lead into the barn on 25 March 1999. Lutfi Ramadani, T 1102-1103; Exhibit P312, p 4; Exhibit P1288, p 2.
[1754] Lutfi Ramadani, T 1103.
[1755] Mehmet Krasniqi, T 986, 996-997, 1051.
[1756] Mehmet Krasniqi gave evidence that the number was about 109 men (Mehmet Krasniqi, T 986). John Sweeney had put the number at 109 of whom six survived from the inquiries he made (John Sweeney, T 970). However, two lists in evidence prepared by survivors, Mehmet Krasniqi and Lutfi Ramadani, satisfies they Chamber that approximately 114 men and boys were forced into the barn. This number includes the 10 men who managed to escape the barn when it was on fire: Adnan Shehu and Refki Rashkaj (who were shot later by the stream), Hysni Hajdari (later found shot in the mountains), Sefer Batusha, Lutfi Ramadani, Agim Asllani, Qamil Shehu, Bajram Zylfiu, Mehmet Krsniqi and Petrit Rashkaj (Mehmet Krasniqi, T 1003-1004, 1007-1010; *See*, Mehmet Krasniqi, Exhibit P312; *See* also, Lutfi Ramadani, Exhibit P305).
[1757] Mehmet Krasniqi, T986, 1052.
[1758] Exhibit P309; Exhibit P310; Lutfi Ramadani, T 1093-1095, T 1131.
[1759] Lutfi Ramadani, T 1096-1097; Mehmet Krasniqi, T 986-987, 1052; Exhibit P311.
[1760] Mehmet Krasniqi, T 986; Lutfi Ramadani, Exhibit P306 (*Milutinović* transcript), T 4328.
[1761] Mehmet Krasniqi, T 987-988.

initial shooting had finished the police came into the barn and any villager who lifted their head, was shot with a pistol.[1762] The police then poured what was apparently an incendiary liquid over the bodies in the room, maize was placed on top of them, and the barn was set on fire.[1763]

491. Lutfi Ramadani, who was in the corridor of the barn, was still alive. As the barn was on fire, his hands and clothes started to burn. He decided to try to leave the barn. He had to move Sait Hajdari's wheelchair that was blocking the exit.[1764] He managed to leave the barn without being seen. As he did he recognised local Serbs from the village with the police. These included Bosko Stanković, Stanko Nikolić, Rade Nikolić and Bosko Cvetković.[1765] Along with nine other people who were in the barn, Lutfi Ramadani escaped from the inferno.[1766] He took cover close by for a while and then headed to the mountains.[1767] Two of the ten people who fled the Batusha barn were Refki Rashkaj and Adnan Shehu. They headed to the stream close by the village but were seen by Serbian forces. The two youths were asked to put their hands above their heads by the Serbian forces and then they were shot.[1768] The evidence does not identify who shot these men.[1769] These two men had previously been detained by the MUP forces and forced into the Batusha barn; they were unarmed and not taking part in the conflict.[1770] Both of these men were Kosovo Albanians and the Chamber is satisfied that this was the reason they were killed. The bodies of these two youths were later exhumed by the British forensic team in July 1999,[1771] but the autopsy reports were inconclusive as to the cause of death because of the state of the remains. Nevertheless, the Chamber finds from the circumstances that the only reasonable inference is that Refki Rashkaj and

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[1762] Lutfi Ramadani, Exhibit P306 (*Milutinović* transcript), T 4238; Lutfi Ramadani, T 1092.

[1763] Mehmet Krasniqi, T 987-988, 1055; Lutfi Ramadani, Exhibit P306 (*Milutinović* transcript), T 4328; Exhibit P304; Exhibit P310; Lutfi Ramadani, T 1092-1093.

[1764] Lutfi Ramadani, Exhibit P306 (*Milutinović* transcript), T 4230, 4299-4300, 4313; Lutfi Ramadani, T 1097.

[1765] Lutfi Ramadani, Exhibit P306 (*Milutinović* transcript), T 4301.

[1766] The Chamber notes that a further two people, who were not identified by Lutfi Ramadani, also escaped from the barn but were identified by Mehmet Krasniqi as discussed below, *see infra,* para 493.

[1767] Lutfi Ramadani stated that he escaped with 6 other people. However the list he provided did not include the two young men, Refki Rashkaj and Adnan Shehu, who were later found dead by the stream. Lutfi Ramadani, Exhibit P306 (*Milutinović* transcript), T4300-4302; Lutfi Ramadani, T 1097-1098.

[1768] Mehmet Krasniqi testified that at about 1800 hours, when it was dark he saw, Refki Rashkaj and Adnan Shehu, in the forest close by the stream (Mehmet Krasniqi, T 991, 1058). Later that night he came across their dead bodies. He did not know how they were killed (Mehmet Krasniqi, T 1058-1060). As it was dark when Mehmet Krasniqi saw these two young men and because of the traumatic circumstances, the Chamber will rely on the evidence of Lutfi Ramadani who left the Batusha barn with these two men. Mehmet Krasniqi's evidence, that he saw the dead bodies of these two men at the stream, corresponds with the Chamber's finding they were killed at the stream. Lutfi Ramadani, T 1097-1098.

[1769] No details were provided as to who buried these bodies. Lutfi Ramadani however did recover their bodies after the war. Lutfi Ramadani, T 1097-1098.

[1770] *See,* Exhibit P477.

[1771] *See infra,* para 1391; Lutfi Ramadani, T 1097-1098; Exhibit P1160, K0199272-K0199273, K0199309-K0199309, K0199310-K0199310.

Adnan Shehu died on 26 March 1999 as a result of being shot by MUP forces present in the area.[1772]

492. Lutfi Ramadani reached the mountain from where he could see the Serbian forces in the village. He saw that the army vehicles stayed in Mala Kruša/Krushë-e-Vogël for another three days. He recalled the smell of dead bodies and smoke from the burning buildings from this time.[1773] After some 10 days Lutfi Ramadani compiled a list of the persons he knew to have been killed in the barn.[1774] He stayed in the Mala Kruša/Krushë-e-Vogël area for about five weeks and then left for Albania. On arrival in Albania he finalized the list of persons killed and provided it to an investigator.[1775] In June 1999, the remains of 11 male villagers who were among those killed in the barn, were retrieved from the Drini River and identified in Priština/Prishtinë.[1776]

493. When the barn was set on fire, Mehmet Krasniqi, who was also still alive in the barn, found he could no longer breathe. He also managed to get out of the room.[1777] As he moved from under a body on top of him, his face and hands caught fire.[1778] He eventually managed to flee from the barn through one of the windows, without being seen, and went to his uncle's house that was close by.[1779] From the second floor of his uncle's house, that same day Mehmet Krasniqi saw two Serbian policemen and three Serbian civilians, whom he recognised as the two sons of Krsto Nikolić together with Blagoje Nikolić, try to steal his uncle's cars. He recognised one of the police he knew well as a Serbian from his village. He was Sveta Tasić.[1780] From his uncle's house, he also saw two young Serb villagers, Slavisa Petković and Ljubiša Stanović, taking more maize to the barn where the bodies were burning.[1781] He heard one of the police say to these two men that if they saw anyone moving that they should not feel sorry for them; they should simply kill them.[1782] At about 1800 hours, when it was dark, Mehmet Krasniqi left for the mountains. In the mountains he saw the body of Hysni Hajdari, who had also escaped from the Batusha barn. The witness saw he had sustained a gun shot wound.[1783] Hysni Hajdari had previously been detained by MUP forces in the Batusha barn and was unarmed at the time. It is accepted that Hysni Hajdari was targeted

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[1772] *See infra,* para 1399.
[1773] Lutfi Ramadani, Exhibit P306 (*Milutinović* transcript), T 4304.
[1774] Lutfi Ramadani, T 1130.
[1775] Lutfi Ramadani, Exhibit P306 (*Milutinović* transcript), T 4285, 4303; Exhibit P312; Lutfi Ramadani, T 1092, 1098-1104, 1129.
[1776] The identification of these 11 villagers was not provided to the Chamber. Lutfi Ramadani, T 1135-1136, 1150.
[1777] Mehmet Krasniqi could not remember the exact time he escaped. Mehmet Krasniqi, T 989, 997.
[1778] Mehmet Krasniqi, T 989.
[1779] Exhibit P302; Mehmet Krasniqi, T 989.
[1780] Mehmet Krasniqi, T 990.
[1781] Mehmet Krasniqi, T 991, 1057-1058.
[1782] Mehmet Krasniqi, T 991.
[1783] Mehmet Krasniqi, T 1009; Exhibit P305, p 14.

because he was of Albanian ethnicity. His remains have never been recovered.[1784] In the circumstances, the Chamber finds that the only reasonable inference is that Hysni Hajdari died as a result of gunshot wounds inflicted by MUP forces whilst he was in the Batusha barn, or as a result of being shot by MUP forces, who were in the area, as he attempted to escape the Batusha barn when it was set on fire by MUP forces.

494. Mehmet Krasniqi positioned himself in the forest. From there he saw that all the houses in the village, except the Serb houses, were on fire.[1785] He remained in the forest for another 3 days until he left for Nagovac/Nagavac.[1786] On 4 April 1999, Mehmet Krasniqi also provided ICTY investigators with a list of names of those who he believed had been killed on 26 March 1999.[1787]

495. The two lists of the Kosovo Albanian men and boys who were last seen alive in the Batusha barn were compared by the Chamber. Based on this information, it was established that at least 104 Kosovo Albanian men and boys were last seen alive in the Batusha barn on 26 March 1999.[1788] None of the remains of any of these 104 people has ever been recovered; as discussed later in this Judgement this is most probabably a result of the use of explosives to destroy the Batusha barn. Nevertheless, the Chamber is satisfied from circumstances that the only reasonable inference is that these 104 Kosovo Albanian men and boys were killed by MUP forces.[1789] They died as a result of gun shot wounds or being burnt to death. None of them were armed or participating in the conflict at the time of their death. Based on the totality of the evidence it is accepted by the Chamber that these men and boys were targeted and killed because they were Kosovo Albanians. Schedule C of the Indictment lists 92 of these victims by name, the evidence has provided the Chamber with the names of a further 12 Kosovo Albanian men and boys who were also killed in the Batusha barn. Based on the analysis of evidence the Chamber is satisfied that at least 104 Kosovo Albanian men and young boys known by name were killed by MUP forces at the Batusha barn.

The names of these 92 victims, listed by name in the Schedule of the Indictment, killed in the Batusha barn on 26 March 1999 by Serbian forces are:

[1784] *See,* Exhibit P477.
[1785] Mehmet Krasniqi, T 991.
[1786] Mehmet Krasniqi, T 992.
[1787] The witness later explained that when he returned to Mala Kruša/Krushë-e-Vogël on 26 June 1999 he found out that some of the people he had placed on the list had not been killed in the barn; these were Sefer Batusha, Lutfi Ramadani, Agim Asllani, Qamil Shehu, Bajram Zylfiu and Petrit Rashkaj (Mehmet Krasniqi, T 1003-1004, 1007-1010; Exhibit P305). These are not included in the Chamber's murder findings.
[1788] The two young men, Adnan Shehu and Refki Rashkaj, who were shot later by the stream have not been included in those who were killed by MUP forces in the Batusha barn and died as a result of gunshot wounds or being burnt to death. The number of those victims in the Batusha barn also does not include Sefer Batusha, Lutfi Ramadani, Agim Asllani, Qamil Shehu, Bajram Zylfiu and Petrit Rashkaj. (Mehmet Krasniqi, T 1003-1004, 1007-1010; Exhibit P305; *See,* Exhibit P477).
[1789] *See infra,* para 1401.

Bali Avdyl; Enver Avdly; Zaim Batuhsa; Feim Batusha; Son of Zaim Batusha, age 20; Ahmet Batusha: Burim Batusha; Lirim Batusha; Milaim Batusha; Haxhi Batusha; Sedji Batusha; Amrush Batusha; Osman Batusha; Skifer Batusha; Avdi Batusha; Enver Batusha; Asllan Batusha; Beqir Batusha; Njazi Batusha; Muharrem Batusha; Sulejman Batusha; Bekim Batusha; Murat Ramadani; Selajdin Ramadani; Afrim Ramadani; Bajram Ramdadi; Feim Asllani; Adem Asllani; Asim Asllani; Muharremi Asllani; Nisret Asllani; Nexhat Asllani; Perparim Asllani; Limon Limoni; Avydl Limoni; Nehbi Limoni; Luan Limoni; Kadri Rashkaj; Halim Hajdari; Selajdin Hajdari; Nazim Hajdari; Rasim Hajdari; Vesel Hajdari; Marsel Hajdari; Sahit Hajdari; Shani Hajdari; Halil Hajdari; Qamil Hajdari; Zenun Hajdari; Abaz Hajdari; Abedin Hajdari; Ramadan Ramadani; Asllan Ramadani; Sabit Ramadani; Din Shehu; Sefer Shehu; Fadil Shehu; Xhafer Shehu; Xhelal Shehu; Vesel Shehu; Destan Shehu; Shefqet Shehu; Haziz Shehu; Sami Shehu; Fnu Shehu (Son of Haziz Shehu, age 20); Myftar Shehu; Nehat Shehu; Mehmet Shehu; Shani Shehu; Veli Shehu; Haxhi Shehu; Arben Shehu; Ismail Shehu; Arif Shehu; Ismet Shehu; Mentor Shehu; Bekim Shehu; Sahit Shehu; Xhavit Shehu; Dritan Shehu; Nahit Shehu; Sinan Shehu; Fnu Shehu (Son of Sinan Shehu, age 18); Burim Shehu; Flamur Shehu; Hysen Zylfiu; Afrim Zylfiu; Njazim Zylfiu; Halim Zylfiu; Xhelal Zylfiu (Son of Halim Zylfiu); Hamdi Zylfiu; Hamit Zylfiu.[1790]

Based on the totality of the evidence, the following 12 victims, not listed by name in the Schedule of the Indictment, were also identified as killed in the Batusha barn on 26 March 1999 by Serbian forces:

Islam Batusha; Syle Batusha; Visar Batusha; Mehmet Berisha; Anton Prenkaj; Nikolle Prenkaj; Ajvaz Shehu; Kujtim Shehu; Nuredin Shehu; Selami Shehu; Visar Shehu; Cene Zylfiu.

496. After the NATO bombing campaign, witnesses were able to return to the village. They visited the site of the Batusha barn. It had been destroyed by explosives.[1791] All that was left was a concrete wall. As a result of the explosion houses nearby were also damaged.[1792] There remained two craters filled with water and grass.[1793] John Sweeney, a journalist, interviewed survivors and visited the site of the Batusha barn after the NATO campaign. From what he saw and heard he

[1790] Exhibit P305; Exhibit P312. The Chamber notes that the Exhibit P312, p 3 referred to the following four victims: Halim Qollaku; Hamdi Qollaku; Hamit Qollaku; and Xhelal Qolluku. These four victims were named and listed in Exhibit P477 and Exhibit P305 as Halim Zylfiu; Hamdi Zylfiu; Hamit Zylfiu; and Xhelal Zylfiu. The age of each of these four victims very closely corresponds. The Chamber does not find the difference in the spelling of these four victims surname effects its finding that Halim, Hamdi, Hamit and Xhelal Zylfiu were killed in the Batusha barn. The variation in the spelling is noted in the Victim Chart related to Mala Kruša/Krushë-e-Vogël and annexed to this Judgement.

[1791] Lutfi Ramadani, Exhibit P306 (*Milutinović* transcript), T 4311; Exhibit P309; Exhibit P310; Lutfi Ramadani, T 1131, 1093-1095; Mehmet Krasniqi, T 1005; John Sweeney, T 893, 947.

[1792] Lutfi Ramadani, Exhibit P306 (*Milutinović* transcript), T 4311; Exhibit P309; Exhibit P310; Lutfi Ramadani, T.1131, 1093-1095; John Sweeney, T 893.

concluded that dynamite had been used to blow up the barn and that grenades or mortar grenades caused the two craters.[1794] At the site where the barn had been, he saw a boot and two bones although it was not determined whether the bones were human or animal.[1795] Villagers said they had found bones, a pair of burnt shoes and the wheelchair of Sait Hajdari.[1796] A lorry was found in the vicinity of the former barn at the Drini River, which had blood on the side of it. However, human remains were not found in the river.[1797] ICTY investigators arrived in Mala Kruša/Krushë-e-Vogël in early July 1999. They found the remains of seven other people who had been killed at another site in the village.[1798]

497. When Lutfi Ramadani returned to Mala Kruša/Krushë-e-Vogël sometime around 15 June 1999, he found that all the Albanian houses had been burnt but the Serbian and Roma houses were still intact.[1799] John Sweeney confirmed this and also reported that in June 1999 all the Albanian homes had been gutted or were without roofs, and were burnt.[1800]

498. The Chamber has not received any evidence of Serbian authorities conducting investigations into these killings or events in the village of Mala Kruša/Krushë-e-Vogël.[1801]

(b) Displacement between 24 and 27 March 1999

499. One of the tasks of the VJ and MUP in the operation in Mala Kruša/Krushë-e-Vogël and the nearby village of Velika Kruša/Krushë-e-Madhe, was to "mop-up" the area and "gather up the civilian population as they came out of the area of operation" to place the displaced persons behind the line of blockade.[1802] K25 explained that his PJP detachment handed over about 5,000 civilians from the villages to the local MUP. It was thought that KLA were mixed in with the civilian population and the local MUP were expected to know who the KLA members were.[1803] K25's unit acted on instructions given by SUP Prizren to take all the displaced persons to the railway station in Mala Kruša/Krushë-e-Vogël.[1804] Hence, between 24 and 27 March 1999, a great number of

[1793] Lutfi Ramadani, Exhibit P306 (*Milutinović* transcript), T 4311; Exhibit P310; Lutfi Ramadani, T 1131, 1093-1095; Exhibit P304; Mehmet Krasniqi, T 1005-1006; John Sweeney, T 893.
[1794] John Sweeney, T 893, 947.
[1795] John Sweeney, T 893.
[1796] Mehmet Krasniqi, T 1004, 1005.
[1797] John Sweeney, T 907-908.
[1798] The identification of these seven people was not provided to the Chamber. Exhibit P298; John Sweeney, T 908-909.
[1799] The Defence contended that the houses were intact and not burnt to the ground (Exhibit D30). However, the witness explained that after the war the houses were repaired and the photo was taken after this. It was confirmed that the photo had been taken in September 2001 (Lutfi Ramadani, T 1129, 1169-1174; John Sweeney, T 891).
[1800] John Sweeney, T 891.
[1801] *See infra,* para 2097.
[1802] K25, Exhibit P340-A, p 8; K25, Exhibit P341-A (*Milošević* transcript), T 7832.
[1803] K25, Exhibit P340-A, p 9.
[1804] K25, Exhibit P341-A (*Milošević* transcript), T 7836; K25, T 1611.

displaced persons passed through the Mala Kruša/Krushë-e-Vogël railway station and left for Prizren.[1805] However, at the railway station local MUP separated the men from the women and children displaced persons. Transport was provided by SUP Prizren for the women and children. The men had to walk.[1806] Most of the drivers of the transport vehicles wore blue MUP uniforms although some did not wear uniform.[1807]

500. It was K25's evidence that the civilians who were leaving gave various stories how they came to be displaced, for example, that Serbian forces ordered them to leave, that they were attacked by the KLA, or that they were being bombed.[1808] The Defence goes further and submits that the villagers were evacuated from Mala Kruša/Krushë-e-Vogël "for their own safety and security" because of the conflict between the KLA and Serbian forces.[1809] However, apart from isolated incidents in the course of the major operation of the Serbian forces in the village and surrounding areas, the evidence does not provide a basis for a finding that KLA and Serbian forces were engaged in heavy or extensive conflict in the area at that time such that the safety of the civilian population necessitated its evacuation. On the contrary, the evidence is only consistent with the view of the Chamber that the female and young Albanian population left the village because they were ordered and forced to do so by Serbian forces who, at the time, were ruthlessly engaged in the killing of the male villagers and all villagers who did not obey directions of Serbian forces to leave the village. The Serbian forces were also burning all houses in the villages of Kosovo Albanians but not of Serbian villagers. As discussed in more detail later in this Judgement, the Chamber accepts that these Kosovo Albanians were forcibly transferred from Mala Kruša/Krushë-e-Vogël by Serbian forces between 24 and 27 March 1999.[1810]

(c) Serbian forces in the village

501. The evidence of the eyewitnesses about the coordinated joint involvement of the VJ and MUP forces in and around Mala Kruša/Krushë-e-Vogël is confirmed by Serbian records. Combat Group One of the VJ 549th Motorised Brigade, in co-operation with the 37th Niš PJP Detachment of the MUP together with two other platoons of MUP forces were tasked with "energetically" attacking and destroying major KLA targets in Mala Kruša/Krushë-e-Vogël.[1811] The 23rd PJP detachment was also involved in the operation in Mala Kruša/Krushë-e-Vogël.[1812] During the

[1805] K25, Exhibit P340-A, p 11; K25, T 1611.
[1806] K25, Exhibti P340-A, pp 9, 11, 12; K25, Exhibit P341-A (*Milošević* transcript), T 7826-7827, 7834-7835; K25, T 1611.
[1807] K25, Exhibit P340-A, p 12; K25, Exhibit P341-A (*Milošević* transcript), T 7836; K25, T 1613.
[1808] K25, Exhibit P342 (*Milutinović* transcript), T 4757.
[1809] Defence Final Brief, para 741; K25, Exhibit P341-A (*Milutinović* transcript), T 7825.
[1810] *See infra,* para 1620.
[1811] Exhibit P350; Exhibit P1316, p 4; Exhibit P1317, p 3; K25, T 1604-1606.
[1812] Exhibit P1317, p 4.

operation in Mala Kruša/Krushë-e-Vogël, four PJP companies from the Đakovica/Gjakovë SUP were also placed under the command of the Prizren SUP.[1813] The Chamber accepts the eyewitness accounts that local Serbs, some in police uniforms, were serving as reserve members of the MUP[1814] and that they were involved with other MUP units in the Serbian operation in Mala Kruša/Krushë-e-Vogël, with the support of the VJ.

3. Velika Kruša/Krushë-e-Madhe and Nogavac/Nagavc

(a) Velika Kruša/Krushë-e-Madhe

502. As a result of an influx of displaced persons from surrounding villages, the population of Velika Kruša/Krushë-e-Madhe increased to about 6,000 inhabitants by 25 March 1999. They were housed in about 500 houses.[1815] By that date the inhabitants were all Albanian, the few Serbian families having moved to Serbia. The village is located in the south-west region of the municipality of Orahovac/Rahovec; it is the neighbouring village of Mala Kruša/Krushë-e-Vogël and the surrounding villages of Celina/Celinë and Nogavac/Nagavc.

(b) Events in Velika Kruša/Krushë-e-Madhe on 25 March 1999

503. At the same time as Mala Kruša/Krushë-e-Vogël was surrounded by Serbian VJ and MUP forces at 0400 hours on 25 March 1999, the neighbouring village of Velika Kruša/Krushë-e-Madhe was also surrounded by Serbian forces.[1816] Serbian military vehicles, including tanks, APCs, Pragas and other escort vehicles moved along the main road that links Prizren, Đakovica/Gjakovë and Orahovac/Rahovec. This road passes through the middle of the village.[1817] The tanks stationed themselves at about 500 metre intervals in the area of the village.[1818] Because of these events about 3,000 to 4,000 people from Velika Kruša/Krushë-e-Madhe fled out of fear to the hills above the village and to some surrounding valleys.[1819]

504. Ali Hoti was one of the local villagers who decided to flee from Velika Kruša/Krushë-e-Madhe. He positioned himself on a hill above the village from where he observed two buses arrive carrying Serbian forces. The buses came from the direction of Prizren and stopped at the entrance of Velika Kruša/Krushë-e-Madhe.[1820] The men who arrived were wearing green camouflage

[1813] K25, Exhibit P340-A, pp 20-21.
[1814] K25, Exhibit P340-A, p 9.
[1815] Ali Hoti, Exhibit P628 (*Milutinović* transcript), T 4140.
[1816] Ali Hoti, Exhibit P628 (*Milutinović* transcript), T 4140-4141, 4163.
[1817] Ali Hoti, Exhibit P628 (*Milutinović* transcript), T 4141-4142.
[1818] Ali Hoti, Exhibit P628 (*Milutinović* transcript), T 4141, 4163-4164.
[1819] Ali Hoti, Exhibit P628 (*Milutinović* transcript), T 4142-4143, 4196.
[1820] Ali Hoti, Exhibit P628 (*Milutinović* transcript), T 4166, 4197.

uniforms. The men were led by one Boski, who was a Serb civilian, who used to live in Velika Kruša/Krushë-e-Madhe.[1821] The tanks remained in their positions.[1822] About an hour after they had arrived, Boski, and the men he led, entered the village and began setting fire to the houses and looting.[1823]

505. The group of residents who had fled the village was so large that they separated into two groups. One group went to Velika Kruša/Krushë-e-Madhe, and the other group, including Ali Hoti and his family, went in the direction of Nogavac/Nagavc to the valley of Cili.[1824] Gathered in the valley Ali Hoti saw what he estimated as about 20,000 people from other villages in the area including Mala Hoca/Hoçë-e-Vogël, Brestovac/Brestoc, Zocište/Zoqishtë, Opteruša/Opterushë and Celina/Celinë.[1825] From there, he was able to see Serbian forces pass by on a secondary road in the direction of Velika Kruša/Krushë-e-Madhe. During the day, he could see Velika Kruša/Krushë-e-Madhe burning and smoke coming from the houses. He also saw tanks still stationed in the village.[1826] Later that night, the Serbian forces in the area moved towards Nogavac/Nagavc on a secondary road and continually shot their weapons in the air, so reinforcing the significance of their continued presence.[1827]

506. Ali Hoti and his family stayed in the valley until the morning of 26 March 1999, when he saw a convoy of villagers pass by, led by an old man, who was waving a white flag. The old man told Hoti someone had told them all to go to Albania.[1828] The old man did not even stop and appeared to Hoti to be frightened. The group of people located in the valley were also frightened. Ali Hoti, with his family and others, decided to join the passing convoy and go to Albania.[1829] This convoy of people numbered about 20,000 people. When they reached the main road that goes either in the direction of Velika Kruša/Krushë-e-Madhe or Nogavac/Nagavc, police were there and told them they could not pass through Velika Kruša/Krushë-e-Madhe to the border of Albania because the village was on fire. They were told by the police to go to the centre of Nogavac/Nagavc and gather in the schoolyard.[1830] They did so, but although they waited for a time in the schoolyard nothing happened. The members of the convoy, including Ali Hoti and his

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[1821] Ali Hoti, Exhibit P628 (*Milutinović* transcript), T 4166-4168, 4196-4197.
[1822] Ali Hoti, Exhibit P628 (*Milutinović* transcript), T 4169.
[1823] Ali Hoti, Exhibit P628 (*Milutinović* transcript), T 4166-4167, 4197.
[1824] Ali Hoti, Exhibit P628 (*Milutinović* transcript), T 4141-4143, 4167-4177, 4196.
[1825] Ali Hoti, Exhibit P628 (*Milutinović* transcript), T 4143, Exhibit P629 (map with villages that the displaced people came from circled by the witness). The Chamber did not receive any evidence about what happened to the convoy of people that headed to Velika Kruša/Krushë-e-Madhe.
[1826] Ali Hoti, Exhibit P628 (*Milutinović* transcript), T 4143-4144, 4169.
[1827] Ali Hoti, Exhibit P628 (*Milutinović* transcript), T 4144.
[1828] Ali Hoti, Exhibit P628 (*Milutinović* transcript), T 4144-4145.
[1829] Ali Hoti, Exhibit P628 (*Milutinović* transcript), T 4144-4145.
[1830] Ali Hoti, Exhibit P628 (*Milutinović* transcript), T 4144-4145, 4169.

family, found shelter in local houses and remained in Nogavac/Nagavc over the following days. As discussed in more detail later in this Judgement, the Chamber accepts that the offence of forcible transfer has been established with respect to Velika Kruša/Krushë-e-Madhe.[1831]

(c) Destruction of the mosque in Velika Kruša/Krushë-e-Madhe

507. The Chamber heard indirect evidence that the mosque in Velika Kruša/Krushë-e-Madhe was damaged.[1832] No evidence was led which detailed the circumstances of its damage or the forces responsible as charged in the Indictment.[1833] Hence, as discussed in more detail later in this Judgement, the evidence does not enable a finding to be made concerning this allegation.[1834]

(d) Events in Nogavac/Nagavc on 28 and 29 March 1999

508. On 28 March 1999, Ali Hoti was approached on the street in Nogavac/Nagavc by armed Serb men dressed in a blue or black camouflage uniform. At their direction Ali Hoti handed over his identification and money. Two more armed and uniformed men stood by watching.[1835] At their direction, Ali Hoti then took them to the room which he was sharing with some 80 other villagers and, as directed by the Serbian men, he took all the money of the villagers from them for the armed men. The women and children were in the adjourning room. All their money was also taken.[1836] The men, women and children were then ordered into the courtyard. The young men among the villagers were then separated from the group but then all the villagers were sent back inside the house. Some of the armed Serbian men were recognised as former neighbours of some of the people with whom Ali Hoti was travelling.[1837] Also present at this time were other uniformed men wearing bandannas and with faces painted with red, white and blue, which the Chamber notes are the colours of the Serbian flag.[1838] He could not recall any tags on the uniforms.[1839] Ali Hoti was then told by the man who had taken his money "We are in the hills and observing and watching you, every moment, so don't leave your houses".[1840] A blue or black camouflage uniform is a description which accords with the standard MUP camouflage uniform, which is predominately dark blue but can appear to be black to some.[1841]

[1831] *See infra,* para 1622.
[1832] 6D2, T 12307-12308.
[1833] Paragraph 77(d) of the Indictment.
[1834] *See infra,* para 1814.
[1835] Ali Hoti, Exhibit P628 (*Milutinović* transcript), T 4158.
[1836] Ali Hoti, Exhibit P628 (*Milutinović* transcript), T 4159.
[1837] Ali Hoti, Exhibit P628 (*Milutinović* transcript), T 4170.
[1838] *See supra,* para 64.
[1839] Ali Hoti, Exhibit P628 (*Milutinović* transcript), T 4158-4160.
[1840] Ali Hoti, Exhibit P628 (*Milutinović* transcript), T 4171.
[1841] *See supra,* paras 53-54.

509. On or about 29 March 1999, Mehmet Krasniqi arrived in Nogavac/Nagavc from Mala Kruša/Krushë-e-Vogël.[1842] In Nogavac/Nagavc there were many people of Albanian ethnicity who had come from the surrounding villages including Celina/Celinë, Velika Kruša/Krushë-e-Madhe and Brestovac/Brestovc.[1843] Mehmet Krasniqi confirmed the evidence of Ali Hoti. He was told that the people in the village had all their valuables taken from them by the Serbian forces, and were told to remain in Nogavac/Nagavc until they were allowed to go to Albania.[1844] Ali Hoti provided medical assistance to Mehmet Krasniqi who had burn injuries from the incident at the Batusha Barn in Mala Kruša/Krushë-e-Vogël. Mehment Krasniqi recounted to Ali Hoti what had happened on 26 March 1999 in Mala Kruša/Krushë-e-Vogël.[1845]

(e) Events on 2 and 3 April 1999 in Nogavac/Nagavc

510. At about 0200 hours on 2 April 1999, a plane flew over Nogavac/Nagavc. Bombs were dropped.[1846] Isuf Zhuniqi heard three large explosions at three different locations. One bomb landed very close to the witness; he sustained injuries to his head.[1847] At the same time, Sabri Popaj and Ali Hoti heard a plane fly very low over Nogavac/Nagavc.[1848] They heard four explosions.[1849] These two witnesses concluded it was not a NATO plane because it was flying very low and it made a different noise than NATO planes, however, none of the witnesses were able to reliably identify the plane. There is indirect evidence of shells or bomb fragments with Cyrillic inscriptions and that they were taken and inspected by NATO Kosovo Force.[1850] There is also inconclusive evidence that no shells or bomb fragments with Cyrillic letters were found in the area.[1851] The Chamber is unable to establish on the evidence what force bombed Nogavac/Nagavc on 2 April 1999.

511. Following the bomb detonations there was a fire in Nogavac/Nagavc village. Many people were wounded and houses damaged.[1852] Ali Hoti went around the village providing medical

[1842] Mehmet Krasniqi, T 992.
[1843] Mehmet Krasniqi, T 992, 993.
[1844] Mehmet Krasniqi, T 992.
[1845] *See supra,* paras 479-498; Ali Hoti, Exhibit P628 (*Milutinović* transcript), T 4148-4149, 4150-4151.
[1846] Isuf Zhuniqi, Exhibit P1253 (*Milutinović* transcript), T 4122.
[1847] The witness did not wake up till 3 April 1999. From what he was told he was taken over the border into Albania by his relative. He does not remember the journey. As a result of the bombing he sustained lacerations to his head and right arm. Isuf Zhuniqi, Exhibit P1251, p 6; Isuf Zhuniqi, Exhibit P1253 (*Milutinović* transcript), T 4107, 4122.
[1848] Ali Hoti, Exhibit P628 (*Milutinović* transcript), T 4153-4154, 4171-4172; Sabri Popaj, Exhibit P1082, p 10.
[1849] Ali Hoti, Exhibit P628 (*Milutinović* transcript), T 4153-4154; Sabri Popaj, Exhibit P1082, p 10.
[1850] The NATO Kosovo Force is also referred to as "KFOR". In *Milutinović* Sabri Popaj testified that another villager had the remains of a shell with Cyrillic writing on it. This was followed up afterwards and the OTP investigator was informed that he was not in possession of this material and that he had handed it to KFOR investigators. Isuf Zhuniqi testified that when he returned from Albania he saw parts of bombs that had Cyrillic letters on them. Sabri Popaj, Exhibit P1083 (*Milutinović* transcript), T 5702-5705; Sabri Popaj; T 7414-7416; Isuf Zhuniqi, Exhibit P1253 (*Milutinović* transcript), T 4122.
[1851] Exhibit D317; Sabri Popaj, T 7416-7417.
[1852] Ali Hoti, Exhibit P628 (*Milutinović* transcript), T 4153-4154.

assistance to the wounded. He saw one person who had been killed and understood that a total of 50 people had been killed in the attack on Nogavac/Nagavc.[1853] A witness who was at Nogavac/Nagavc the following day found that some houses had been badly damaged and one house totally destroyed. A few days later he saw the bodies of three young children carried out of a damaged house; he assumed they had been killed in the bombing. Later he heard that the bodies of another five children and three women were also removed from the same house.[1854]

512. It was the evidence of Ali Hoti that on 3 April 1999, after the sun came up, the people who had been waiting in Nogavac/Nagavc for permission to cross into Albania, scared of another possible bombing attack, collected their belongings and headed on tractors in a convoy of about 20,000 people to the Albanian border.[1855] The convoy passed through Velika Kruša/Krushë-e-Madhe, which was seen to be completely burned.[1856] On this day, or the next, Hamide Fondaj who was travelling in a convoy of displaced persons, saw a green excavator surrounded by soldiers in Velika Kruša/Krushë-e-Madhe. The Chamber notes that she does not describe the appearance of the men she describes as soldiers in her evidence, but that she does appear to be able to distinguish between the police and soldiers when discussing particular events in her statement.[1857] On the way to the border military forces dressed in camouflage uniforms could be seen.[1858] Mehmet Krasniqi who was in the convoy testified that they went to the border crossing point of Qafe Morina.[1859]

513. At the Albanian border Serbian police, dressed in the blue police uniforms, took the identification documents of the displaced people in the convoy and made them remove the licence plates from the vehicles they were using.[1860] The police also confiscated new cars and cars in a better condition; members of the VJ were also present and they insulted and cursed people in the convoy.[1861] Mehmet Krasniqi, who had sustained burn injuries during the Batusha barn incident, in Mala Kruša/Krushë-e-Vogël, was pulled aside by the police. They suspected him of being a KLA soldier, and his injuries as being a result of the shelling; they wanted to know who his commander was. He was taken to a room and tied to a radiator, until darkness fell, and then he was told to go to

[1853] Ali Hoti, Exhibit P628 (*Milutinović* transcript), T 4156.
[1854] Sabri Popaj, Exhibit P1082, p 10.
[1855] Ali Hoti, Exhibit P628 (*Milutinović* transcript), T 4156; Mehmet Krasniqi, T 993.
[1856] Ali Hoti, Exhibit P628 (*Milutinović* transcript), T 4156.
[1857] No information is provided as to who these soldiers were. From there the witness continued on through other villages and eventually crossed the border into Albania at about 0200 hours on 4 April 1999. The witness's identification card was not taken from her nor were the people she was with beaten. Hamide Fondaj, Exhibit P627, pp 4-5.
[1858] Ali Hoti, Exhibit P628 (*Milutinović* transcript), T 4157.
[1859] Mehmet Krasniqi, T 993.
[1860] Ali Hoti, Exhibit P628 (*Milutinović* transcript), T 4157; Ali Hoti, Exhibit P628 (*Milutinović* transcript), T 4157; Mehmet Krasniqi, T 994, 1060-1061.
[1861] Ali Hoti, Exhibit P628 (*Milutinović* transcript), T 4157.

Albania.[1862] The other people in the convoy, including Ali Hoti, crossed over the border into Albania on 3 April 1999. The convoy that crossed over the border into Albania was made up of approximately 20,000 Kosovo Albanians.[1863]

514. Based on the limited evidence before the Chamber no finding could be made as to who was responsible for the bombing of Nogavac/Nagavc and this was the main reason why people left the village. As discussed in more detail later in the Judgement, the Chamber is not satisfied that the offences of deportation and forcible transfer have been established with respect to Nogavac/Nagavc.[1864]

(f) Serbian forces in the village

515. As discussed earlier when dealing with neighbouring villages, it is confirmed by Serbian records that the VJ and MUP, including PJP units, were present in the area of Orahovac/Rahovec in a joint operation, and were deployed to the village of Velika Kruša/Krushë-e-Madhe on the 25 and 26 March 1999.[1865] The Chamber finds accordingly. A report of the Joint Command confirmed that following this operation a defence line was prepared following the direction Velika Kruša/Krushë-e-Madhe to Brestovac/Brestovc.[1866] The War Diary of the VJ 2nd Motorised Battalion reports that following the events in Bela Crkva/Bellacërkë, on 26 March 1999, forces of the Battalion, along with the MUP, continued to "mop up" the village of Velika Kruša/Krushë-e-Madhe. It was reported that members of the KLA were throwing away their weapons, changing out of uniform and running away.[1867] The evidence does not specifically mention Serbian forces in Nogavac/Nagavc. However, given the nature of the joint operation in that area, the large number of Serbian forces deployed in the area from 25 March 1999, and the close proximity of the villages, the Chamber finds that forces of the VJ and MUP were in action in and around Nogavac/Nagavc on those days and, apart from the bombing by the unidentified aircraft, were responsible for the incidents dealt with in the evidence of the witnesses discussed above.

[1862] Mehmet Krasniqi, T 993.
[1863] Ali Hoti, Exhibit P628 (*Milutinović* transcript), T 4157.
[1864] *See infra,* para 1625. In the Defence Final Brief it was argued that Isuf Zhuniqi who was not conscious because of head injuries from the bombing on 2 April 1999, was not deported from Albania as he was taken over the border, not knowing how he got there, Defence Final Brief, para 743. The Chamber does not accept this argument given that the group of people who had gathered in Nogavac/Nagavc. left out of fear of another bombing and Isuf Zhuniqi's family took him out of this concern.
[1865] *See,* Exhibit P350; K25, T 1604-1606; *See* also, K25, Exhibit P342 (*Milutinović* transcript), T 4706-4708; *See supra,* paras 453-455.
[1866] Exhibit P1317, p 1.
[1867] Exhibit D37, p 3.

4. Celina/Celinë

516. The village of Celina/Celinë is located to the south of Orahovac/Rahovec and the surrounding villages are Bela Crkva/Bellacërkë, Velika Kruša/Krushë-e-Madhe and Nogavac/Nagavc. In March 1999, the village of Celina/Celinë had approximately 2,000 inhabitants living in some 200-250 households.[1868] The ethnicity of all the people living in the village was Albanian.[1869] Houses in the village were set out in rows that were separated from each other by walls of individual family compounds.[1870]

(a) Events on 25 March 1999 and days following in Celina/Celinë and the destruction of the mosque

517. At approximately 0500 hours on 25 March 1999, around the same time as Serbian forces commenced actions in the neighbouring villages in Orahovac/Rahovec, Serbian forces with tanks, armoured vehicles and Pragas surrounded the village of Celina/Celinë.[1871] At about 0530 hours a green VJ tank entered the village from the direction of Bela Crkva/Bellacërkë.[1872] In the opposite direction, towards Orahovac/Rahovec and Nogavac/Nagavc, VJ, including tanks, took up positions, and on the main road from Prizren/Prizren to Đakovica/Gjakovë there were APCs.[1873] From about 0530 hours shots were fired from the main road and the VJ started to shell the village. While some houses and other buildings were hit by shells, it was the impression of a witness from the nature and effect of the shelling that it was primarily intended to scare them.[1874]

518. As the shelling progressed many of the inhabitants of Celina/Celinë left their homes and collected at the outskirts of the village.[1875] The elderly, the women and children gathered in one group while the men aged between 18 and 40 years old hid in various locations away from that group.[1876] This was because they feared that, as men, they would be targeted.[1877] Others remained in their homes or family compounds. Agim Jemini and his cousin, Isuf Jemini, hid in the attic of a

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[1868] Agim Jemini, Exhibit P637 (*Milutinović* transcript), T 4232; Reshit Salihi, Exhibit P632, p 2; Reshit Salihi, Exhibit P633 (*Milutinović* transcript), T 4224-4225.
[1869] Agim Jemini, Exhibit P637 (*Milutinović* transcript), T 4232; Reshit Salihi, P632, p 2; Reshit Salihi, T 3461.
[1870] Reshit Salihi, Exhibit P632, p 2; Reshit Salihi, Exhibit T 3490.
[1871] Agim Jemini, Exhibit P635, p 2; Agim Jemini, Exhibit P637 (*Milutinović* transcript), T 4232; Agim Jemini, T 3593; Reshit Salihi, Exhibit P632, p 2; Reshit Salihi, T 3483, 3487, 3491-3492.
[1872] Agim Jemini, T 3593; Reshit Salihi, T 3484, 3487, 3492.
[1873] Agim Jemini, Exhibit P637 (*Milutinović* transcript), T 4234; Agim Jemini, T 3593.
[1874] Agim Jemini, Exhibit P635, p 2.
[1875] Agim Jemini, Exhibit P636 (*Milošević* transcript), T 6556; Reshit Salihi, Exhibit P632, pp 3, 9; Reshit Salihi, T 3469, 3470, 3493-3494, 3518.
[1876] There was some evidence that of the elderly, the women and children who were gathered in the village, 55 were killed on 25 March 1999, during the first attack on the village (Agim Jemini, Exhibit P635, p 3; Agim Jemini, Exhibit P636 (*Milošević* transcript), T 6551). On the absence of more detailed or forensic evidence the Chamber is unable to make findings whether or how these people were killed or who was responsible.
[1877] Agim Jemini, Exhibit P635, p 2; Agim Jemini, Exhibit P636 (*Milošević* transcript), T6551-6553, 6556; Agim Jemini, T 3598.

house in his family compound from where they could observe most of the village.[1878] The credibility of Agim Jemini was challenged on the basis that he could not have viewed the events he described from his vantage point. Having carefully assessed the witness and all relevant evidence, including photos depicting his vantage point and the views from it, the Chamber is satisfied of the truthfulness and accuracy of Agim Jemini's evidence and accepts it as being descriptive of the events on 25 March 1999, as discussed below.[1879]

519. At approximately 0930 hours on 25 March 1999, about 500 VJ troops approached the village on foot from the four main directions of Bela Crkva/Bellacërkë, Velika Kruša/Krushë-e-Madhe, Orahovac/Rahovec and the main Đakovica/Gjakovë to Prizren road. By about 1000 hours they had surrounded the village.[1880] The uniforms of the VJ were green and brown camouflage with the Yugoslav/Serbian Army white, double-headed eagle on the left shoulder/left upper arm.[1881] They wore the pointed partisan style hats of the VJ and those in command were identified as wearing dark green beret style hats.[1882] All the hats had the same eagle insignia.[1883] Police were also present dressed in blue camouflage uniforms with the police insignia of the double headed eagle on the chest.[1884] At this time Agim Jemini saw about 35 soldiers break open his gate and enter the yard of his family compound. They entered five houses in the compound and looted valuables.[1885] In the view of the Chamber the observation by Agim Jemini of the uniforms worn that morning confirms that he correctly identified the Serbian forces as comprising both VJ and MUP.[1886]

[1878] Agim Jemini and his cousin moved some roof tiles to better ensure a view of the whole village. Agim Jemini, Exhibit P635, p 2; Agim Jemini, Exhibit P636 (*Milošević* transcript), T 6562; Agim Jemini, Exhibit P637 (*Milutinović* transcript), T 4236, 4256-4259; Exhibit P642/D74 (photo with markings indicating where the witness observed the events in the village); Exhibit P643 (photo from the attic); P639 (photo from the attic); Exhibit D75 (photo marked with a "x" to identify the school that could be seen from the attic by Agim Jemini); Agim Jemini, T 3567, 3584-3585, 3588.

[1879] The markings on Exhibit P642 and Exhibit D74 indicate the attic window from which the witness observed the events in the village, however, no photo was taken to show the view that Agim Jemini would have had after removing the tiles. Agim Jemini, Exhibit P637 (*Milutinović* transcript), T 4236, 4257-4259; Exhibit P639 (photo from the attic); Exhibit P640 (marked photo showing where the soldiers were standing on the balcony); Exhibit P641 (photo of Agim Jemini's house); Exhibits P642, D74 (photo marked with an x to indicate where the witness was hiding); Exhibit P643 (Photo from the attic); Exhibit P644 (marked photo showing with a x where the Agim Jemini's family's money was taken and with xx where they were shot); Exhibit D73 (photo taken from where witness was hiding identifying with a number 1 the family house that was burnt down, his uncle's house on the left identified with a 2. The white house marked in P644 is identified with the number 3); Exhibit D75 (photo marked with an x to identify the school that could be seen from the attic by Agim Jemini); Agim Jemini, T 3584-3585.

[1880] Agim Jemini, Exhibit P635, 2.

[1881] Agim Jemini, Exhibit P635, p 2; Agim Jemini, Exhibit P637 (*Milutinović* transcript), T 4233-4234, 4269.

[1882] Agim Jemini, Exhibit P635, p 2; Agim Jemini, T 4275-4277.

[1883] Agim Jemini, Exhibit P635, p 2.

[1884] *See supra,* para 53; Agim Jemini, Exhibit P635, p 2, Addendum; Agim Jemini, Exhibit P637 (*Milutinović* transcript), T 4265, 4269-4272.

[1885] Agim Jemini, Exhibit P635, p 2.

[1886] *See supra,* paras 53, 54, 162.

520. The shelling of Celina/Celinë continued, with some interruptions, the entire day of 25 March 1999. The VJ forces would shell the village for a period of time and then stop while MUP forces, wearing blue uniforms, would enter the village.[1887] The police would then withdraw and the shelling by the military forces would recommence.[1888] This pattern was repeated throughout the day.[1889] During the day valuables were looted from houses in Celina/Celinë.[1890]

521. At about 1500 hours, a large number of Serbian police wearing blue uniforms with red ribbons on their right arms, and some with white ribbons, started setting houses on fire in the village.[1891] Following this, a group of police approached Reshit Salihi's family compound from the direction of the school. These police were wearing grey bandannas on their heads.[1892] A witness, Reshit Salihi, saw the police position themselves at a house within his family compound, about 30 metres from his position.[1893] Reshit Salihi, his brothers Bajram Salihi and Faik Salihi, as well as Faik's wife and five children, had stayed in their family compound along with Miftare Zeqiri and 14 members of his family.[1894] From the compound Reshit Salihi had a good vantage point over the village.[1895] Bajram Salihi also looked out to try and observe the police movements. At this time Reshit Salihi heard three gunshots close by and saw that Bajram Salihi had been shot in the abdominal region. The witness believed his brother died immediately.[1896] The Defence challenged the credibility of Reshit Salihi contending that from his position he would not have been able to observe the events he described.[1897] The Chamber accepts, on the basis of all the relevant evidence before it, including the detailed explanation that Reshit Salihi's brother was at a corner of the wall

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[1887] Reshit Salihi, Exhibit P632, p 2; Reshit Salihi, Exhibit P633 (*Milutinović* transcript), T 4212-4213, 4218-4222; Reshit Salihi, T 3490-3491, 3518-3519.

[1888] Reshit Salihi clarified that when he talked of ground forces he was referring to the police, Reshit Salihi, Exhibit P632, p 2; Reshit Salihi, T 3487-3488.

[1889] Reshit Salihi, Exhibit P632, p 2.

[1890] Agim Jemini, Exhibit P635, p 3; Agim Jemini, Exhibit P637 (*Milutinović* transcript), T 4250-4251; Reshit Salihi, Exhibit P632, p 3; Reshit Salihi, T 3461.

[1891] The Chamber has taken into account apparent differences in the colour of the uniforms as described by Reshit Salihi. In his evidence in this trial the witness described the uniforms as blue. However, he has also referred to them as black (Reshit Salihi, Exhibit P632, p 2; Reshit Salihi, Exhibit P633 (*Milutinović* transcript), T 4204-4205). In *Milutinović* the witness described how he saw different colours every 10 minutes and that the uniforms kept changing (Reshit Salihi, Exhibit P633 (*Milutinović* transcript), T 4212-4213). To this Chamber the witness explained that he called them black because, from a distance, that is what they looked like (Reshit Salihi, T 3490-3491). He was unable to say whether he saw blue, or black uniforms, or blue and black uniforms (Reshit Salihi, T 3519). The Chamber notes that the standard police camouflage uniform has a pattern and colours which are designed to be confusing to a viewer. In the Chamber's view this may well explain the evidence of the witness and his varying description of the uniforms as blue or black. Whether that is the case, or not, the Chamber accepts he saw uniforms which are usually described as blue, and is also confident that he could distinguish between the uniforms worn that day by the police and the uniforms worn by the VJ (Reshit Salihi, T 3518).

[1892] Reshit Salihi, Exhibit P633 (*Milutinović* transcript), T 4218.

[1893] Reshit Salihi, Exhibit P632, p 3; Reshit Salihi, Exhibit P633 (*Milutinović* transcript), T 4207, 4228-4229; Reshit Salihi, T 3472, 3498-3500.

[1894] Reshit Salihi, Exhibit P632, pp 3, 9; Reshit Salihi, T 3469, 3470, T 3496, 3518.

[1895] Reshit Salihi, Exhibit P632, p 2; Reshit Salihi, T 3475-3478, 3488-3489.

[1896] Reshit Salihi, Exhibit P633 (*Milutinović* transcript), T 4214-4216, 4228-4229; Reshit Salihi, T 3500, 3501.

on the same side as the witness and the clear description of the police actions immediately following the gun fire, that Reshit Salihi was close to his brother and saw him shot.[1898] The Chamber accepts that the shooting came from the location where the police had positioned themselves as described by the witness and that after the shots were fired the police left that house, and a group of five policemen approached the place where Reshit Salihi's other family members and the Zequiri's were hiding.[1899] Although the killing of Bajram Salihi is not specifically charged as murder in the Indictment, the Chamber accepts that Reshit Salihi saw his brother, Bajram Salihi, shot dead by Serbian police who were in the area at the time. Bajram Salihi was not armed and was not taking an active part in any armed conflict.

522. After these events, Reshit Salihi ran into the adjourning Zequiri family compound and hid in a one metre deep hole.[1900] From there Reshit Salihi heard bursts of automatic gunfire and the screaming of women and children.[1901] He heard a voice say in Serbian "Shoot, there are terrorists there".[1902] The shooting continued for about 15 minutes. The witness remained in the hole until it became dark. He then was able to reach the forest by Mount Pisjak, about two kilometres from the village of Celina/Celinë, where his family and displaced persons from other villages including Velika Kruša/Krushë-e-Madhe, Brestovac/Brestovc and Nogavac/Nagavc had gathered.[1903] Reshit Salihi learned of the deaths of the people who remained in the compound, including his family members and the Zequiri family, when he arrived in Albania on or about 28 March 1999.[1904] About three months later, around mid June 1999, when Reshit Salihi returned to Celina/Celinë he found their bodies buried in shallow graves in the yard where he had last seen them.[1905] The Chamber accepts that the 20 people who remained in the courtyard, including Bajram Salihi, were shot to death by MUP forces who were in the area. The victims were all Kosovo Albanians, unarmed and not taking part in the conflict. The Chamber has not received any evidence of Serbian authorities conducting investigations into these killings. The killing of these people is not charged as murder in the Indictment.

[1897] The Defence contended that Reshit Salihi was on the other side of a 2.20-2.50 metre high wall and therefore could not have witnessed what happened to his brother. Reshit Salihi, Exhibit P632, p 3; Reshit Salihi, Exhibit P633 (*Milutinović* transcript), T 4207, 4214-4216, 4228; Reshit Salihi, T 3500-3503.

[1898] Reshit Salihi, Exhibit P633 (*Milutinović* transcript), T 4215-4216; Reshit Salihi, Exhibit T 3500-3501.

[1899] Reshit Salihi, Exhibit P632, p 3; Reshit Salihi, Exhibit P633 (*Milutinović* transcript), T 4207, 4216, 4228-4229; Reshit Salihi, T 3500-3501, 3504.

[1900] Reshit Salihi, Exhibit P632, p 3; Reshit Salihi, Exhibit T 3500, 3501, 3504-3505, 3520.

[1901] Reshit Salihi, Exhibit P632, p 3; Reshit Salihi, Exhibit T 3504-3505, 3520.

[1902] Reshit Salihi, Exhibit P632, p 3.

[1903] Reshit Salihi, Exhibit P632, pp 3, 4; Reshit Salihi, Exhibit P633 (*Milutinović* transcript), T 4207-4208; Reshit Salihi, T 3461, 3462, 3470, 3494, 3504, 3508, 3517, 3518.

[1904] Reshit Salihi, Exhibit P632, pp 3, 4; Reshit Salihi, Exhibit P633 (*Milutinović* transcript), T 4207-4208; Reshit Salihi, T 3461, 3462, 3470, 3494, 3504, 3508, 3514, 3517, 3518.

[1905] Reshit Salihi, Exhibit P632, pp 3, 4; Reshit Salihi, Exhibit P633 (*Milutinović* transcript), T 4207-4208; Reshit Salihi, T 3461, 3465, 3466, 3469, 3470, 3494, 3504, 3508, 3514, 3517, 3518.

523. In the meantime, Agim Jemini, another resident of Celina/Celinë, who was hiding in the attic of a house in his compound, saw Serbian forces occupy the second floor of his house in the same compound.[1906] Agim Jemini saw two men on the balcony of his house carrying handheld radios. From their dress and conversation he understood them to be commanders of the police.[1907] The window at which Agim Jemini was watching was only approximately 10 to 15 metres from the balcony of his house occupied by the commanders.[1908] At approximately 1700 hours Agim Jemini heard a voice on the radio say "Commander 444" from "Prizren" and ask about the situation in Celina/Celinë.[1909] He then heard the commander reply "All is good"; to which "Prizren" responded, "Don't let it be like in Račak". The commander answered, "It won't be like Račak but twice as much".[1910] At 1900 hours the witness heard another radio call to "Commander 444" to stop the offensive on Celina/Celinë. "Commander 444" answered "Yes, we will stop".[1911] Following this the Serbian forces moved to take up positions at the entrance to the village towards the school and the village of Velika Kruša/Krushë-e-Madhe,[1912] and the offensive was discontinued.[1913] There were other conversations on the radios by the commanders on the balcony, but as they used what Agim Hemini described as a special code he had difficulty understanding what orders were being given by the Commanders.[1914] Earlier in this Judgement the Chamber has found that the Prizren SUP was directly involved in the joint VJ and MUP operation on that day in the area of Orahovac, which included Celina/Celinë.[1915] The Chamber accepts the evidence of Agim Jemini of radio communications between a person of higher authority in Prizren and a commander known as 444 located on the balcony close to the witness's position. The essence of those parts of the radio communication is consistent, in the Chamber's finding, with the joint operation in the area being conducted that day and discloses a reporting of the progress of the operation in Celina/Celinë and that orders were given to MUP forces in Celina/Celinë by a person of higher authority in Prizren. The Chamber has found that the Prizren SUP was responsible for

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[1906] The balcony attached to the house was facing the location of where the witness was hiding. Agim Jemini, Exhibit P635, p 3; Agim Jemini, Exhibit P637 (*Milutinović* transcript), T 4234-4237; Agim Jemini, Exhibit P640.

[1907] Agim Jemini, Exhibit P635, pp 2-3; Agim Jemini, Exhibit P637 (*Milutinović* transcript), T 4277.

[1908] Agim Jemini, Exhibit P635, p 2; Agim Jemini, Exhibit P636 (*Milošević* transcript), T 6554-6555; Agim Jemini, Exhibit P637 (*Milutinović* transcript), T 4235, 4247-4248, 4279; Agim Jemini, T 3586; Exhibit P640.

[1909] Agim Jemini, Exhibit P635, p 3.

[1910] Agim Jemini, Exhibit P635, p 3. The witness, alternatively, remembered this last part of the radio conversation to be a question from "Prizren", "Is it as well in Račak", to which the commander replied, "No, it's twice as much as Račak", Agim Jemini, Exhibit P636 (*Milošević* transcript), T 6541-6542.

[1911] Agim Jemini, Exhibit P635, p 3; Agim Jemini, Exhibit P636 (*Milošević* transcript), T 6542; Agim Jemini, T 3607-3608.

[1912] Agim Jemini, Exhibit P635, p 3.

[1913] Agim Jemini, Exhibit P635, p 3; Agim Jemini, Exhibit P636 (*Milošević* transcript), T 6542; Agim Jemini, T 3609; Reshit Salihi, Exhibit P632, p 2.

[1914] Agim Jemini, Exhibit P635, pp 2-3; Agim Jemini, Exhibit P636 (*Milošević* transcript), T 6541, 6554, 6555, 6559-6560; Agim Jemini, Exhibit P637 (*Milutinović* transcript), T 4235; Agim Jemini, T 3607.

[1915] The 23rd PJP Detachment was deployed from Zrze/Xërxë to Mala Kruša/Krushë-e-Vogël and Velika Kruša/Krushë-e-Madhe, which goes through Celina/Celinë. The local Prizren MUP was deployed in the same area but from, Zrze/Xërxë to Bela Crkva/Bellacërkë. K25, Exhibit P340-A, p 11.

MUP operations within this area.[1916] It is established that Agim Jemini's compound was used as a base for the Celina/Celinë operation and that the MUP communicated with the Prizren command through the use of handheld radio.[1917] There is other evidence that radio communications were used during operations in the field.[1918]

524. On the following day, by about 0900 hours, there were approximately 200-300 members of the Serbian forces in Celina/Celinë. They wore red or white ribbons on their shoulders and some were wearing headbands that were red in colour or had a pattern on it that was predominately red or black in colour. Agim Jemini described members of the Serbian forces with a long knife on their hip as they went from house to house throughout the village.[1919] In the absence of more detailed descriptions of the dress of these men, or other evidence, the Chamber is not able to determine whether the witness was correct that the Serbian forces on this second day were paramilitary forces.

525. At around 0930 hours, about 30 men of the Serbian forces entered the yard of the family compound of Agim Jemini and searched the houses.[1920] Agim Jemini was still in the attic described earlier and five members of his family were hiding in the house across from him.[1921] Some of the Serbian forces positioned themselves in the house where Agim Jemini was hiding on the level below him.[1922] About seven or eight of these men entered the house where Agim Jemini's five family members were hiding.[1923] The five were taken out into the yard and the Serbian forces collected all their money.[1924] These five family members were then ordered to march towards the gate between the two houses.[1925] At this point, one of the members of the Serbian forces fired his weapon into the air. The other Serbian forces opened fire and the five members of the Jemini family fell to the ground. It appeared to Agim Jemini that they were dead.[1926] They were all unarmed and civilians at the time they were killed by the Serbian forces. The Chamber has not received any evidence of Serbian authorities conducting investigations into these killings.

[1916] *See supra,* para 47; K25, Exhibit P340-A, pp 20-21

[1917] Agim Jemini, Exhibit P635, p 3; Agim Jemini, Exhibit P636 (*Milošević* transcript), T 6542; Reshit Salihi, Exhibit P632, p 2.

[1918] Milan Čanković, T 13939-13942.

[1919] Agim Jemini, Exhibit P635, p 4.

[1920] Agim Jemini, Exhibit P635, p 4; Agim Jemini, T 3533-3534.

[1921] Agim Jemini, Exhibit P635, p 4; Exhibit P641 (photo of Agim Jemini's house); Exhibit D73 (photo taken from where witness was hiding identifying with a number 1 the family house that was burnt down, his uncles house on the left identified with a 2 and the white house marked in P644 is identified with the number 3).

[1922] Agim Jemini, Exhibit P635, p 4; Agim Jemini, T 3534.

[1923] These were the witness's parents, uncle, and uncle's wife and son. Their names were Sadri Jemini, Synavere Jemini, Shaip Jemini, Muharrem Jemini, Zade Jemini (Agim Jemini, Exhibit P635, p 4; Agim Jemini, Exhibit P637 (*Milutinović* transcript), T 4238; Exhibit P644; Agim Jemini, T 3533-3534).

[1924] Agim Jemini, Exhibit P635, p 4, Addendum; Agim Jemini, Exhibit P636 (*Milošević* transcript), T 6544; Agim Jemini, Exhibit P637 (*Milutinović* transcript), T 4238, 4281; Exhibit P644; Agim Jemini, T 3533-3534.

[1925] Agim Jemini, Exhibit P635, p 4, Addendum; Agim Jemini, Exhibit P636 (*Milošević* transcript), T 6544, 6566; Agim Jemini, Exhibit P637 (*Milutinović* transcript), T 4238, 4281; Exhibit P644; Agim Jemini, T 3533-3534.

[1926] Agim Jemini, Exhibit P635, p 4; Agim Jemini, Exhibit P636 (*Milošević* transcript), T 6566-6567.

526. Following the shooting of these five members of Agim Jemini's family, and throughout the rest of the day, Serbian forces looted houses in the village of valuable items and used flame-throwers to set ablaze houses in the village.[1927] Intermittently, during this time, Agim Jemini could hear the sounds of automatic weapons and the screaming of villagers.[1928]

527. The Serbian forces remained in the family compound of Agim Jemini until about 0100 hours on 27 March 1999.[1929] That night, between Celina/Celinë and Zrze/Xërxë, near Bela Crkva/Bellacërkë, Agim Jemini observed about 40 dead bodies, dressed in ordinary civilian clothes, in a riverbed near the railway line.[1930] This is consistent, in the Chamber's view, with its earlier findings in relation to the shooting of Kosovo Albanian men that took place at the Belaja Bridge near Bela Crkva/Bellacërkë.[1931]

528. On or about 28 March 1999, witnesses observed from a distance Serbian police and civilians stealing goods and livestock from the village.[1932] This continued for over a month.[1933] On or about 28 March 1999, Sabri Popaj saw police wearing blue camouflage uniforms arrive at the mosque in Celina/Celinë in an APC; they remained inside for about an hour.[1934] After they left, there was a loud explosion and the mosque was blown up.[1935] That evening another witness saw that the mosque had been completely destroyed.[1936] As also discussed in more detail elsewhere in this Judgement, in the Chamber's finding the destruction of the mosque in Celina/Celinë on 28 March 1999 was by explosives set and detonated by members of the MUP.[1937] The evidence also established, in the Chamber's finding, that all except some 20 houses in the village were burnt

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1927 Agim Jemini, Exhibit P635, pp 4-5; Reshit Salihi, T 3462.
1928 Agim Jemini, Exhibit P635, p 5; Reshit Salihi, T 3462.
1929 Agim Jemini, Exhibit P635, p 5.
1930 Agim Jemini confirmed that they were civilian bodies and not those of the military because they were dressed in ordinary clothes. Agim Jemini, Exhibit P635, p 5.
1931 *See supra,* para 472.
1932 Agim Jemini, Exhibit P635, p 5.
1933 Agim Jemini, Exhibit P635, p 5; Agim Jemini, Exhibit P637 (*Milutinović* transcript), T 4266; Agim Jemini, T 3542-3543.
1934 Sabri Popaj, in his original witness statement said that the mosque was blown up in April, on the day the police returned and buried bodies (Sabri Popaj, Exhibit P1082, p 11). In *Milutinović,* the witness explained that the original date given was incorrect and the mosque was actually blown up on the same day as the other mosques in Bela Crkva/Bellacërkë and Rogovo/Rogovë (Sabri Popaj, Exhibit P1083 (*Milutinović* transcript), 5650, 5678-5682; Sabri Popaj, T 7471). It was suggested to the witness in this case that Agim Jemini had testified that the mosque was blown up on 30 or 31 March 1999 (Agim Jemini, Exhibit P637 (*Milutinović* transcript), T 4241-4242; Exhibit P638; Agim Jemini, T 3543-3544). Sabri Popaj explained that this was not correct and that Agim Jemini had not seen the mosque explosion as he was hiding (Sabri Popaj, T 7417-7418, 7422). The Chamber accepts the date given by Sabri Popaj as he actually viewed the destruction of the mosque and the forces involved in the village of Celina/Celinë. The Chamber finds the mosque was destroyed by explosives on 28 March 1999.
1935 Sabri Popaj, Exhibit P1082, p 11; Sabri Popaj, Exhibit P1083 (*Milutinović* transcript), T 5678-5681; Exhibit P1089; Exhibit P1090; Sabri Popaj, T 7417-7418, 7422; Exhibit P634 (pre-war photo of the mosque in Celina/Celinë that identifies the minaret); Exhibit P638; Agim Jemini, T 3542, 3544.
1936 Reshit Salihi also testified that when he returned from Albania he saw that the mosque in the village had been destroyed. Agim Jemini, Exhibit P637 (*Milutinović* transcript), T 4241-4242; Exhibit P638; Agim Jemini, T 3543-3544; Reshit Salihi, Exhibit P633 (*Milutinović* transcript), T 4208-4209; Reshit Salihi, T 3464, 3465, 3468-3469.
1937 *See infra,* para 1804.

down, along with numerous buildings,[1938] including the school[1939] during the rampage by the MUP (and perhaps paramilitary forces) on 26 March 1999) in the village which had commenced on 25 March 1999.

529. On or about 28 March 1999, at about 0700-0800 hours, a group of approximately 40 police arrived in a forest near Celina/Celinë.[1940] In this forest, by Mount Pisjak, about two kilometres from the village of Celina/Celinë, a large number of displaced persons from Celina/Celinë and other villages including Velika Kruša/Krushë-e-Madhe, Brestovac/Brestovc and Nogavac/Nagavc had gathered.[1941] The police arrived by foot, armed with assault rifles and were dressed in blue camouflage uniforms with white armbands and dark green scarves on their heads.[1942]

530. The police fired their weapons in the air and a large group of displaced persons, assembled at the edge of the forest in a meadow.[1943] The men were separated from the women and children by the police and, at gunpoint, they were searched for money and valuables.[1944] The identity cards of the members of the group were then put in a pile and set on fire.[1945]

531. The men and the women and children were then marched at gunpoint by the police to the village of Celina/Celinë, some men were assaulted with rifle butts along the way.[1946] After arriving in Celina/Celinë, a different group of police, dressed in blue camouflage uniforms and some wearing red berets, marched the displaced persons from the villages along the main road connecting Đakovica/Gjakovë with Prizren. As they marched the police beat villagers and demanded money. Between Velika Kruša/Krushë-e-Madhe and Velika Hoca/Hoça-e-Madhë, the march was stopped. At gunpoint the men were ordered to stand with their hands behind their heads for several hours.[1947] At around 1600 hours on 28 March 1999, numerous trucks arrived and the group of men, including

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[1938] Agim Jemini, Exhibit P635, p 3; Agim Jemini, Exhibit P637 (*Milutinović* transcript), T 4250-4251; Reshit Salihi, P632, p 3.

[1939] Agim Jemini, Exhibit P635, p 3; Agim Jemini, Exhibit P637 (*Milutinović* transcript), T 4253; Agim Jemini, Exhibit D72; Agim Jemini, Exhibit D75; Agim Jemini, T 3575, 3582, 3587, 4235; Reshit Salihi, Exhibit P632, p 3.

[1940] Reshit Salihi, Exhibit P632, pp 3, 4, Addendum; Reshit Salihi, Exhibit P633 (*Milutinović* transcript), T 4207-4208, 4221-4222; Reshit Salihi, T 3461, 3465, 3466, 3469, 3470, 3494, 3504, 3507.

[1941] Reshit Salihi, Exhibit P632, pp 3, 4; Reshit Salihi, Exhibit P633 (*Milutinović* transcript), T 4207-4208; Reshit Salihi, T 3461, 3465, 3466, 3469, 3470, 3494, 3504, 3508, 3514, 3517, 3518.

[1942] Reshit Salihi, Exhibit P632, pp 3, 9; Reshit Salihi, Exhibit P633 (*Milutinović* transcript), T 4220-4222; Reshit Salihi, T 3507.

[1943] The Chamber was unable to determine the size of the group of people given that Reshit Salihi testified that there were 8,000 people (Reshit Salihi, Exhibit P632, p 3; Reshit Salihi, Exhibit P633 (*Milutinović* transcript), T 4220; Reshit Salihi, T 3507), 10,000 people (Reshit Salihi, Exhibit P632, p 3) or 4000-5000 people (Reshit Salihi, Exhibit P633 (*Milutinović* transcript), T 4220, 4223).

[1944] Reshit Salihi was forced to hand over 5,000 Deutschmark and one of his daughters told him that she had been robbed of her gold necklace and 6,000 Deutschmark. Reshit Salihi, Exhibit P632, p 3-4; Reshit Salihi, Exhibit P633 (*Milutinović* transcript), T 4206; Reshit Salihi, T 3510, 3512.

[1945] Reshit Salihi, Exhibit P632, p 4; Reshit Salihi, Exhibit P633 (*Milutinović* transcript), T 4207, 4220.

[1946] Reshit Salihi, Exhibit P632, p 4; Reshit Salihi, T 3462-3463.

[1947] Reshit Salihi, Exhibit P632, p 4.

the witness, were ordered onto the trucks by the police.[1948] They were driven to Žur/Zhur, on the border with Albania. Once again their identification documents were demanded by the police but as these had been handed over earlier this demand could not be satisfied.[1949] The men were ordered by the police to walk to Albania, and after walking about five or six kilometres they crossed the border and were taken to a refugee camp in Kukës, Albania.[1950] As discussed in more detail later in this Judgement, it is the finding of this Chamber that the offence of forcible transfer has been established with respect to these events.[1951]

532. Between 25 March 1999, and the end of May 1999, a local villager, Agim Jemini, and Sabri Popaj, a villager from Bela Crkva/Bellacërkë, with others, buried bodies in Celina/Celinë. They would enter Celina/Celinë at night, find dead bodies and bury them. Sabri Popaj buried about 85 bodies.[1952] Agim Jemini buried 78 bodies. As mayor of Celina/Celinë, Agim Jemini was in charge of the group burying the bodies. He kept a list of the names of the people he buried, with their year of birth and the location of burial.[1953] The victims he buried were 74 people from Celina/Celinë, two from Velika Hoca/Hoçë-e-Madhë, one from Brestovac/Brestovc and one from Bela Crkva/Bellacërkë.[1954] Eighteen of the bodies had been burnt; all had been shot.[1955] All the victims were dressed in civilian clothes.[1956] However, all the dead from Celina/Celinë were not buried in this way because, during the day, trucks with policemen, dressed in solid blue uniforms, and "Romas" entered the village and collected bodies.[1957] Agim Jemini saw at least 20 to 30 bodies removed that way.[1958] On or about 12 or 13 April 1999, Sabri Popaj saw police arrive at Celina/Celinë with civilians and an excavator and dug holes and buried bodies.[1959] The excavator first dug a hole in which 5 bodies were buried. This was on the outskirts of Celina/Celinë near the Prizren-Đakovica/Gjakovë road. Following this the excavator moved across the road into

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[1948] The evidence is not clear whether the women and children were also ordered onto these buses, Reshit Salihi, Exhibit P632, p 4.
[1949] Reshit Salihi, Exhibit T 3463, 3469.
[1950] Reshit Salihi, Exhibit P632, p 4; Agim Jemini, T 3463.
[1951] *See infra,* paras 1623-1624.
[1952] Sabri Popaj, Exhibit P1082, p 10; Sabri Popaj, Exhibit P1083 (*Milutinović* transcript), 5677.
[1953] Agim Jemini, Exhibit P635, p 5.
[1954] The Chamber was not provided with the evidence identifying these 74 victims. Agim Jemini, Exhibit P635, p 5; Agim Jemini, Exhibit P646; Agim Jemini, Exhibit P647; Agim Jemini, Exhibit P648; Agim Jemini, Exhibit P649; Agim Jemini, T 3535-3540; Sabri Popaj, Exhibit P1082, p 8-10; Sabri Popaj, Exhibit P1083 (*Milutinović* transcript), T 5677; Sabri Popaj, T 7413.
[1955] Agim Jemini, Exhibit P635, p 5; Sabri Popaj, Exhibit P1082, pp 12-14; Sabri Popaj, Exhibit P1083 (*Milutinović* transcript), T 5677
[1956] Sabri Popaj, Exhibit P1083 (*Milutinović* transcript), T 5677-5678.
[1957] Agim Jemini never located the remains of his own family in Celina/Celinë but heard that they were later found in Rahovec. Agim Jemini, Exhibit P635, p 5; Agim Jemini, Exhibit P637 (*Milutinović* transcript), T 4266; Agim Jemini, T 3623-3624.
[1958] Agim Jemini, Exhibit P635, p 5.
[1959] He specifically recalled eight bodies including Sefedin Sahani and five members of his family, Hajdar Rexhepi and Sakip Rexhepi. The names of these victims are not listed in the Schedules of the Indictment. Sabri Popaj, Exhibit P1082, p 11; Sabri Popaj, Exhibit P1083 (*Milutinović* transcript), T 5682, 5685-5686.

Celina/Celinë and dug another hole in which more bodies were buried. When this second grave was being dug, he also saw that the civilians assisting in the burials were surrounded by police who were holding guns.[1960] The police were dressed in blue camouflage uniforms, but the civilians were dressed in a sort of yellow uniform;[1961] evidence of other exhumations suggests that they might have been hygiene workers.

(b) Serbian forces in the village

533. The VJ 549th Motorised Brigade, in cooperation with the 4th Company of the MUP Đakovica/Gjakovë PJP Detachment, was tasked with conducting a coordinated action the stated object of which was described as to cut off and destroy the KLA in Celina/Celinë.[1962] On 25 March 1999, following the events in Bela Crkva/Bellacërkë, PJP forces pushed through in the direction of Celina/Celinë.[1963] The follow up report from the Command of the 549th Motorised Brigade to the Command of the Priština Corps recorded the success of the operation in Celina/Celinë. It was reported that the KLA were pushed back and control was established in the village.[1964] While the report suggests that control of the village was established, there is no evidence of fighting between the KLA and the Serbian forces in or around the village. On the contrary, the evidence establishes that the Serbian forces were active in the village over several days and that their activities were directed against the people there, men, women and children, and not that they were engaged in fighting an armed force of the KLA.

534. This evidence confirms the description of Serbian forces by eyewitnesses in Celina/Celinë. The Chamber is satisfied that between 25 and 28 March 1999, forces of the VJ and MUP, including PJP, were enagaged in a coordinated and joint operation in Celina/Celinë. It was the elements of these forces that were responsible for the offences the Chamber has found to have been committed as set out in this section of the Judgement. Although the Chamber accepts that these forces were present, on the evidence, the events that took place in the village and the offences that were committed by the Serbian forces do not suggest that the aim of the operation was to push back the KLA.

[1960] Sabri Popaj, Exhibit P1082, p 11.
[1961] Sabri Popaj, Exhibit P1082, p 11; Sabri Popaj, Exhibit P1083 (*Milutinović* transcript), T 5686; Exhibit D314 (sheet with samples of different patterns of uniforms. The witness indicated that the police were wearing uniforms with the patter marked with a number "4"); Sabri Popaj, T 7404.
[1962] Exhibit P1316, p 4.
[1963] Exhibit P1317, p 4; *See supra,* para 478.
[1964] Exhibit P1317, p 1.

5. Pusto Selo/Pastasellë

535. Pusto Selo/Pastasellë is located about eight kilometres to the north-west of Orahovac/Rahovec town. The surrounding villages include Petkovic/Petkoviq, Koznik/Kaznik and Sanovac/Senoc.

536. Avdyl Mazreku and Beqir Krasniqi gave evidence of the relevant events in Pusto Selo/Pastasellë. Each experienced difficulty when dealing with the colours of uniforms they said were worn by the Serbian forces in Pusto Selo/Pastasellë. It became evident to the Chamber that one significant reason for this difficulty was translation from the local Albanian dialect they used.[1965] There were, however, other difficulties.[1966] Interpretation, confusion as to time and place and other issues may well explain these. But because of the variations in their description of the forces the Chamber is unable to rely upon their evidence alone as to the uniforms worn in the village and at the river by Serbian forces. While the Chamber accepts that tanks and vehicles described by these witnesses were in the hands of members of the VJ, it is unable to make a finding whether the other Serbian forces in the village were VJ or MUP from the decriptions of the two witnesses. In the Chamber's assessment this issue does not detract from the general credibility of these two witnesses on other matters.

537. On or about 26 March 1999, a large number of displaced persons, fleeing from Serbian forces, arrived on tractors, trailers and by foot at Pusto Selo/Pastasellë from neighbouring towns and villages including Klina/Klinë, Grebnik/Gremnik, Dollovë/Dolovo, Josanica/Jashanice and Orahovac/Rahovec.[1967] The displaced persons were housed in the village and at the local school. Beqir Krasniqi was told by some of the displaced persons that Serbian forces had told them to go to Pusto Selo/Pastasellë.[1968]

[1965] Beqir Krasniqi, T 6031-6033, 6044-6046, 6060-6071.

[1966] In his evidence to the Chamber, Avdyl Mazreku said the Serbian forces wore green uniforms with "policija" written on their backs and arms (Avdyl Mazreku, Exhibit P987, p 2). Later he said it was "milicija" written on the back. However, this could be a matter of misunderstanding as it is not clear if he meant "milicija" was on the uniforms of Serbian forces in the tanks, or Serbian forces advancing on foot in the village. In an earlier statement he said the Serbian forces were in black uniforms (Avdyl Mazreku, Exhibit P987, p 2), but in an addendum he said dark green uniforms, not black (Avdyl Mazreku, Exhibit P989, paras 6-7). In his evidence Mazreku indicated that the black uniforms were worn by Serbian forces in 1998 and when he discusses green uniforms he is talking about Serbs in 1999 (Avdyl Mazreku, T 6170, 6192-6193, 6196-6197). The other witness, Beqir Krasniqi, described Serbian forces in green camouflage uniforms and said none wore face masks but hid their faces with green camouflage caps (Beqir Krasniqi, Exhibit P908, p 3). Later he changed this to black caps with painted faces, adding that many had beards (Beqir Krasniqi, T 6063-6064). He said that all Serbian forces were wearing camouflage and maybe red armbands (Beqir Krasniqi, Exhibit D226, pp 2, 4). However, he identified a blue camouflage uniform as the uniform worn by the Serbian forces when the men were shot at the river (Beqir Krasniqi, Exhibit P910). During cross-examination about the colour of uniforms he often said he could not remember or changed his testimony (Beqir Krasniqi, T 6031-6033, 6044-6046, 6060-6071).

[1967] Beqir Krasniqi, Exhibit P908, p 2; Beqir Krasniqi, Exhibit D226 p 2.

[1968] Beqir Krasniqi, Exhibit P908, p 3; Beqir Krasniqi, T 6076.

538. On or about 31 March 1999, sometime between 1300 hours and 1500 hours, Serbian forces arrived at Pusto Selo/Pastasellë.[1969] They arrived with seven or eight tanks from Poluža/Poluzhë, which is about two kilometres east of Pusto Selo/Pastasellë in the direction of Ciflak/Çifllak.[1970] Avdyl Mazreku observed two tanks in the hills above the village and three others. All had their canons directed towards the village.[1971] The Serbian tanks commenced firing at the village causing panic among the villagers and displaced persons who moved out of the village towards the Prroni-i-Vogel River.[1972] As the villagers and displaced persons left, Beqir Krasniqi saw two tanks about 300 metres from the school and another two tanks just outside the village.[1973] The tanks near the school set about destroying villagers' vehicles that were parked next to the Prroni-i-Vogel River.[1974] Then between 20 and 50 members of the Serbian forces came towards the villagers from the direction of the school.[1975] As they did so tanks also approached the group of villagers. Members of the Serbian army got out of the tanks, surrounded the villagers and separated the women and children from the men.[1976] The men were ordered to sit down "as you do in the mosque", remove their caps and "look down at the soil of Serbia".[1977] In the meantime, all their valuables were taken from the women and children by the soldiers and they were escorted away by some members of the Serbian forces in the direction of Orahovac/Rahovec.[1978] Following this, the men were surrounded and told to empty their pockets.[1979] The Serbian forces took all the valuables and money from these men.[1980] As this was happening, one witness heard the word "streljanje", that he understood to mean "execution", over a communications radio being used by the Serbian forces.[1981] The

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[1969] Avdyl Mazreku initially described the date as one week after the NATO bombing began and three or four days after the end of Bajram (Avdyl Mazreku, Exhibit P987, p 3; Avdyl Mazreku, Exhibit P988, para 2; Avdyl Mazreku, T 6188). The Chamber accepts that the events described took place on or about 31 March 1999. This date was confirmed by Beqir Krasniqi. Beqir Krasniqi, Exhibit P908, p 3.

[1970] The witness described the tanks as an olive green or military colour. He did not see any vehicles in the dark blue police colour. (Avdyl Mazreku, Exhibit P987, p 3; Avdyl Mazreku, T 6169-6170, 6192, 6198; Exhibit P318 (the witness identified tank number 6 as the type of tank present in the village on 31 March 1999); *see* also, Beqir Krasniqi, Exhibit D226, p 2).

[1971] The evidence of witnesses differed as to the type of tank each observed. This may be because they saw different tanks, or it may be that they could not reliably identify tank types. In the Chamber's finding, all tanks seen by the witnesses were VJ vehicles painted in the typical green military colour (Avdyl Mazreku, Exhibit P987, p 3; Exhibit P318; Avdyl Mazreku, T 6169; Exhibit D224; Beqir Krasniqi, T 6046).

[1972] Avdyl Mazreku, Exhibit P987, p 3; Beqir Krasniqi, Exhibit P908, p 3; Beqir Krasniqi, Exhibit D226, p 2.

[1973] Beqir Krasniqi, Exhibit P908, p 3.

[1974] Avdyl Mazreku, Exhibit P987, p 3; Beqir Krasniqi, Exhibit P908, p 3.

[1975] *See supra,* para 536.

[1976] Avdyl Mazreku, Exhibit P987, p 3; Avdyl Mazreku, T 6170; Beqir Krasniqi, Exhibit D226, p 2.

[1977] Beqir Krasniqi, Exhibit P908, p 3; Beqir Krasniqi, T 6035.

[1978] One estimate put the number of men at about 130 but this is clearly not accurate. Avdyl Mazreku, Exhibit P987, p 4; Avdyl Mazreku, T 6170-6171, 6199; Beqir Krasniqi, Exhibit P908, p 4; Beqir Krasniqi, Exhibit D226, p 3; Beqir Krasniqi, T 6074, 6077.

[1979] Avdyl Mazreku, Exhibit P987, p 3; Avdyl Mazreku, T 6171, 6199; Beqir Krasniqi, Exhibit P908, p 4; Beqir Krasniqi, Exhibit 909 (Addendum), para 3; Beqir Krasniqi, Exhibit D226, p 3; Beqir Krasniqi, T 6025, 6080.

[1980] Avdyl Mazreku, Exhibit P987, pp 3-4; Avdyl Mazreku, T 6171, 6199; Beqir Krasniqi, Exhibit P908, p 4; Beqir Krasniqi, Exhibit 909 (Addendum), para 3; Beqir Krasniqi, Exhibit D226, p 3; Beqir Krasniqi, T 6025, 6080.

[1981] At another point the witness said he heard the word "shoot" and not "execution". It is unclear if this was a translation problem. The witness explained he was able to identify the word "streljanje" in Serbian as "everyone knows what it meant". The Chamber does not find the discrepancy to be of any significance because the translation

Chamber accepts that the Serbian forces were ordered to kill these men. Avdyl Mazreku believed that the man using the radio was the leader of the Serbian forces and that he was a policeman, but the Chamber is not able to be satisfied of the correctness of his belief.[1982]

539. A group of Serbian forces separated about 15 younger men from the rest of the male villagers. These young men were beaten up by the Serbian forces and then marched to the Prroni-i-Vogel River, that was about 50 metres away.[1983] The members of the Serbian forces were talking in Serbian. As they loaded their weapons they said to the young men that they were going to have a good swim in the river.[1984] The young men were then lined up at the river and some seven or eight members of the Serbian forces opened fire on them.[1985] Avdyl Mazreku saw the young men fall into the river. Blood was visible on their bodies as they fell. Among the victims he recognised Fadil Krasniqi, two men with the same name Shaban Krasniqi, Behlul Krasniqi, Regjup Krasniqi, Salih Krasniqi, Zaim Krasniqi, Isuf Krasniqi and Zymer Kastari.[1986]

540. The Serbian forces then returned to the main group of male prisoners and demanded more money.[1987] The men had no money left to hand over as it had been given earlier.[1988] Another group of men, including Beqir Krasniqi, was then marched by the Serbian forces to the river, about 20 or 40 metres downstream from where the group of young men was shot.[1989] This second group of men was then lined up and shot by members of the Serbian forces.[1990] When the Serbian forces opened fire, Beqir Krasniqi and his cousin, jumped down into the bushes and fell into the river. Other men landed on top of Beqir Krasniqi who remained silent so as not to be detected.[1991] Following this, the remaining group of about 30 men were ordered to go to the river and to line up at a spot between the two sites of the earlier killings.[1992] Bajram Mazreku, the 82 year old uncle of a witness, refused to walk to the river, so the Serbian forces insisted that Avdyl Mazreku and another man carry Bajram Mazreku.[1993] At the river, members of the Serbian forces opened fire again.[1994]

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of "streljanje" means the "killing or executing a person or people, usually using firearms; execution by firing squad or by an individual". Beqir Krasniqi, Exhibit P908, p 4; Beqir Krasniqi, Exhibit P909 (Addendum), para 3; Beqir Krasniqi, T 6079-6080.

1982 Avdyl Mazreku, Exhibit P987, p 4.

1983 Avdyl Mazreku, Exhibit P987, p 4; Beqir Krasniqi, Exhibit P908, p 5; Beqir Krasniqi, Exhibit D226, p 3.

1984 Avdyl Mazreku, Exhibit P987, p 4; Avdyl Mazreku, T 6172, 6198. Another witness heard them say, "this is Serbian not Albanian land", Beqir Krasniqi, Exhibit P908, p 5.

1985 Avdyl Mazreku, Exhibit P987, p 4; Avdyl Mazreku, T 6159.

1986 Avdyl Mazreku, Exhibit P987, p 4; Avdyl Mazreku, T 6172.

1987 Avdyl Mazreku, Exhibit P987, p 3; Avdyl Mazreku, T 6172-6173.

1988 Avdyl Mazreku, Exhibit P987, p 5; Avdyl Mazreku, T 6173.

1989 Avdyl Mazreku, Exhibit P987, pp 4-5; Avdyl Mazreku, T 6172-6173; Beqir Krasniqi, Exhibit P908, p 5; Beqir Krasniqi, Exhibit D226, p 3.

1990 Avdyl Mazreku, Exhibit P987, p 5; Avdyl Mazreku, T 6172-6173.

1991 Beqir Krasniqi, Exhibit P908, p 5; Beqir Krasniqi, Exhibit D226, p 3.

1992 The number of men in each group was estimated at 30 but on the totality of the relevant evidence those figures are inaccurate. Avdyl Mazreku, Exhibit P987, p 5; Avdyl Mazreku, T 6173.

1993 Avdyl Mazreku, Exhibit P987, p 5; Avdyl Mazreku, T 6173.

1994 Avdyl Mazreku, Exhibit P987, p 5.

When Avdyl Mazreku heard the firing he fell down and while lying there he was wounded in his back.[1995] After the shooting ended, one member of the Serbian forces said "Look again they are moving", to which another replied, "Leave them they are all dead".[1996] After this the Serbian forces left. Avdyl Mazreku then spoke to his uncle who also was still alive.[1997]

541. Avdyl Mazreku gave evidence which the Chamber accepts that altogether 106 men were killed by the Serbian forces in the village of Pusto Selo/Pastasellë on 31 March 1999, 40 of them were from Pusto Selo/Pastasellë village. Only 13 men survived.[1998] Beqir Krasniqi counted 106 men that were buried after the Serbian forces left the village.[1999] There were over 120 members of the Serbian forces present in Pusto Selo/Pastasellë that day, of whom some 20-25 directly took part in the killings of the men.[2000] The Kosovo Albanian men were all unarmed at the time of the killings and not participating in the conflict. It is further accepted that these men were targeted and killed because they were Kosovo Albanians. The Chamber notes that the murders of the men at Pusto Selo/Pastasellë is not charged in the Indictment. However, they are relevant to other issues and to the charge of Persecution contained in Count 5 of the Indictment, discussed later in this Judgement.[2001]

542. Following the shooting of the men, over the next two or three hours Serbian forces set fire to houses in the village; they then left the village.[2002] Avdyl Mazreku and his uncle then went in search of his family in the direction of Ratkovac/Ratkoc. On their way they met other survivors from the shootings at the Prroni-i-Vogel River and assisted some of the wounded to reach Ratkovac/Ratkoc, before returning to Pusto Selo/Pastasellë at about 2400 hours.[2003] Following the departure of the Serbian forces, Beqir Krasniqi also met other survivors and assisted wounded men to reach Ratkovac/Ratkoc.[2004] Following this, he hid in the forest at Dubosak.

543. The next day, on or about 1 April 1999, having heard that the Serbian forces had left in the direction of Ciflak/Çifllak, Beqir Krasniqi returned at about 1200 hours to the site of the shootings and to the village of Pusto Selo/Pastasellë.[2005] In the village, Beqir Krasniqi found the body of his brother, Pajazit Krasniqi, who had been killed by a shot in his right ear and also the body of his

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[1995] Avdyl Mazreku, Exhibit P987, p 5; Avdyl Mazreku, T 6175.
[1996] Avdyl Mazreku, Exhibit P987, p 5; Avdyl Mazreku, T 6174.
[1997] Avdyl Mazreku, Exhibit P987, p 5.
[1998] Avdyl Mazreku, Exhibit P988, para 13; Beqir Krasniqi, Exhibit P908, p 6.
[1999] Beqir Krasniqi. Exhibit P908, p 7.
[2000] Beqir Krasniqi, Exhibit D226, p 4.
[2001] *See infra,* para 1784.
[2002] Beqir Krasniqi, Exhibit P908, p 6.
[2003] Avdyl Mazreku, Exhibit P987, p 6.
[2004] There is no evidence or indication to suggest that the two witnesses, Beqir Krasniqi and Avdyl Mazreku, met at this stage.
[2005] Beqir Krasniqi, Exhibit P908, p 6.

uncle Shaban Krasniqi.[2006] There he was also told of bodies in a house near the school. Near that house, the witness found 12-13 burned bodies lying on the trailer of a tractor. He was able to identify one body as that of his uncle Hadju Jemin Krasniqi. Inside the house he counted another 18 bodies. The witness explained that it was impossible to identify six of the bodies located at the house.

544. The following day, witnesses and other survivors returned to Pusto Selo/Pastasellë and started burying the dead in the mosque yard.[2007] At around 1000 or 1100 hours they heard Serbian forces coming from the direction of Ciflak/Çifllak in their vehicles. The Serbian forces started to fire at the villagers burying the bodies.[2008] The villagers ran in different directions and hid.[2009] A witness saw one military truck, one APC and one tank arrive from the direction of Ciflak/Çifllak. He could see the APC open fire in the direction of Drenovac/Drenoc. These Serbian forces stayed on the road between Pusto Selo/Pastasellë and Sanovac/Senoc for about an hour, before turning back and passing through Pusto Selo/Pastasellë towards the village of Potok in Podujevo/Podujevë.[2010] These Serbian forces set fire to more houses in Pusto Selo/Pastasellë and in Potok before heading off in the direction of Ciflak/Çifllak.[2011] Some villagers returned after dark to bury the remaining dead.[2012] Following this, Avdyl Mazreku, along with other survivors, fled to Ciflak/Çifllak where they remained for about three months.[2013] Beqir Krasniqi remained in the area and over the next two days he continued to find and bury the remaining bodies. During the time he was burying bodies, he counted the total number of dead to be 106 people, all of them male and aged between 16 and 90 years old.[2014]

545. It is the evidence of witness 6D2 that the Head of the Prizren SUP ordered that investigations be undertaken and photographs verified of Pusto Selo/Pastasellë showing two locations of alleged mass grave sites. A group of police attended the site. At the village two mass grave sites were identified and this was reported to the head of the Prizren SUP.[2015] A report, dated 18 April 1999, was filed with the District Public Prosecutor's office and the Investigative Judge.[2016]

[2006] Beqir Krasniqi, Exhibit P908, p 6.
[2007] Avdyl Mazreku, Exhibit P987, p 6; Beqir Krasniqi, Exhibit P908, p 6.
[2008] Beqir Krasniqi, Exhibit P908, p 6.
[2009] Avdyl Mazreku, Exhibit P987, p 6; Avdyl Mazreku, T 6200; Beqir Krasniqi, Exhibit P908, p 6.
[2010] Beqir Krasniqi, Exhibit P908, p 6.
[2011] Beqir Krasniqi, Exhibit P908, p 6.
[2012] Avdyl Mazreku, Exhibit P987, p 6; Avdyl Mazreku, T 6200; Beqir Krasniqi, Exhibit P908, p 7.
[2013] Avdyl Mazreku, Exhibit P988, para 9.
[2014] Beqir Krasniqi, Exhibit P908, p 7; Avdyl Mazreku, Exhibit P988, para 13.
[2015] 6D2, T 12288-12290.
[2016] As part of the report of 18 April 1999, 6D2 included a report related to alleged KLA activities in the area from 1997 to 1999 (Exhibit D811, p 15). The Chamber is unwilling to rely upon much of the evidence given by witness 6D2 because it was found to be unreliable, biased and dishonest. The Chamber notes that no further evidence related to these events has been tendered into evidence and therefore, no weight is given to this aspect of the report. 6D2, T 12288-12290; Exhibit D811.

On this date, the Prosecutor ordered the crime police to gather more information and the Investigative Judge instructed that the area be examined and the bodies exhumed.[2017] 6D2 explained that the team located and exhumed 95 bodies from two mass grave sites.[2018] The bodies were exhumed by workers from the "hygiene" public utilities of Prizren and Orahovac/Rahovec. Following the exhumations, the bodies were sent to the Institute of Forensic Medicine in Priština/Prishtinë.[2019] 6D2 explained that the cause of death was not established for any of the victims.[2020] After the forensic examination of the bodies they were then buried in cemeteries in Prizren, Orahovac/Rahovec, Suva Reka/Suharekë and Zrze/Xërxë.[2021] This evidence is confirmed by the witness Ali Gjogaj who explained that, upon the order of the police, he participated in the exhumations of approximately 90 bodies in Pusto Selo/Pastasellë in April 1999, and their subsequent transport to Priština/Prishtinë for autopsies. He also confirmed that some, if not all, of the bodies were later re-buried in the cemeteries mentioned by witness 6D2.[2022]

546. Crime prevention police were also tasked with investigating the broader area to establish where the bodies were from and any additional details related to events in the area.[2023] They did not receive any information from the security organs of the VJ that assisted in the investigation.[2024] They saw two elderly villagers at the site, however, inexplicably, no attempt was made to talk with them or locate other villagers during this investigation, or afterwards, to assist in the investigation and identification of perpetrators.[2025] Investigative measures were undertaken but not a full investigation; exhumations and some operational and tactical measures were performed at the site.[2026] It was not until 18 September 2001 that officials at the Administration of the Crime Police in Belgrade ordered that a draft report be written about these exhumations. It was understood that the request for the report was delayed until September 2001 when the Serbian prosecuting authorities actively processed the Pusto Selo/Pastasellë incident.[2027] The report concluded that there was no evidence to suggest a mass execution, nor did it provide information about where the bodies originated from or their cause of death.[2028] In the view of the Chamber, the adequacy of the investigation alleged to have been undertaken and the explanation for the delay cannot be accepted

[2017] 6D2, T 12290-12292, 12438-12439.
[2018] 6D2, T 12290-12291.
[2019] Exhibit D811, p 13; Exhibit P1548.
[2020] Exhibit P1548.
[2021] Exhibit D811, p 13; Exhibit P1548.
[2022] Ali Gjogaj, T 559, 563-565 576, 581, 585; Exhibit P280.
[2023] 6D2, T 12290-12291.
[2024] 6D2, T 12291-12292.
[2025] 6D2, T 12376-12378.
[2026] 6D2, T 12373-12376.
[2027] *See* Confidential Annex.
[2028] The Chamber recalls that a report from 6 May 1999 sent from the Prizren SUP to the district prosecutor of Prizren did provide details of the bodies origin and as a result the bodies were re-buried at different locations (Exhibit D811, p 13). Exhibit P1548, p 2.

as truthful.[2029] In the Chamber's finding there was no genuine investigation of the deaths of the people buried in the mass graves. The Chamber finds no reason to doubt the reliability of the eyewitness accounts of the two survivors of the events in Pusto Selo/Pastasellë. The Chamber finds that not less than 106 men were shot in the village of Pusto Selo/Pastasellë on or about 31 March 1999 by Serbian forces conducting an operation in the village and in that general area. While VJ forces and vehicles were engaged in the operation the Chamber cannot determine whether those who shot the men were VJ or from other Serbian forces.

547. The Chamber further notes that, the account of 6D2, in some regards, is consistent with the account of Beqir Krasniqi, a local villager from Pusto Selo/Pastasellë, that the 106 bodies he had buried in the village were exhumed by Serbian forces on or about 12 or 13 April 1999.[2030] As noted earlier, Beqir Krasniqi observed Serbian forces bring a green excavator and trucks into Pusto Selo/Pastasellë. He saw that the persons actually exhuming were dressed in white and yellow working clothes.[2031] The trucks carrying the bodies then left in the direction of Orahovac/Rahovec; this is the direction in which 6D2 testified they were taken.[2032] Sometime much later Beqir Krasniqi and the villagers were contacted by persons they described as "foreigners", who told them that the exhumed bodies had been reburied in a mass grave in Prizren and in separate graves in Orahovac/Rahovec and Zrze/Xërxë; these are three of the four locations where 6D2 stated that the bodies were later re-buried. Beqir Krasniqi added that not all the bodies of the 106 men that he had buried were found at these three locations; some are still missing.[2033] Although the precise date of the exhumations provided by Beqir Krasniqi does not accord with that of 6D2, in the view of the other matters of agreement, the Chamber accepts that 95 of the 106 bodies of men buried by Beqir Krasniqi and others in the village were exhumed in April 1999 under the supervision of witness 6D2. Some of these 95 bodies were later reburied in Prizren, Orahovac/Rahovec and Zrze/Xërxë and others may have been buried in Suva Reka/Suharekë.

6. General overview of events in Orahovac/Rahovec municipality

548. It is argued by the Defence that the Serbian military and police operations in the municipality, which are charged in the Indictment, were in response to KLA criminal and terrorist activities in the municipality of Orahovac/Rahovec; they were part of legitimate anti-terrorist activities.[2034] Some reliance for this argument is placed on the KiM dossier which is a report on criminal offences, and measures undertaken in response to these, throughout Kosovo, including the

[2029] *See* Confidential Annex.
[2030] Beqir Krasniqi, Exhibit P908, p 8.
[2031] Beqir Krasniqi, Exhibit P908, p 8; Beqir Krasniqi, T 6037-6038.
[2032] Beqir Krasniqi, T 6037-6038.
[2033] Beqir Krasniqi, T 6038-6039.

Orahovac/Rahovec municipality. Specifically, in relation to Orahovac/Rahovec municipality, it discusses alleged KLA offences committed in 1998 and alleged threats made by the KLA.[2035] The Defence specifically emphasised an alleged "terrorist attack" upon police in Zrze/Xërxë on 21 March 1999.[2036] While there may have been shooting by KLA at Zrze/Xërxë police station the evidence does not indicate that this one event, nor any other KLA related issues were the reason for the VJ and MUP operation in the municipality of Orahovac/Rahovec. The Defence also argues that the Serbian forces were specifically ordered to attack KLA targets and to act in a proper manner.[2037] The evidence does not provide an adequate factual foundation for these arguments and the Chamber rejects them. The Chamber is of the view that what was done by the Serbian forces was not at all what would have been done during a genuine police action to flush out and arrest (or even kill) KLA fighters. On the contrary, the conduct of the MUP and VJ forces was directed at all Kosovo Albanians and was part of a policy of expelling Kosovo Albanians from the area and destroying their property. The actions of these forces, discussed above, belie any anti KLA operation.

549. The evidence demonstrates that the Order of the Joint Command for this attack was in words directed towards clearing KLA fighters from the area, although the language of the Order was indicative of much more, for instance, "mop-up" the area. The Chamber finds that what was actually done in the execution of the written orders revealed the true scope and intention of the order - that is, to remove all Kosovo Albanians, by death or expulsion, and to destroy their villages and homes. KLA fighters became incidental to the operation, not the focus of it. The events detailed in the above sections have established this pattern of attack by Serbian forces as typical during the operation in the area of the Orahovac/Rahovec municipality which commenced on 25 March 1999 and which was ordered on 24 March 1999. The evidence reveals that in many cases preparatory activities by Serbian forces preceded 24 and 25 March 1999, indicating earlier planning and coordination by the Serbian forces so they were ready to act when an order was given on the day the NATO bombing campaign commenced on 24 March 1999.

7. Other events in Orahovac/Rahovec municipality

550. Around 24 March 1999, the VJ 120th Mortar Company was deployed to the municipality of Orahovac/Rahovec.[2038] The Chamber has been very cautious about aspects of the evidence of this witness, in particular because of variations in his account of some matters and a convenient

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[2034] Defence Final Brief, paras 734-735, 748.
[2035] Exhibit D888, pp 5, 10, 661.
[2036] The Chamber notes that at para 734 of the Defence Final Brief they refer to Exhibit D999. The sentence earlier discussed the KiM dossier and the Chamber notes that this document is Exhibit D888. Consequently, Exhibit D888 has been referred to, not D999 which is not an exhibit in this case. Exhibit D888, pp 5, 10, 661, 691.
[2037] *See,* Defence Final Brief, para 735.
[2038] *See* Confidential Annex.

vagueness about others. The Chamber therefore warned itself and having done so went on to accept his evidence in respect of the following matters.

(a) Searching of houses in Orahovac/Rahovec municipality

551. Commencing from 25 March 1999, and for about 20-23 days thereafter, a VJ unit participated in operations in the area between Orahovac/Rahovec and Đakovica/Gjakovë.[2039] This unit was tasked to follow VJ infantry and provide mortar support for the infantry if it came under fire while searching houses in villages in the area to look for ammunition and weapons. The infantry was armed with automatic rifles and machine-guns.[2040] In addition to the VJ, there were also police, who wore blue uniforms, engaged in these operations.[2041] There were also other forces taking part in the searches of villages he described, dressed in a mixed blue and green camouflage uniforms, not regular VJ style uniforms but like a one-piece boiler suit. They also wore balaclavas and red or blue berets. They were thought to be Arkan's Tigers.[2042] In the Chamber's view, based on the description of the uniforms, it finds that these forces were MUP special forces, SAJ, PJP or JSO (which wore red berets).[2043] K89 also described armed Serb civilians who took part in the searches together with the VJ and MUP.[2044] The Chamber notes that this evidence is consistent with other evidence about the existence and role of armed Serbian villagers assisting Serbian forces, in particular to provide local knowledge. They were typically serving as Reserve or Territorial MUP.

(b) Columns of refugees and killings on 7 or 8 April 1999

552. In the Orahovac/Rahovec municipality in April 1999, a witness observed columns of refugees and saw VJ infantry separating male displaced persons from the women and children.[2045] On one occasion, on or about 7 or 8 April 1999, about 20 men, who were dressed as civilians, were taken away from a column of displaced persons.[2046] These men were lined up and the VJ handed out KLA uniforms to them which they put on.[2047] The uniforms were described as being a lighter green colour than the VJ uniforms; they had KLA insignia. Some of these uniforms were red, however, most of them were a lighter green colour.[2048] Members of the VJ unit then opened fire

[2039] *See* Confidential Annex.
[2040] *See* Confidential Annex.
[2041] *See* Confidential Annex.
[2042] *See* Confidential Annex.
[2043] *See supra*, paras 64, 65, 76, 81, 85, 86.
[2044] *See* Confidential Annex.
[2045] *See* Confidential Annex.
[2046] *See* Confidential Annex.
[2047] *See* Confidential Annex.
[2048] *See* Confidential Annex.

killing this group of men.[2049] The witness did not know what happened to their bodies following this shooting.[2050]

(c) Loading of bodies from the Orahovac/Rahovec area onto trucks

553. While in the surroundings of Orahovac/Rahovec, a unit was ordered to send two soldiers to report to a superior army officer because some bodies had to be loaded onto trucks. There were approximately 20 bodies some were in plastic bags, the others were not. All of the bodies were dressed in civilian clothing.[2051] The bodies were loaded on a truck and members of a VJ unit accompanied the truck with the bodies to a powerplant in Obilic, which was "somewhere after Priština".[2052] There they unloaded the bodies. There were other soldiers and civilians at the location. The witness did not know what happened to the bodies.[2053]

(d) Looting by the VJ

554. In April 1999, when a VJ unit withdrew from the Orahovac/Rahovec municipality, what appeared to be civilian cars, tractors and trucks were driven away with them. These vehicles did not have VJ number plates. At the time he assumed that those driving the vehicles were his superiors because ordinary soldiers were not allowed to drive non-military vehicles.[2054] On the basis of this evidence alone, the Chamber is not satisfied that these vehicles had been looted by members of the VJ from civilian persons in the area in which the unit had been engaged in operations.

B. Prizren municipality

1. Prizren town

555. At the time of the events established below, about 70 per cent of the population were Kosovo Albanians. The town of Prizren was also populated by Serbs, Turks and Roma.[2055]

556. In late March 1999, regular and special police forces were stationed in a factory in the north-west area of town.[2056] On 23 March 1999, camouflaged army tanks, green in colour, and 105

[2049] *See* Confidential Annex.
[2050] *See* Confidential Annex.
[2051] K89, Exhibit P1274 (public redacted version of *Milutinović* transcript), T 9147-9148, 9175.
[2052] K89, Exhibit P1274 (public redacted version of *Milutinović* transcript), T 9148; K89, Exhibit P1273 (*Milutinović* transcript), T 9206, 9208-9209).
[2053] K89, Exhibit P1274 (public redacted version of *Milutinović* transcript), T 9148-9149; K89, Exhibit P1273 (*Milutinović* transcript), T 9208.
[2054] K89, Exhibit P1274 (*Milutinović* transcript), T 9152-9153.
[2055] Xhafer Beqiraj, Exhibit P805 (*Milošević* transcript), T 3513.

millimetre artillery pieces were observed at the same factory.[2057] Around that same period of time, policemen and Serbian paramilitary forces were seen all over Prizren town. They manned checkpoints and patrolled the streets.[2058]

557. On 24 March 1999, NATO commenced its aerial campaign in Serbia, including Kosovo. The military barracks located just outside the town of Prizren on the road to Suva Reka/Suharekë were bombed.[2059] Xhafer Beqiraj, a Kosovo Albanian living in the neighbourhood of Jeta-e-Re in the town of Prizren, testified that he stayed indoors during the bombing together with his family and some people that had taken refuge in his home. Approximately 50 people from other villages, including Landovica/Landovicë and Pirane/Piranë in Prizren municipality, as well as Krushë e Madhe/Velika Krušha in Rahovec/Orahovac municipality, had taken refuge in the nearby neighbourhood because of attacks and killings by Serbian forces.[2060]

558. In the evening of 27 March 1999, the military barracks outside Prizren town were once again hit by a NATO air strike. Following this air strike, machine gun firing was heard throughout the night.[2061] In the following days, tens of thousands of Kosovo Albanians, escorted by Serbian forces described as paramilitary and VJ soldiers, were seen passing through Prizren town walking south towards the borders with FYROM and Albania in large columns. They came from the direction of Đakovica/Gjakovë.[2062]

559. On or about 30 March 1999,[2063] a large number of policemen surrounded a neighbourhood of Prizren located in the outskirt of Prizren and fired gunshots. At around 1700 hours, they started expelling the population of that neighbourhood. Three or four uniformed police,[2064] armed with

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2056 Xhafer Beqiraj, Exhibit P806, p 3; Xhafer Beqiraj, Exhibit P805 (*Milošević* transcript), T 3524; Xhafer Beqiraj, T 4796-4797.

2057 Rexhep Krasniqi, Exhibit P850 (*Milutinović* transcript), T 4923, 4925, 4038, 4940; Rexhep Krasniqi, T 5417-5418.

2058 Xhafer Beqiraj, T 4797-4798.

2059 Xhafer Beqiraj, Exhibit P806, p 2; Xhafer Beqiraj, Exhibit P805 (*Milošević* transcript), T 3508-3509, 3521; Hysni Kryeziu, T 5598; Hysni Kryeziu, Exhibit P878 (*Milutinović* transcript), T 7555, 7570; Rexhep Krasniqi, Exhibit P850 (*Milutinović* transcript), T 4937; Rexhep Krasniqi, T 5417; K54, Exhibit D114 (*Milutinović* transcript), T 10513. K54 testified that the military barracks in Prizren had been bombed by NATO. Because of the bombing, sometime in late March or early April 1999, residents from a nearby unidentified Albanian settlement were expelled so that the VJ could use their residences, K54, Exhibit P781, p 6.

2060 Xhafer Beqiraj, Exhibit P806, p 2; Xhafer Beqiraj, Exhibit P805 (*Milošević* transcript), T 3509, 3520; Xhafer Beqiraj, T 4792, 4841.

2061 Xhafer Beqiraj, Exhibit P806, p 3; Xhafer Beqiraj, Exhibit P805 (*Milošević* transcript), T 3524-3525; Rexhep Krasniqi, Exhibit P850 (*Milutinović* transcript), T 4937.

2062 Xhafer Beqiraj, Exhibit P806, p 3; Xhafer Beqiraj, Exhibit P805 (*Milošević* transcript), T 3527; Xhafer Beqiraj, T 4799.

2063 Xhafer Beqiraj, Exhibit P806, p 3; Xhafer Beqiraj, T 4817. Although witnesses' testimony varied about the precise dates of the events, the Chamber finds that the events in Prizren town happened subsequently to the events in Dusanovo/Dushanovë.

2064 Xhafer Beqiraj, T 4800. Xhafer Beqiraj was not at the door but he saw the arm of a policeman in blue camouflage uniform.

automatic weapons, came to a house in Ulqini Street.[2065] Through the owner of the house, the police told the persons inside, around 50 people including displaced persons, to leave the house within five minutes or all would be shot.[2066] After this, about 30 of the people left in a trailer. As they began moving in a convoy, they had to pass between two lines of police described as regular police and police special forces. The latter wore blue camouflage uniforms and bullet proof vests and some also wore black and red ribbons around their head and black masks or had painted faces.[2067]

560. VJ soldiers were also present with tanks and armoured vehicles.[2068] Other Serbian forces described as paramilitaries wearing green uniforms, green face-nets and bandannas were also used during this operation.[2069]

561. The whole expulsion was well organized.[2070] The people leaving were ordered by the Serbian forces to go to Albania, who also threatened them with gestures indicating the cutting of their throats.[2071] The convoy of displaced people was directed by the Serbian forces at various points around town towards Žur/Zhur and then towards Albania.[2072] As the convoy was moving, Xhafer Beqiraj saw the owner of the house in which he and others had stayed, being stopped by the same police special forces described above, threatened and beaten with rifles by them.[2073] It took the refugees in the column 12 hours to cover the distance of 15 kilometres between Prizren and Albania. The convoy was very long.[2074]

562. Xhafer Beqiraj, who travelled in this convoy, testified that upon his arrival at the Albanian border, the tractor he was on was stopped by several policemen wearing blue camouflage uniforms.[2075] They ordered the persons on the tractor to hand over all their identification documents, and they also took away the licence plates from the tractor.[2076] At the border crossing point, Serbian police separated about 10 young men from the refugee column and took them into a building nearby. The others were ordered to move on across the border into Albania. While Xhafer Beqiraj waited in the refugee column, he also saw two girls being taken out of the line into the

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[2065] Xhafer Beqiraj, Exhibit P806, p 3.
[2066] Xhafer Beqiraj, Exhibit P806, p 3; Xhafer Beqiraj, Exhibit P805 (*Milošević* transcript), T 3528; Xhafer Beqiraj, T 4800.
[2067] Xhafer Beqiraj, Exhibit P806, p 4; *See supra*, paras 53-54.
[2068] Xhafer Beqiraj, T 4801-4803.
[2069] Xhafer Beqiraj, T 4801-4803.
[2070] Xhafer Beqiraj, T 4801-4803.
[2071] Xhafer Beqiraj, Exhibit P806, p 4; Xhafer Beqiraj, T 4801.
[2072] Xhafer Beqiraj, T 4802-4803; Exhibit P807.
[2073] Xhafer Beqiraj, Exhibit P806, p 4.
[2074] Xhafer Beqiraj, Exhibit P806, p 4; Xhafer Beqiraj, T 4806-4807.
[2075] Xhafer Beqiraj, Exhibit P806, p 5; Xhafer Beqiraj, T 4806-4807.
[2076] Xhafer Beqiraj, Exhibit P806, p 5; Xhafer Beqiraj, T 4807-4808.

nearby bushes by police. Later on he was told that another girl was taken to a house nearby by "paramilitaries".[2077]

563. Evidence reveals that in the period relevant to the Indictment, the VJ 549th Motorized Brigade was operating in Prizren municipality.[2078] This is supported by an order signed by the commander of the VJ 549th Motorized Brigade, Božidar Delić, dated 23 March 1999, deploying the VJ 549th Motorized Brigade in the general area of the village of Donje Retimlje/Reti-e-Poshtme[2079] and along the axis between this village and the main road from Zrze/Xërxë[2080] to Prizren town.[2081] The order tasked the VJ 549th Motorized Brigade to act, in coordination with the 4th PJP Company from Đakovica/Gjakovë, the 5th PJP Company from Prizren and the 37th and the 87th PJP Detachments from Nis/Niš, to destroy the KLA in the area.[2082]

564. Further evidence reveals that on 27 March 1999, units of the VJ Priština/Prishtinë Military District Command were redeployed in various locations across Kosovo, including in Prizen town. The VJ 108th Military Territorial Detachment, in coordination with forces of the VJ 549th Motorized Brigade, and MUP forces, were tasked to guard the barracks, the factory and to protect the Serbian population in Prizren.[2083] The order further tasked units to establish combat control of the territory on the axes of Prizren–Sredska/Sredskë (south-east) and Prizren-Suva Reka/Surarekë (north-east).[2084] Other documentary evidence establishes that from December 1998 to April 1999, the 37th and 87th PJP Detachments of the MUP were deployed to the Prizren SUP for special security tasks.[2085] Other documents indicate that the 37th PJP Detachment was still assisting the Prizren SUP in late March 1999 and was instructed to continue to do so for another 40 day period.[2086] The documentary evidence and the eye-witness evidence establish, in the Chamber's finding, that MUP forces were acting in cooperation with VJ forces for the purpose of this operation. It is possible that paramilitary were also used in this joint operation, although the evidence does not allow positive identification of these forces.

2077 Xhafer Beqiraj, Exhibit P806, p 5; Xhafer Beqiraj, T 4790-4791.
2078 K82, Exhibit P1315, para 2.
2079 Donje Retimlje/Reti-e-Poshtme is located in Orahovac/Rahovec municipality, nearby the border with Prizren municipality.
2080 Zrze/Xërxë is located in Orahovac/Rahovec municipality.
2081 Exhibit P1316, p 2.
2082 Exhibit P1316, p 2.
2083 Exhibit P896.
2084 Exhibit P896.
2085 Exhibit P1183; Exhibit P134; Exhibit P1190; Exhibit P1188.
2086 Exhibit P711; Exhibit P1197; Exhibit P1194.

2. Dušanovo/Dushanovë

565. Dušanovo/Dushanovë is a suburb of Prizren town, located to the north of the town centre, about five kilometres south-east of Landovica/Landvicë, and about 19 kilometres south-west of Suva Reka/Suharekë.[2087] At the time of the events alleged in the Indictment, there were about 1,200 houses of Kosovo Albanian families, and some 20 to 40 houses of Serb families in Dusanovo/Dushanovë.[2088]

566. On 27 March 1999, an order was given to units of the Priština Military District Command to establish combat control of the territory on the axis of Prizren-Suva Reka/Suhareke.[2089] This axis encompasses Dušanovo/Dushanovë. Other evidence reveals that VJ together with PJP forces, were engaged in a joint operation in the area at the time.[2090]

567. In the afternoon or evening of 27 March 1999, Rexhep Krasniqi and Hysni Kryeziu, who lived in Dušanovo/Dushanovë not far from each other,[2091] saw convoys of displaced people arriving in Dušanovo/Dushanovë from the village of Mamuša/Mamushë, about 15-17 kilometres away.[2092] These displaced people said they had been forced out of their village by Serbian police.[2093] Rexhep Krasniqi and his brother took 60 of these people in their houses.[2094]

568. Around 1700 hours on 28 March 1999, police forces wearing both plain blue and camouflage blue uniforms and other Serbian forces wearing plain colour uniforms surrounded Dušanovo/Dushanovë. The Serbian forces included VJ tanks and armoured vehicles, and fired volleys of fire in all directions.[2095] One witness estimated that over 2,000 Serbian police and army, mostly army members, were in and around Dušanovo/Dushanovë.[2096] Among them there were also men wearing beards, long hair and "Chetnik" hats, a description which is consistent with the presence of Serbian paramilitary forces.[2097] Members of all the Serbian forces present shouted at

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2087 Hysni Kryeziu, P876, p 2.
2088 Hysni Kryeziu, Exhibit P876, p 2; Hysni Kryeziu, Exhibit P877, p 2; Rexhep Krasniqi, Exhibit P848, p 2; Rexhep Krasniqi, Exhibit P850 (*Milutinović* transcript), T 4922; Rexhep Krasniqi, T 5416; Hysni Kryeziu, Exhibit P876, p 2. There were also a few Goranies and Roma in the village.
2089 Exhibit P896.
2090 K82, Exhibit P1314, para 2; K82, Exhibit P1315, para 2; Exhibit P1316, p 2. The VJ was deployed in the general area of the village of Donje Retimlje/Reti-e-Poshtme and along the axis between this village and the main road from Zrze/Xërxë to Prizren town.
2091 Hysni Kryeziu, T 5572. Rexhep Krasniqi was one of the Hysni Kryeziu's neighbours. Their houses were located within about 50 metres of each other on the same street.
2092 Hysni Kryeziu, T 5603; Rexhep Krasniqi, Exhibit P848, p 2; Rexhep Krasniqi, T 5411, 5423-5424.
2093 Hysni Kryeziu, T 5603; Rexhep Krasniqi, Exhibit P848, p 2.
2094 Rexhep Krasniqi, Exhibit P848, p 2.
2095 Hysni Kryeziu, Exhibit P876, p 3; Hysni Kryeziu, Exhibit P878 (*Milutinović* transcript), T 7546, 7563-7564.
2096 Hysni Kryeziu, Exhibit P878 (*Milutinović* transcript), T 7564.
2097 Hysni Kryeziu, T 5607.

the displaced people that they should go to Albania, and that "Kosovo belongs to Serbia, you belong to Albania".[2098]

569. At about the same time, police arrived near Rexhep Krasniqi's house in Dušanovo/Dushanovë.[2099] They were wearing either black combat uniforms or blue camouflage uniforms. Some of them were wearing masks resembling ski-masks.[2100] Other Serbian forces in green camouflage uniforms, believed to be VJ, were also present.[2101] Rexhep Krasniqi saw altogether about 50-60 VJ tanks, green in colour, which had 105 millimetre cannons and anti-aircraft weapons mounted on them.[2102] He also saw armoured police cars with Prizren number plates which were darker in colour than the military vehicles.[2103] Rexhep Krasniqi's neighbourhood was surrounded and all the streets were sealed off by the police and the military.[2104]

570. As this was happening, police arrived at Rexhep Krasniqi's house, smashed down the front door and entered the house.[2105] There were about 20 policemen in the front yard.[2106] At this time, Rexhep Krasniqi and his wife and children, as well as about 28 displaced persons who had been staying at the house, were in the yard.[2107] The police ordered them to raise their hands in the air and started to beat them.[2108] A policeman in black uniform told them that they should go to Albania, and that there was no place for them in Kosovo.[2109] The police took Rexhep Krasniqi and his family members out of the house, and while doing so, hit him on the back with a rifle butt, beat the other members of his family, pulled a gold chain from his daughter's neck and seized his son's identification documents.[2110]

571. Rexhep Krasniqi saw other members of these Serbian forces, some in camouflage uniforms and others in black uniforms, who were mixed up together, setting Albanian owned houses on fire. This happened in the presence of VJ, who did not intervene.[2111] Some 4,000-5,000 Kosovo

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[2098] Hysni Kryeziu, Exhibit P876, p 3.
[2099] Rexhep Krasniqi, Exhibit P848, p 2; Rexhep Krasniqi, Exhibit P850 (*Milutinović* transcript), T 4949.
[2100] Rexhep Krasniqi, Exhibit P848, p 2; Rexhep Krasniqi, T 5419.
[2101] Rexhep Krasniqi, Exhibit P848, p 2; Rexhep Krasniqi, Exhibit P850 (*Milutinović* transcript), T 4923, 4954.
[2102] Rexhep Krasniqi, Exhibit P848, p 2; Rexhep Krasniqi, Exhibit P850 (*Milutinović* transcript), T 4923-4924, 4926-4927.
[2103] Rexhep Krasniqi, Exhibit P848, p 2; Rexhep Krasniqi, Exhibit P850 (*Milutinović* transcript), T 4926, 4951.
[2104] Rexhep Krasniqi, Exhibit P848, p 2.
[2105] Rexhep Krasniqi, Exhibit P848, p 2; Rexhep Krasniqi, T 5427, 5431.
[2106] Rexhep Krasniqi, Exhibit P848, p 2; Rexhep Krasniqi, T 5431.
[2107] Rexhep Krasniqi, Exhibit P848, p 2; Rexhep Krasniqi, T 5432.
[2108] Rexhep Krasniqi, T 5427-5428.
[2109] Rexhep Krasniqi, Exhibit P848, p 2; Rexhep Krasniqi, Exhibit P850 (*Milutinović* transcript), T 4950, 4954.
[2110] Rexhep Krasniqi, Exhibit P848, p 2; Rexhep Krasniqi, Exhibit P850 (*Milutinović* transcript), T 4928.
[2111] Rexhep Krasniqi, Exhibit P848, p 3.

Albanians were forced out of town by the Serbian forces.[2112] It is significant, in the view of the Chamber that members of the Serb households in the area had left a day earlier.[2113]

572. While the description of the Serbian forces involved in Dušanovo/Dushanovë typically included police and VJ, the description of the police is of men wearing black combat uniforms or blue camouflage uniforms. The unit identity of the men wearing black combat uniforms is not clear. Whatever their unit, the evidence discloses they were acting with other police, who wore blue camouflage uniforms, and with VJ forces, and that these combined forces were using MUP and VJ vehicles and were supported by VJ tanks. In the Chamber's findings, the Serbian forces wearing black combat uniforms, whatever their identity, were engaged in a joint coordinated operation with MUP and VJ forces. Other evidence establishes that these joint coordinated operations were ordered by the Joint Command for Kosovo, which as established by the evidence discussed elsewhere in this Judgement, was responsible at the time for the combined operations of both VJ and MUP engaged in Kosovo.[2114]

573. A convoy of displaced Kosovo Albanians formed stretching from the town of Prizren to the Albanian town of Kukës, *i.e.* for some 16 kilometres.[2115] Serbian forces threatened the people that they would kill them if they did not go.[2116] It is clear from the whole evidence, including the threat that the displaced people should go to Albania, which was heard by Rexhep Krasniqi, and the direction the convoy took under Serbian escort all the way to the border, that the displaced Kosovo Albanians of this convoy were directed across the Albanian border close by Morine/Morina, on the road that led to the nearby Albanian town of Kukës.[2117]

574. At about 1700 or 1800 hours on 28 March 1999, Rexhep Krasniqi saw an incident involving two or three young Kosovo Albanian men who had been driving in a convoy on the road to Kukës, in the suburbs of Dušanovo/Dushanovë.[2118] The men jumped off their tractors and tried to run. Rexhep Krasniqi heard automatic gunfire and saw that two of the men had been shot by the police and had fallen on the ground.[2119] The evidence does not allow any more detailed findings to be

[2112] Rexhep Krasniqi, Exhibit P848, p 2.
[2113] Rexhep Krasniqi, Exhibit P848, p 2; Rexhep Krasniqi, Exhibit P850 (*Milutinović* transcript), T 4952; Rexhep Krasniqi, T 5429.
[2114] Exhibit P1316; *See supra*, paras 253-260.
[2115] Rexhep Krasniqi, Exhibit P848, p 2; Rexhep Krasniqi, T 5433.
[2116] Rexhep Krasniqi, Exhibit P848, p 2.
[2117] Rexhep Krasniqi, Exhibit P848, p 2.
[2118] Rexhep Krasniqi, Exhibit P848, p 3; Rexhep Krasniqi, T 5435-5436.
[2119] Rexhep Krasniqi, Exhibit P848, p 3; Rexhep Krasniqi, T 5436.

made of the circumstances in which these deaths occurred. There is also evidence that four persons were killed by Serbian forces in the convoy of displaced people leaving Prizren town.[2120]

575. While this was happening, Hysni Kryeziu, fearing for the safety of his family at the hands of Serbian forces, also collected his family and got into his car to join the convoy of people from Dušanovo/Dushanovë leaving the village.[2121] Hysni Kryeziu testified that at about 500 metres from his house, on the transit road that leads to Prizren, the police, including the local police commander Šćekić who was wearing a brown nylon stocking on his head, stopped him and his family.[2122] Hysni Kryeziu saw other men wearing black stockings on their heads and black "chetnik caps with cockades on them" in the police group.[2123] Hysni Kryeziu and his family were ordered out of their cars, and threatened with knives and guns.[2124] While his wife was trying to get something from the boot of the car, she was hit with an automatic rifle causing her to lose consciousness.[2125] The local police commander, Šćekić, took Kryeziu's car, the women's jewellery, and his money.[2126] All of their documentation was also seized before they were allowed to move on.[2127] Hysni Kryeziu also saw masked policemen and soldiers beat and kick two of Šćekić's neighbours, Abdurraham Ahmetaj and Besnik Ahmetaj, with their hands and guns,[2128] following which the police set fire to their house.[2129] These circumstances confirm, in the finding of the Chamber, and it accepts that Hysni Kryeziu and his family left Dušanovo/Dushanovë by virtue of the conduct of Serbian forces.

576. Hysni Kryeziu and his family then joined on foot a convoy of people, mainly Kosovo Albanian, on the journey to the Albanian border.[2130] The convoy was directed along the main Prizren-Đakovica/Gjakovë road.[2131] Two to three kilometres along this road, Serbian police and the military, who were in mixed groups, told the Roma and some Goranies in the convoy to go back to their homes.[2132]

[2120] Hysni Kryeziu, Exhibit P876, p 3; Hysni Kryeziu, Exhibit P878 (*Milutinović* transcript), T 7545.
[2121] Hysni Kryeziu, Exhibit P876, p 3; Hysni Kryeziu, T 5609, 5610.
[2122] Hysni Kryeziu, Exhibit P876, p 3; Hysni Kryeziu, Exhibit P878 (*Milutinović* transcript), T 7543-7544, 7565, 7566; Hysni Kryeziu, T 5611, 5616. Hysni Kryeziu testified that he was able to recognize Šćekić despite this stocking because he could see his face through it and recognize his voice as he had lived with him in the same village for 40 years, Hysni Kryeziu, T 5616.
[2123] Hysni Kryeziu, Exhibit P878 (*Milutinović* transcript), T 7544-7548; Hysni Kryeziu, T 5607.
[2124] Hysni Kryeziu, Exhibit P876, p 3; Hysni Kryeziu, Exhibit P878 (*Milutinović* transcript), T 7544.
[2125] Hysni Kryeziu, Exhibit P878 (*Milutinović* transcript), T 7549, 7567.
[2126] Hysni Kryeziu, Exhibit P876, p 3; Hysni Kryeziu, Exhibit P878 (*Milutinović* transcript), T 7566-7567.
[2127] Hysni Kryeziu, Exhibit P876, p 3.
[2128] Hysni Kryeziu, Exhibit P876, p 3; Hysni Kryeziu, T 5602.
[2129] Hysni Kryeziu, Exhibit P876, p 3.
[2130] Hysni Kryeziu, Exhibit P876, p 3; Hysni Kryeziu, T 5568, 5614.
[2131] Hysni Kryeziu, T 5614-5615.
[2132] Hysni Kryeziu, T 5568 – 5569.

577. En route, people in the convoy were occasionally mistreated by Serbian forces.[2133] Where the road turns towards Albania, Hysni Kryeziu observed vehicles passing by with Kosovo Albanian families. Serbian police who were escorting these vehicles appeared to be intimidating the people, for example by breaking their car windows with their automatic rifles.[2134]

578. The people in the convoy continued walking for six hours, passing through the village of Žur/Zhur and other villages in Prizren municipality, before reaching the Albanian border at around 2300 hours.[2135] Before reaching the border at Žur/Zhur, they encountered a police checkpoint, where people were stopped and some were taken out of the convoy.[2136] From Žur/Zhur, they followed the road to Vrmnica/Vrmice and the border crossing point.[2137] At the last checkpoint before the border in Morina/Morinë and at the border, Serbian policemen took money, cars, identification documents and licence plates from the refugees in the convoy, before they crossed into Albania.[2138] Once in Albania, they continued to Kükes, the first town of significance on the road.[2139]

579. Based on this evidence the Chamber is satisfied that Serbian forces in Dušanovo/Dushanovë and on the road between Dušanovo/Dushanovë and the Albanian border, forced Kosovo Albanian civilians to leave their houses and cross the border into Albania, by conduct which included burning houses, intimidating, beating and otherwise mistreating the Kosovo Albanian people. It is further satisfied that Serbian forces did so because the victims were Kosovo Albanian.

3. Pirane/Piranë

580. Pirane/Piranë is located about 11 kilometres north of Prizren town.[2140] At the time of the events established below, the residents of Pirane/Piranë were predominantly Kosovo Albanians.[2141]

581. The evidence indicates that in March 1999, the municipality of Prizren fell within the KLA Pashtrik operation zone. At the time, several KLA brigades were active in the area and had set up defence lines passing through Pirane/Piranë.[2142] Evidence also reveals that on 23 March 1999, VJ

[2133] Hysni Kryeziu, Exhibit P876, p 3; Hysni Kryeziu, T 5569, 5570, 5598.
[2134] Hysni Kryeziu, T 5570.
[2135] Rexhep Krasniqi, Exhibit P848, p 3.
[2136] Hysni Kryeziu, T 5570.
[2137] Hysni Kryeziu, T 5616.
[2138] Rexhep Krasniqi, Exhibit P848, p 3; Rexhep Krasniqi, T 5401; Hysni Kryeziu, Exhibit P876, pp 3-4; Hysni Kryeziu, T 5570-5571.
[2139] Hysni Kryeziu, T 5614-5615.
[2140] Rahim Latifi, Exhibit P779 (*Milutinović* transcript), T 4959; Rexhep Krasniqi, T 5412.
[2141] Halil Morina, P284 (*Milošević* transcript), T 874. There were also Roma villagers in Pirane/Piranë.
[2142] Bislim Zyrapi, T 2469-2470, 2473. The KLA 121th, 122th, 123th, 124th and 125th brigades were active in the Pashtrik Operation Zone.

and PJP units were deployed in the general area of the village of Donje Retimlje/Reti-e-Poshtme, located in the vicinity of Pirane/Piranë, with the order to destroy KLA forces.[2143]

582. At 0400 hours on the morning of 25 March 1999, the village of Pirane/Piranë was surrounded by VJ soldiers in olive-grey-green uniforms with tanks, APCs, and Pragas, as well as police in blue and white camouflage uniforms, in Pinzgauers, a truck, and civilian vehicles.[2144]

583. At 0800 hours, VJ began shelling Pirane/Piranë from the village bridge and from Landovica/Landovicë.[2145] At the same time, Rahim Latifi saw police setting fire to a neighbour's home; they continued and using shotguns, set fire to approximately 16 houses in the predominantly Kosovo Albanian village over the next two hours.[2146] At approximately 0900 hours on 25 March 1999, Halil Morina was on a hill close to his house in the village of Landovica/Landovicë, three to four kilometres from Pirane/Piranë, and he could see houses burning in Pirane/Piranë.[2147] No one was killed during the shelling at Pirane/Piranë. A shell fell in the area between the village mosque and the minaret.[2148]

584. The same day, the majority of the population of Pirane/Piranë, an estimated 1,900 people, left in fear for the village of Mamuša/Mamushë[2149] because their houses were being burnt. About 800 villagers, including Rahim Latifi, also left in fear to go to Srbica/Sërbica, a village in Prizren municipality located approximately two and a half to three kilometres away from Pirane/Piranë.[2150]

585. Xhafer Elshani and Mehmet Elshani led the convoy going to Srbica/Sërbica.[2151] They were both shot by a sniper from a Serbian house on the way to Srbica/Sërbica; Xhafer was killed and Mehmet was wounded.[2152] Bullets also flew by Rahim Latifi's head as he fled.[2153] The witness does not identify who fired these shots.

[2143] Exhibit P1316, p 2.
[2144] Rahim Latifi, Exhibit P778, p 2; Rahim Latifi, Exhibit P779 (*Milutinović* transcript), T 4960-4962. *See supra*, paras 53, 162-163.
[2145] Rahim Latifi, Exhibit P778, p 2.
[2146] Rahim Latifi, Exhibit P778, p 2; Rahim Latifi, Exhibit P779 (*Milutinović* transcript), T 4963.
[2147] Halil Morina testified that the burning of homes in the village of Pirane/Piranë caused the villagers to flee towards Srbica e Ulet/Sërbica and Mamuša/Mamushë. Halil Morina, Exhibit P284 (*Milošević* transcript), T 872-874, 908-910.
[2148] Rahim Latifi, Exhibit P779 (*Milutinović* transcript), T 5007-5008; Rahim Latifi, T 4353.
[2149] Halil Morina testified that the burning of homes in the village of Pirane/Piranë caused the villagers to flee towards Srbica e Ulet/Sërbica and Mamuša/Mamushë. Halil Morina, Exhibit P284 (*Milošević* transcript), T 872-874, 908-910.
[2150] Rahim Latifi, Exhibit P778, p 3; Rahim Latifi, Exhibit P779 (*Milutinović* transcript), 4985, 4991; Rahim Latifi, T 4348.
[2151] Rahim Latifi, Exhibit P778, p 3; Rahim Latifi, Exhibit P779 (*Milutinović* transcript), T 4964.
[2152] Rahim Latifi, Exhibit P778, p 3; Rahim Latifi, Exhibit P779 (*Milutinović* transcript), T 4964.
[2153] Rahim Latifi, Exhibit P778, p 3.

586. The villagers from Pirane/Piranë arrived in Srbica/Sërbica on 25 March 1999.[2154] On that day, Rahim Latifi, using binoculars, saw police continuing to burn houses in Pirane/Piranë, resulting in the entire village being burnt down.[2155]

587. Considering events established elsewhere in the Judgement, insofar as it relates to the presence of the KLA in Pirane/Piranë, the Chamber accepts Rahim Latifi's evidence that there were no KLA fighters in Pirane/Piranë at the material time and that Serbian forces were not engaged in fighting with KLA forces in that village. The Chamber is satisfied that Serbian forces targeted Kosovo Albanian civilians by burning their homes, hence forcing the population to leave.

4. Landovica/Landovicë

588. Landovica/Landovicë is located approximately seven kilometres north of Prizren town on the main road to Đakovica/Gjakovë, in Prizren municipality.[2156] In 1999, there were approximately 120 houses in Landovica/Landovicë, 100 of which were occupied by Kosovo Albanians and the remainder being occupied by Roma.[2157] Landovica/Landovicë had about 1,300 inhabitants in 1999.[2158]

589. At approximately 1000 hours on 26 March 1999, four regular VJ soldiers came to Landovica/Landovicë.[2159] There was an altercation involving the VJ and a civilian man, named Hashim Gashi, resulting in the death of Hashim Gashi and three of the soldiers.[2160] Halil Morina saw the four VJ soldiers, however, he denied having witnessed this incident and having any knowledge of who killed Hashim Gashi and soldiers.[2161] The evidence does not allow any findings to be made of the circumstances in which these deaths occurred.

590. Within one hour of this incident, at approximately 1100 hours, uniformed VJ, with three tanks, APCs and Pragas arrived in Landovica/Landovicë from the direction of Prizren.[2162]

[2154] Rahim Latifi, Exhibit P778, p 3; Rahim Latifi, Exhibit P779 (*Milutinović* transcript), T 4992.
[2155] Rahim Latifi, Exhibit P778, p 2.
[2156] Halil Morina, Exhibit P238, p 2; Exhibit P284 (*Milošević* transcript), T 872-873, 908-910; The written statement and the testimony of Halil Morina in the *Milošević* trial, was admitted pursuant to Rule 92*quater*.
[2157] Halil Morina, Exhibit P283, p 2; Exhibit P284 (*Milošević* transcript), T 870-871, 907.
[2158] Halil Morina, Exhibit P283, p 2.
[2159] Halil Morina, Exhibit P283, p 2; Exhibit P284 (*Milošević* transcript), T 874-875.
[2160] Halil Morina, Exhibit P283, p 2; Exhibit P284 (*Milošević* transcript), T 874-876.
[2161] Halil Morina, Exhibit P284 (*Milošević* transcript), T 874, 877, 916, 920-921. In an earlier statement, Halil Morina explicitly stated the VJ soldiers were killed by KLA. However in *Milošević*, Halil Morina indicated the reference to KLA in his statement about this incident was a mistake and not what he had said.
[2162] Halil Morina, Exhibit P284 (*Milošević* transcript), T 878. In his testimony in *Milošević*, the witness referred to VJ, police and paramilitaries but he saw only men in army uniforms so that the Chamber does not accept there were also police and paramilitary.

591. The military vehicles did not enter the village of Landovica/Landovicë but remained at its edge, on the paved road that connected Prizren and Đakovica/Gjakovë.[2163] The soldiers began to burn the village.[2164] The military also shelled the village for four hours, from 1100 hours to 1500 hours.[2165] As these events were occurring, many of the villagers left; about one half left through the woods and hills to the northeast, via Prizren, and the other half to the southwest via Tupec village.[2166] The lower half of the village was entirely civilian property and was badly damaged by the shelling. As Landovica/Landovicë was shelled, houses were seen burning.[2167] 13 villagers were killed in the shelling, 11 of whom were women or children.[2168] The victims were identified as Njomza Morina (15 years old), Fatime Morina (44 years old), Ismet Gashi (born in 1952), Dalife Gashi (70 years old), Festime Morina (2 years old), Afrim Gashi (16 years old), Bukurije Qareti (36 years old), Luljeta Qareti (28 years old), Gzim Qareti (13 years old), Nazlije Qareti (15 years old), Dieliza Qareti (18 months old), Kushtrim Selimaj (7 years old) and Kosovare Selimaj (9 years old).[2169]

592. The shelling finished at about 1500 hours, when a witness described that "mixed Serbian forces" entered the village.[2170] Approximately 150 uniformed men arrived by bus.[2171] Infantry troops and police went from house to house".[2172] Automatic firearms were fired and later, three people, Avdi Morina (65 years old), Avdi Gashi (53 years old) and Hadije Gashi (65 years old) who was handicapped, were found dead in their home.[2173] It is believed that they were shot dead by Serbian police who entered the village after the shelling.[2174] Most houses and the village mosque were burning.[2175] The troops withdrew from Landovica/Landovicë at approximately 1900 hours on 26 March 1999.[2176] Approximately 75 per cent of all properties in the village had been burned by

[2163] Halil Morina, Exhibit P284 (*Milošević* transcript), T 883.
[2164] Halil Morina, Exhibit P283, p 2.
[2165] Halil Morina, Exhibit P283, pp 2-3. A witness remained in the village by a stream, near his house, hiding for several hours.
[2166] Halil Morina, Exhibit P283, p 3; Halil Morina, Exhibit P284 (*Milošević* transcript), T 891.
[2167] Halil Morina, Exhibit P284 (*Milošević* transcript), T 888.
[2168] Halil Morina, Exhibit P283, pp 2-3.
[2169] Halil Morina, Exhibit P283, pp 2-3; Halil Morina, Exhibit P284 (*Milošević* transcript), T 883.
[2170] Halil Morina, Exhibit P283, p 3.
[2171] Halil Morina, Exhibit P284 (*Milošević* transcript), T 885.
[2172] Halil Morina, Exhibit P283, p 3; Exhibit P284 (*Milošević* transcript), T 885-886.
[2173] Halil Morina, Exhibit P283, p 3; Exhibit P284 (*Milošević* transcript), T 884-885, 893, 895, 925-926. Halil Morina found the bodies of the shelling victims on 27 March 1999, early in the morning. He named the 13 victims, although he could not recall some of the names of the victims during the cross-examination in *Milošević*. These victims are not listed in the Indictment schedules.
[2174] Halil Morina, Exhibit P284, p 3.
[2175] Halil Morina, Exhibit P283, p 3; Exhibit P284 (*Milošević* transcript), T 888, 893-894.
[2176] Halil Morina, Exhibit P283, p 3; Exhibit P284 (*Milošević* transcript), T 893-894.

the actions of the Serbian forces.[2177] Only the Kalimash neighbourhood appeared to be less damaged.[2178]

593. At 1100 hours on the next day, 27 March 1999, 20-30 men dressed in military green uniforms and some in camouflage uniforms arrived in Landovica/Landovicë.[2179] They had a jeep as well as a larger military vehicle.[2180] Three of the soldiers in a Pinzgauer entered the mosque.[2181] A witness suggested that these were VJ soldiers. A few minutes later they left the mosque and, together with the other soldiers, left the village.[2182] Ten minutes later, there was a large explosion and the minaret of the mosque collapsed onto the roof of the mosque.[2183] The wooden fixtures, fittings, and carpets of the mosque had also been burned.[2184] The description of the uniform worn by these men is consistent with the uniforms worn by VJ soldiers and VJ reservists at the material time.[2185]

594. The Chamber accepts from the evidence that on 26 and 27 March 1999, in the village of Landovica/Landovicë, Serbian forces deliberately burnt approximately 90 houses of the village and destroyed the mosque's minaret and partly burnt the mosque. In addition, by virtue of the actions of the Serbian forces, and not of their free will, most of the population, some 1300 civilians, including Kosovo Albanians, left Landovica/Landovicë. With respect to the alleged killings, the Chamber notes that the victims are not named in the Schedule to the Indictment and that no forensic evidence was received in regards to them. However, based on the eyewitness accounts and on documentary evidence,[2186] the Chamber is satisfied that the 16 victims named earlier were killed by VJ forces on 26 March 1999.[2187] Even if there had been a KLA presence in Landovica/Landovicë at the time, (which has not been established) the Chamber finds that the actions of the Serbian forces were manifestly not aimed at fighting the KLA but at forcing villagers, the vast majority of whom were Kosovo Albanian, to leave because they were Kosovo Albanians.

[2177] Halil Morina, Exhibit P283, pp 3-4; Exhibit P284 (*Milošević* transcript), T 896.
[2178] Halil Morina, Exhibit P283, pp 3-4; Exhibit P284 (*Milošević* transcript), T 896.
[2179] Halil Morina, Exhibit P283, p 4; Exhibit P284 (*Milošević* transcript), T 897-898.
[2180] Halil Morina, Exhibit P283, p 4.
[2181] Halil Morina, Exhibit P283, p 4; Exhibit P284 (*Milošević* transcript), T 896.
[2182] Halil Morina, Exhibit P283, p 4; Exhibit P284 (*Milošević* transcript), T 897.
[2183] Halil Morina, Exhibit P283, p 4; Exhibit P284 (*Milošević* transcript), T 897.
[2184] Halil Morina, Exhibit P283, p 3.
[2185] John Crosland, Exhibit P1400, paras 7, 13, *see supra,* paras 162-163, 176.
[2186] There is documentary evidence that, at the time of the events, the VJ 549th Motorized Brigade was operating in Prizren municipality. Exhibit P1316, p 2.
[2187] There is documentary evidence that, at the time of the events, the VJ 549th Motorized Brigade was operating in Prizren municipality, in particular in the general area of the village of Donje Retimlje/Reti-e-Poshtme. The Chamber notes that the village of Landovica/Landovicë is located a few kilometres south of Donje Retimlje/Reti-e-Poshtme. Exhibit P1316, p 2.

595. On 30 March 1999, Halil Morina and his family, who had remained in Landovica/Landovicë left and went to Srbica/Sërbica.[2188] In Srbica/Sërbica, there were a number of displaced people from Landovica/Landovicë and some 800 from Pirane/Piranë.[2189]

5. Srbica/ Sërbica

596. Srbica/Sërbica is a village in Prizren municipality located approximately two and a half to three kilometres from Pirane/Piranë.[2190] From 25 March 1999 until 26 April 1999, police came to Srbica/Sërbica on a regular basis.[2191] At 1500 hours on 8 April 1999, Serbian forces entered Srbica/Sërbica with military vehicles and cars.[2192] A witness suggested that the forces included not only military but also paramilitary, using military vehicles. Some had Chetnik-style beards and red bandannas.[2193] While this latter description is consistent with some Serbian paramilitary forces, the evidence is not sufficient to establish this.[2194]

597. Documentary evidence reveals that at the time, the VJ 549th Motorized Brigade was acting in coordination with the 4th PJP Company from Đakovica/Gjakovë, the 5th PJP Company from Prizren and the 37th and the 87th PJP Detachments from Nis/Niš, to destroy the KLA in the general area of the village of Donje Retimlje/Reti-e-Poshtme, located only a few kilometres from Srbica/Sërbica.[2195]

598. There is evidence that members of the Serbian forces told the local Serbs they were traitors for allowing displaced Kosovo Albanians to stay in Srbica/Sërbica and gave the villagers 24 hours to "evict" the displaced people, but this appears to be based on vague sources.[2196]

599. On a day sometime between 9 and 16 April 1999, the leaders of the village of Srbica/Sërbica informed the displaced persons present there that the Prizren chief of police had ordered everyone not originally from Srbica/Sërbica to leave and go to Albania.[2197] Local Serb civilians organized buses to take the displaced Kosovo Albanians to the border. The displaced Kosovo Albanians got into the buses, not of their own free will but, as one witness described the situation, because they

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[2188] Halil Morina, Exhibit P283, p 4; Exhibit P284 (*Milošević* transcript), T 901-902, 953-954.
[2189] Halil Morina, Exhibit P283, p 4; Exhibit P284 (*Milošević* transcript), T 901-902, 953-954.
[2190] Rahim Latifi, Exhibit P779 (*Milutinović* transcript), T 4992.
[2191] Rahim Latifi, Exhibit P779 (*Milutinović* transcript), T 4992.
[2192] Halil Morina, Exhibit P283, p 4.
[2193] Halil Morina, Exhibit P283, p 4.
[2194] *See supra,* para 211.
[2195] Exhibit P1316, p 2.
[2196] Halil Morina, Exhibit P284 (*Milošević* transcript), T 905, 930, 956. Halil Morina testified in *Milošević* that he did not see the army giving the order but that villagers of Landovica/Landovicë told him the displaced people had to leave because the Serbian forces had taken orders to get rid of the them.
[2197] Rahim Latifi, Exhibit P778, p 3; Rahim Latifi, Exhibit P779 (*Milutinović* transcript), T 4964, 4993; Halil Morina, Exhibit P283, p 5; Halil Morina, Exhibit P284 (*Milutinović* transcript), T 903.

"had to".[2198] Halil Morina stated that buses took the passengers to Žur/Zhur who were then forced to walk some kilometres to the Albanian border where police took their identification documents before they were able to cross the border.[2199]

600. However, 86 displaced Kosovo Albanians could not fit into the buses and remained in Srbica/Sërbica for an additional 10 days, until 26 April 1999,[2200] when some eventually rented a bus and were "accompanied" by local Serbs to the village of Žur/Zhur.[2201] One of the local Serbs asked for and received money from these villagers in exchange for his assistance.[2202] The villagers then continued to the Morine/Morina border crossing, where their identification documents were seized before they crossed the border into Albania.[2203]

601. The Defence argues that Rahim Latifi and other villagers hired a bus and left voluntarily to go to the Albanian border.[2204] While Latifi and his family hired a bus to take them to the village of Žur/Zhur, the Chamber is satisfied they did not leave of their free will.[2205] The Chamber finds from this evidence that in April 1999, Serbian forces caused the displaced Kosovo Albanians then in Srbica/Sërbica to leave the village and to cross the border into Albania. The Chamber accepts that these refugees were expelled because they were Kosovo Albanian.

602. Considering the evidence of eyewitnesses and the documentary evidence discussed above the Chamber is satisfied that MUP, together with VJ forces, were engaged in a joint operation that was coordinated and which involved property destruction and forced displacement of the Kosovo Albanian population in Srbica/Sërbica because they were Kosovo Albanians. Paramilitary forces may also have been involved.

6. Donji Retimjle/Reti e Ulet, Retimjle/Reti, Randobrava/Randubravë

603. On 25 April 1999, unidentified Serbian forces started an offensive in the Srbica/Sërbica area, which involved shelling of the villages of Donji Retimjle/Reti-e-Ulet, Retimjle/Reti and Randobrava/Randubravë.[2206] While the evidence establishes that only the VJ was equipped to undertake such shelling, no other evidence has been led in respect of this offensive or the alleged forcible displacement of Kosovo Albanians from the villages of Donji Retimjle/Reti e Ulet,

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[2198] Halil Morina, Exhibit P283, p 5; Halil Morina, Exhibit P284 (*Milošević* transcript), T 903-904.
[2199] Halil Morina, Exhibit P283, p 5; Halil Morina, Exhibit P284 (*Milošević* transcript), T 904.
[2200] Rahim Latifi, Exhibit P778, p 3.
[2201] Rahim Latifi, Exhibit P778, p 3.
[2202] Rahim Latifi, Exhibit P778, p 3.
[2203] Rahim Latifi, Exhibit P778, p 3.
[2204] Defence Final Brief, para 753.
[2205] Rahim Latifi, Exhibit P284, T 872-874, 908-910.
[2206] Rahim Latifi, Exhibit P778, p 3.

Retimjle/Reti and Randobrava/Randubravë that was alleged to be a consequence of it. Hence, the charges in respect of these matters have not been proved.

C. Srbica/Skenderaj municipality

1. Events in Izbica/Izbicë and the surrounding villages

604. The village of Brocna/Burojë is located in Srbica/Skenderaj municipality.[2207] At the time relevant to the Indictment, the population of Brocna/Burojë was exclusively Kosovo Albanian.[2208]

605. On 25 March 1999, Serbian forces took position in the immediate vicinity of Brocna/Burojë. The young men in the village, having heard rumours that they were in danger at the hands of Serbian forces, went into hiding in the mountains.[2209] The next day, the women, children and elderly of Brocna/Burojë went to the nearby village of Izbica/Izbicë, which was believed to be a safe location.[2210] Serbian forces entered Brocna/Burojë later the same day.[2211]

606. The village of Leocina/Leçine is also located in Srbica/Skenderaj municipality. In March 1999, the composition of Leocina/Leçine was predominantly Kosovo Albanian. There was also a minority of Kosovo Serbs.[2212]

607. On 25 March 1999, shells fell on Leocina/Leçine.[2213] Feeling under threat and in danger, some of the villagers of Leocina/Leçine took shelter in the school in the nearby village of Kladernica/Klladërnicë.[2214] On 26 March 1999, Leocina/Leçine was shelled for a second time.[2215] At around 1100 hours, Serbian forces, both VJ and police, were observed less than a kilometre away from Leocina/Leçine. The Serbian forces advanced from the village of Citak/Çitak toward Leocina/Leçine, burning houses on their way.[2216] Fearing for their safety, the residents of Leocina/Leçine left their village and went to Izbica/Izbicë.[2217] At around 1700 hours, Serbian forces entered Leocina/Leçine.[2218] The evidence does not disclose what then happened in Leocina/Leçine. It was only after Serbian forces withdrew from Kosovo in June 1999 that

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[2207] Milazim Thaçi, T 4943.
[2208] Milazim Thaçi, T 5024.
[2209] Milazim Thaçi, T 5001, 5009, 5011-5012.
[2210] Milazim Thaçi, T 4946-4947; Liri Loshi, T 689-690.
[2211] Milazim Thaçi, T 4946-4947.
[2212] Mustafa Dragaj, T 603.
[2213] Mustafa Dragaj, T 604.
[2214] Mustafa Dragaj, T 605; Liri Loshi, T 689.
[2215] Mustafa Dragaj, T 604.
[2216] Mustafa Dragaj, T 661-662.
[2217] Mustafa Dragaj, T 604-605; Liri Loshi, T 689-690.
[2218] Mustafa Dragaj, T 661.

witnesses returned to the village of Leocina/Leçine and found that it had been burnt and destroyed.[2219]

608. Izbica/Izbicë is a Kosovo Albanian village in Srbica/Skenderaj municipality situated in a valley approximately 30 minutes walk from Leocina/Leçine.[2220]

609. On 24 and 25 March 1999, Izbica/Izbicë was shelled from the direction of the village of Rudnik/Runik. Rudnik/Runik was a predominantly Serb populated village located about four or five kilometres from Izbica/Izbicë.[2221]

610. The shelling of villages in this area is supported by a combat report from the Joint Command for Kosovo which states that on 23 March 1999, VJ brigades and PJP were tasked to take part in a two day coordinated action in Srbica/Skenderaj municipality aimed at destroying the KLA. The Chamber notes that the operation was concentrated on the axis of the villages of Tušilje/Tushilë, Turicevac/Turiqec and Izbica/Izbicë.[2222]

611. On or around 26 March 1999, up to 25,000 people from surrounding villages had arrived in Izbica/Izbicë to seek safety.[2223] In addition to people from the villages of Brocna/Burojë and Leocina/Leçine, there were also people from the villages of Kladernica/Klladernicë, Vocnjak/Vajnikë, Klina/Klinë and Likovac/Likoc in Srbica/Skenderaj municipality, and the villages of Jošanica/Jashanicë, Iglarevo/Gllarevë and Krnjince/Kernicë in Klina/Klinë municipality.[2224] The displaced people who had come to Izbica/Izbicë stayed outdoors in a field that straddled a road.[2225] On that day, Serbian forces were seen approaching Izbica/Izbicë from the direction of the nearby villages of Rudnik/Runik and Leocina/Leçine.[2226]

612. On 27 March 1999, early in the morning, Izbica/Izbicë was shelled.[2227] Lorries and tanks were heard approaching from the nearby woods. Fearing the arrival of the Serbian forces, the majority of people in Izbica/Izbicë, particularly the young men, fled towards the village of

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[2219] Mustafa Dragaj, T 620.
[2220] Mustafa Dragaj, T 605, 658; Milazim Thaçi, T 4949.
[2221] Liri Loshi, T 692.
[2222] Exhibit P972, pp 3-4.
[2223] Mustafa Dragaj, T 605-607, 663; Liri Loshi, T 690; Milazim Thaçi, T 4953, 4956; Sadik Januzi, Exhibit P282, p 6.
[2224] Milazim Thaçi, T 4948-4949; Milazim Thaçi, Exhibit P819; Mustafa Dragaj, T 605; Liri Loshi; T 689.
[2225] Mustafa Dragaj, T 605-606, 663; Milazim Thaçi, T 4948.
[2226] Milazim Thaçi, T 4948-4949; Milazim Thaçi, Exhibit P819; Mustafa Dragaj, T 605; Liri Loshi; T 689.
[2227] Milazim Thaçi, T 4949.

Tušilje/Tushilë.[2228] In the course of the day, Serbian forces encircled Izbica/Izbicë.[2229] Shortly thereafter, VJ forces entered the village and set fire to some houses.[2230]

613. On 28 March 1999, at around 0200 hours, Milazim Thaçi, who had come to Izbica/Izbicë a few days earlier, heard gunshots.[2231] Between 0800 hours and 0900 hours, Izbica/Izbicë's residents who had stayed in their houses until then, gathered at the field with the displaced people.[2232] There were about 5,000 people remaining in the field at the time; the rest of them having left towards Tušilje/Tushilë.[2233]

614. Milazim Thaçi, Sadik Januzi and Mustafa Dragaj gave slightly different accounts of the events that took place in the field. Milazim Thaçi stated that at around 0930 hours, three men with painted faces came to the field.[2234] Two of them wore "green or blue-green" standard police uniforms. The third man wore a camouflage uniform with a "green or blue-green" colour pattern. Milazim Thaçi understood the three men to be policemen.[2235] The three men set fire to a haystack and demanded money in exchange for the protection of people's properties.[2236] These three men in uniform spoke Serbian.[2237] Many of the people gave large amounts of money.[2238] Shortly after the arrival of the three men in uniform, Milazim Thaçi observed about 80 other armed men wearing three different types of uniforms arrive at the field from the direction of Leocina/Leçine.[2239] These men were all heavily armed with automatic guns, knives, ammunition belts and hand-grenades.[2240] Approximately 25 men of the group wore what one witness described to be "blue-green" camouflage uniforms with a "milicija" insignia on the shoulder. The witness believed that they were police.[2241] Other evidence establishes that at the time of the events, PJP of the MUP wore a green camouflage uniform.[2242] The presence of PJP is supported by documentary evidence indicating that the 35th and 85th detachments PJP units were sent by the Accused to the municipality of Srbica/Skenderaj for a period of 40 days from 20 February 1999.[2243] Other forces from the group

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[2228] Liri Loshi, T 691; Milazim Thaçi, T 4947. Liri Loshi is one of the men that went to Tušilje/Tushilë.
[2229] Liri Loshi, T 692.
[2230] Sadik Januzi, Exhibit P282, p 6.
[2231] Milazim Thaçi, T 5039.
[2232] Mustafa Dragaj, T 605, 663; Milazim Thaçi, T 4948, 4956, 5039; Sadik Januzi, Exhibit P282, p 6.
[2233] Sadik Januzi, Exhibit P282, p 6.
[2234] Milazim Thaçi, T 4957, 5033.
[2235] Milazim Thaçi, T 4957.
[2236] Milazim Thaçi, T 4956-4957, 4986.
[2237] Milazim Thaçi, T 4957.
[2238] Milazim Thaçi, T 4957.
[2239] Milazim Thaçi, T 4958.
[2240] Milazim Thaçi, T 4957-4959.
[2241] Milazim Thaçi, T 4957-4958, 4987-4994.
[2242] K79, Exhibit P1260 (*Milutinović* transcript), T9590, 9588-9589; K25, Exhibit P342 (*Milutinović* transcript), T 4664, 4674; K25, Exhibit P341-A (*Milošević* transcript) T 7845; K25, Exhibit P340, p 20; K86, T 5120; Žarko Braković, Exhibit P759, para 7.
[2243] Exhibit P1186.

were wearing green camouflage army uniforms. There were also men wearing a mixed colour camouflage uniform with black scarves on their heads, which is consistent with uniforms worn by some paramilitary units.[2244] If any of these men were from a paramilitary formation, they were clearly operating in conjunction with the other Serbian forces present, in a coordinated operation. In the Chamber's finding, the forces present in Izbica/Izbicë on 28 March 1999 included VJ and PJP units of the MUP executing a coordinated action.

615. Sadik Januzi stated that at around 1300 hours, a group of 40 to 50 soldiers came to the field where people were gathered. He then saw three of them approach the people and threaten to burn the houses in the village unless they were given money.[2245]

616. Mustafa Dragaj testified that around 200 to 300 police and VJ then came to the field.[2246] Dragaj's statement from November 1999 records him as saying that the forces were all members of the police. On cross-examination, Dragaj acknowledged that he did not actually look at the men's uniforms because he feared for his life.[2247]

617. There are discrepancies between the evidence of Milazim Thaçi, Mustafa Dragaj and Sadik Januzi. However, the Chamber finds that the events happened several years ago and that it is not surprising that witnesses recall them differently. The Chamber, therefore, does not consider that these discrepancies undermine the credibility of the witnesses with respect to the events in Izbica/Izbicë.

618. After money was taken from people in the field, an order was given to the Serbian forces to separate the men from the women and children.[2248] The men were taken to a road, a short distance away from the field and were made to sit two abreast.[2249] About a dozen boys aged between 13 and 16 years were made to join the men but were later released in exchange for money.[2250] There were approximately 157 men in the group of men, aged between 45 to 86 years old, one of whom, Hetem Osmanaj, was handicapped.[2251] The men were mocked and asked "Where is America? Where is Clinton? Where is Thaçi?"[2252] They were ordered to take their traditional *plis* hats off, throw them on the ground, and then money was demanded to have the *plis* back.[2253] Some men gave money but

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[2244] Milazim Thaçi, T 4958-4959, 4987-4994.
[2245] Sadik Januzi, Exhibit P282, p 6.
[2246] Mustafa Dragaj, T 606-607, 622-623, 664-665.
[2247] Mustafa Dragaj, T 622-623.
[2248] Sadik Januzi, Exhibit P282, p 6; Milazim Thaçi, T 4959; Mustafa Dragaj, T 607.
[2249] Sadik Januzi, Exhibit P282, p 6.
[2250] Sadik Januzi, Exhibit P282, p 7.
[2251] Milazim Thaçi, T 4960; Mustafa Dragaj, T 612-613, 615; 671-672; *see* also Liri Loshi, T 696, 702.
[2252] Milazim Thaçi, T 4960-4962.
[2253] Milazim Thaçi, T 4960-4961; Mustafa Dragaj, T 607-608.

Mustafa Dragaj, who did not have any, was hit in the eye.[2254] The men were told that they would be slaughtered.[2255]

619. In the meantime, the women and the children had been ordered to raise three fingers, a sign meaning "this is Serbia" and told that they would be sent to Albania.[2256] From Izbica/Izbicë, the women and the children were sent towards Albania. In the course of the next seven days, the women and the children travelled through Brocna/Burojë, Jošanica/Jashanicë, Klina/Klinë and Iglarevo/Gllarevë, in Srbica/Skenderaj municipality.[2257] In Iglarevo/Gllarevë the women and children heard that the war was over and that they could go back to their village.[2258]

620. There is evidence which the Chamber accepts that on or around 28 March 1999, Zoje Osmani (Osmana) (67 years old)[2259] and Ajmone Citaku (81 years old), two of the women in the field in Izbica/Izbicë, were burnt to death when the tractors they were sitting on were set on fire by members of the Serbian forces.[2260] There is also evidence that another woman, Zade Dragaj (71 years old)[2261], was killed by Serbian forces in the field on the same day. This evidence is corroborated by Liri Loshi's evidence, that on 31 March 1999, the bodies of the three women were found and buried in Izbica/Izbicë and that burnt tractors were found in the field.[2262] Forensic evidence discussed in more details later in the Judgement, established that the remains of some of the people buried in Izbica/Izbicë were later exhumed from Petrovo Selo PJP Centre, in Serbia. In 2001, the bodies of Zoje Osmani (Osmana) and Zade Dragaj were exhumed from Petrovo Selo PJP Centre and examined by Serbian forensic experts. The autopsy reports concluded that no cause of death could be ascertained for Zoje Osmani (Osmana). However, it was reported that her bones had been exposed to high temperature.[2263] With respect to Zade Dragaj, the autopsy reports revealed that she died of gunshot wounds.[2264] The body of Ajmone Citaku was never found by the forensic experts. The overall evidence satisfies the Chamber that Zoje Osmani, Ajmone Citaku and Zade Dragaj were killed by Serbian forces on 28 March 1999 in Izbica/Izbicë. The Chamber is satisfied that the three victims were unarmed and that they were not taking active part in the hostilities at the time they were killed. The Chamber is further satisfied that the victims were Kosovo Albanian.

[2254] Mustafa Dragaj, T 607.
[2255] Mustafa Dragaj, T 607.
[2256] Milazim Thaçi, T 4959-4960.
[2257] Mustafa Dragaj, T 609; Milazim Thaçi, T 4959-4960, 4982.
[2258] Milazim Thaçi, T 4982.
[2259] Also identified in the evidence as Zoje Osmana.
[2260] Liri Loshi, T 707; Mustafa Dragaj, T 615.
[2261] Also identified in the evidence as Zada Dragaj (Draga).
[2262] Exhibit P292; Liri Loshi, T 707. Exhibit P288 depicts the area where the civilian population had gathered prior to the massacre and where the men were separated from the women and children. The images show burned tractors and cars. Liri Loshi testified that a woman, Ajmone Citaku, had been burned to death inside one of the tractors, although the body of the woman was not on the film.

621. Several witnesses identified the apparent leader of the Serbian forces in Izbica/Izbicë as a captain of approximately 30 years old, 165 centimetres tall and fat, with dark hair,[2265] wearing a green camouflage VJ uniform with an insignia on the right arm. He carried a pistol, a knife, two items of communication equipment and explosives. This captain gave the order to separate the men into two groups of 70 men each and for them to be taken in opposite directions.[2266] One group of men was escorted by Serbian forces towards a wood in the east. The other main group was led towards the hills to the west and subsequently subdivided into three sub-groups.[2267] Milazim Thaçi was in a sub-group of 33 men who were escorted through a hilly area towards a water creek by a man in a green uniform carrying a machine gun, believed to be a policeman.[2268] As the group reached the creek, the policeman ordered the men to face towards the creek and kneel down.[2269] Almost immediately, a burst of shots was heard for about 30 seconds. Two men fell on top of Milazim Thaçi, knocking him to the ground.[2270] One of them was Uka Thaçi and the other was Isuf Zezeqe Shala.[2271] A few seconds afterwards, Milazim Thaçi heard the policeman say "this one is still breathing". He then heard abuse being shouted and the sound of a single shot.[2272] As he lay on the ground, Milazim Thaçi saw that Uka Thaçi's head had been blown off. He also heard moaning from Demush Behrami, who died shortly thereafter.[2273] The policeman, perhaps with others, moved on. Milazim Thaçi, Hazir (Hajzir) Kotorri and Jetish Qallapeki survived the shooting.[2274] Milazim Thaçi identified the following people as amongst those killed on that day: Demush Behrami, Muhamet Behrami, Nuredin Behrami, Avdullah Duraku, Bel A. Duraku, Haliti Haliti (Haljiti/Halit), Hazir (Hajriz) Hoti, Qerim Hoti, Tahir Hoti, Brahim Kotoori (Kotorri), Azem Osmani, Muharrem Osmani, Isuf Shala, Hijraz Shala, Qelaj Regjie, Mehmet Beajruku, Sokol Duraku, Brahim Kotorri, Regje Duraku, Uke Uka.[2275] At the time, these Kosovo Albanian men were in the custody of Serbian forces, unarmed and not taking an active part in hostilities.

[2263] *See infra,* paras, 1511-1513.
[2264] *See infra,* para 1513.
[2265] Milazim Thaçi, T 4964, 5045; Sadik Januzi, Exhibit P282, p 7; Mustafa Dragaj, T 609-610. Mustafa Dragaj, a witness testifying to the same events, stated that the uniform of the man who gave the order had the colours of both police and VJ uniforms.
[2266] Milazim Thaçi, T 4964, 5045; Sadik Januzi, P282, p 7.
[2267] Mustafa Dragaj, T 608-609; Milazim Thaçi, T 5019.
[2268] Milazim Thaçi, T 4963-4965, 4973, 5019.
[2269] Milazim Thaçi, T 4964, 4966.
[2270] Milazim Thaçi, T 4964-4967; *see* also, Liri Loshi, T 696.
[2271] Milazim Thaçi, T 4967.
[2272] Milazim Thaçi, T 4967; *see* also Liri Loshi, T 696.
[2273] Milazim Thaçi, T 4967.
[2274] Liri Loshi, T 696; Milazim Thaçi, T 4968-4969, 4971-4972, 4980-4981, 5043.
[2275] Exhibit P821.

622. Meanwhile the other group of about 70 men was escorted towards a wood to the east by members of the Serbian forces.[2276] Before the men had reached the wood, they were told to turn around and they were shot from behind.[2277] One of the men, Hajriz Dragaj (Draga), was hit by a bullet and fell on top of Mustafa Dragaj.[2278] Bodies covered with blood fell on top of Sadik Januzi. After the initial shooting, a member of the Serbian forces looked for survivors and seven or eight more shots were fired. One member of the Serbian forces then said: "Let's go, our work is over". Mustafa Dragaj identified the following men from this group as having died in the shooting: Bajram Bajra, Ilaz Bajra, Sali Dervishi, Ilaz Dervishi, Ilaz Devishi, Ali Draga, Cen Draga, Hajriz Draga, Ismet Draga, Murat Draga (Dragaj), Rrustem (Rustem) Draga, Zade (Zada) Dragaj, Fatmir Osmani, Ismajl Qelaj, Rexhep Qelaj, Metush Qelaj, Idriz Shala, Sali (Salih) Shala, Halim Shala, Deshevci Pajazit, Kujtim Shala, Kajtaz Islami, Hetem Osmanaj.[2279] Two men, Hajriz Dragaj (Draga) and Sadik Sherifi died later that day to the injuries they sustained during the shooting.[2280] The Chamber is satisfied that, at the time of their killing, these men were unarmed, in the custody of Serbian forces and, therefore, they were not taking active part in the hostilities. The Chamber is satisfied that these victims were Kosovo Albanians. The Chamber is further satisfied that from this group, Mustafa Dragaj, Hajrez Draga[2281], Sheremet Krasniqi, Rrustem Hoti, Hasan Dragaj, Hysen Lnu, Hazir Shaqiri, Musli Kotori, Rustem Malushi and Sadik Januzi, survived the shooting.[2282]

623. Some of the survivors of the different groups lay on the ground for 20 to 40 minutes after the shooting before they crawled to the nearby woods and hills.[2283] As he fled to the woods after the shooting, Mustafa Dragaj observed a number of bodies lying in different locations.[2284] One of the men who initially survived the shooting Hazir (Hajzir) Kotorri (Kotoori), was shot dead by a man speaking Serbian as he ran towards the woods.[2285]

624. Meanwhile, Milazim Thaçi and two other survivors of the shooting, Sheqir Kotorri (Kotoori) and Jetish Qallapeki, made their way to the village of Vocnjak/Vajnikë, adjacent to

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[2276] Mustafa Dragaj, T 608-609, 612, 664. Despite the discrepancies between the evidence of Sadik Jaunzi and Mustafa Dragaj with respect to the circumstances of the shooting and the forces present, the balance of the evidence indicates that the two men were part of this group.
[2277] Mustafa Dragaj, T 608; Sadik Januzi, Exhibit P282, p 7.
[2278] Mustafa Dragaj, T 608-609.
[2279] Mustafa Dragaj, T 608-611.
[2280] Sadik Sherifi was identified by Liri Loshi (Exhibits P291, P292) and Hajriz Dragaj was identified by Mustafa Dragaj (Mustafa Dragaj, T 608-611).
[2281] The Chamber accepts that Hajrez Draga and Hajriz Dragaj (Draga) are two different persons, Mustafa Dragaj, T 610-611.
[2282] Mustafa Dragaj, T 610-611; *see* also Liri Loshi, T 696. Sadik Januzi identified Hasan Draga (Dragaj), Hysen Lnu, Hazir Shaqiri, Musli Kotorri (Kotoori), Rustem Malushi. Mustafa Dragaj identified Hajrez Draga (Dragaj), Sheremet Krasniqi and Rrustem Hoti.
[2283] Milazim Thaçi, T 4967-4969, 5043; Exhibit P820; Mustafa Dragaj, T 609, 613.
[2284] Mustafa Dragaj, T 613.
[2285] Milazim Thaçi, T 5043.

Izbica/Izbicë.[2286] On the way, Milazim Thaçi saw Serbian forces wearing VJ boots.[2287] At 1900 hours, on 28 March 1999, Milazim Thaçi arrived in Vocnjak/Vajnikë and saw that the village was burning.[2288] Two other survivors of the shooting, Sadik Januzi and Hazir Shaqiri went to Kladernica/Klladërnicë, where they stayed for seven to eight days.[2289]

625. The Serbian forces left Izbica/Izbicë on 30 March 1999.[2290] The same day, a doctor from the area, Liri Loshi, came to Izbica/Izbicë. He did so because he had been told by women patients who had been in Izbica/Izbicë that Serbian forces had killed a large number of people in the village and he wanted to verify this information.[2291] Liri Loshi arrived in Izbica/Izbicë after dark and he stayed only for a short time. He observed a large number of bodies.[2292] Liri Loshi decided to come back the next day to film the scene to show what had happened.[2293]

626. On 31 March 1999, Liri Loshi returned to Izbica/Izbicë with Sefedin Thaçi, who had a video-camera. Together they went to the bodies, where Liri Loshi gave instructions about the filming to Thaçi because he wanted to show what had happened and help identify the victims. While Thaçi continued with the task of recording the scene, Liri Loshi attended to patients. There was also some filming that day. Liri Loshi explained that the video showed groups of bodies still in the locations where they had apparently been killed.[2294] The Chamber received this video film,[2295] and still photographs of the victims from the film, into evidence.[2296] Also in evidence is a commentary by Liri Loshi on the video film which contains an overview of what is filmed and a description of the victims identified in the video film; the commentary also includes the names of some of the victims, and provides descriptions of the clothing worn by them and, in some instances, other general comments.[2297]

627. Based on an analysis of the above mentioned exhibits, the Chamber accepts that the video film depicts different locations throughout Izbica/Izbicë filmed on 31 March 1999 and 1 April 1999. One of the locations on the video film show where the women and children were separated from the

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[2286] Milazim Thaçi, T 4769, 4971-4972; Exhibit P820.
[2287] Milazim Thaçi, T 4969.
[2288] Milazim Thaçi, T 4972.
[2289] Sadik Januzi, Exhibit P282, p 7.
[2290] Milazim Thaçi, T 4978-4979; Mustafa Dragaj, T 613.
[2291] Liri Loshi, T 696-697.
[2292] Liri Loshi, T 699.
[2293] Liri Loshi, T 699.
[2294] Exhibit P288, Exhibit P289; Exhibit P290.
[2295] Exhibit P288.
[2296] Exhibit P289 (still shots of the groups of bodies found in Izbica/Izbicë); Exhibit P290 (individual photos of victims identified in Izbica/Izbicë).
[2297] Liri Loshi, T 702-710, 717-718; Exhibit P289; Exhibit P290; Exhibit P291. The remaining victims that Liri Loshi could not identify in his commentary (Exhibit P291), were later identified by local villagers, including friends and family members, prior to their burial in Izbica/Izbicë. As will be discussed below, the bodies seen on the video that were buried by the villagers, were recorded by Liri Loshi (Exhibit P292).

men on 28 March 1999 prior to the men being ordered to the east or west of the village.[2298] Footage of burned tractors and cars was also recorded at this location.[2299] Another location filmed shows a group of approximately 40 male bodies in the west of the village.[2300] The average age of this group was estimated to be 70 years and there were walking sticks found next to the bodies.[2301] The body of a 30 year old man who was deaf was also found in this group.[2302] The other location is to the east of the Izbica/Izbicë, where three additional groups of dead men are shown some 20 metres apart.[2303] Among this group Liri Loshi identified three of his relatives, Selman, Jashari and Sami Loshi, and some of his patients, although he did not recall all their names.[2304] Some of the bodies, including that of Sami Loshi, also had cuts on their face, apparently made by knifes or razors.[2305] The bodies had large and irregular bullet wounds to their face, torso, hands, arms and legs and they were in a state of decomposition.[2306] All were dressed in civilian clothes.[2307] Also depicted on the video film is the burial of bodies that were found in Izbica/Izbicë on 30 March 1999.[2308] The final location is filmed on 10 June 1999, when Liri Loshi returned to Izbica/Izbicë. It shows the location from which bodies that had been buried on 31 March and 1 April 1999 had been removed. Loshi had been told that Serbian forces had exhumed the bodies.[2309] Planks showing the names of the buried victims and the gloves, Liri Loshi believed, were used by Serbian forces while exhuming the bodies, are also seen in this footage.[2310]

628. The Chamber accepts that the video film (and the photographs) genuinely depicts scenes actually seen by Liri Loshi in Izbica/Izbicë on and following 31 March 1999, as described in his evidence.[2311]

[2298] Liri Loshi, Exhibit P288 (Video clip 4); Liri Loshi, T 707.

[2299] As discussed earlier in this Chapter, the Chamber found that elderly women named Ajmone Citaku and Zoje Osmana, had been burnt to death on a tractor. Although Liri Loshi explained that Ajmone Citaku is not seen on the video film, the Chamber accepts, on the basis of his explanation, that this was the tractor where Ajmone Ciatku and Zoje Osmana were burnt to death by Serbian forces, Exhibit P288 (Video clip 4); Liri Loshi, T 707-708; Exhibit P291 (Commentary of video film), p 15.

[2300] Liri Loshi, Exhibit P288 (Video clip 1); Liri Loshi, T 702.

[2301] Liri Loshi, Exhibit P288 (Video clip 1); Liri Loshi, T 703.

[2302] Liri Loshi, T 702-703; Exhibit P288.

[2303] The Chamber recalls eyewitness evidence of a group of men being taken to the east of the village and then being taken away in three separate groups and killed. The video footage is consistent with this evidence. Milazim Thaçi, T 4967-4968, 4980, 5043; Liri Loshi, Exhibit P288; Liri Loshi, T 704.

[2304] Liri Loshi, Exhibit P288 (Video clip 2 and 3); Liri Loshi, T 704-705; Exhibit P291 (Commentary of video film), p 20.

[2305] Liri Loshi, T 705.

[2306] Mustafa Dragaj, T 614; Liri Loshi, T 705.

[2307] Liri Loshi, T 706, 780-782, 800-801.

[2308] Liri Loshi, Exhibit P288 (Video clip 5 and 6); Liri Loshi T 708-709.

[2309] Liri Loshi, T 721-722.

[2310] Exhibit P293 (Video clip 7 and 8); Liri Loshi, T 723. The Defence questioned why this video footage had not been provided by the witness during his testimony in the *Milošević* and *Milutinović* case. The Chamber accepts the witnesses explanation that he only provided this at the request of the Prosecution in this case, and had not previously been asked for it (Liri Loshi, T 790-791).

[2311] *See supra*, paras 1412-1417; Liri Loshi, T 702.

629. As mentioned above, and recorded on the video film, on 31 March 1999 and 1 April 1999, bodies of victims who had been killed on 28 March 1999 in Izbica/Izbicë were buried in the village. However, some bodies were taken by family members to be buried elsewhere. Prior to the burial of the bodies, those victims whom Liri Loshi had not been able to identify by name were identified by their relatives.[2312] At the burial site, a wooden plank bearing the deceased's name and date of birth was put on each grave.[2313] At this time, with the assistance of the villagers, Liri Loshi compiled a list of the names of the 127 people buried in Izbica/Izbicë on 31 March 1999 and 1 April 1999.[2314] Having reviewed Liri Loshi's evidence of the video film,[2315] photographs,[2316] commentary[2317] and the list of victims buried in Izbica/Izbicë,[2318] the Chamber accepts that evidence and will rely upon it for the purpose of identifying those victims of the mass killing in Izbica/Izbicë.

630. The Chamber accepts that the persons identified in the video film, photographs, commentary and list of victims buried in Izbica/Izbicë, with the exception of Ajet Beqiri and Sami Bajra, were killed in Izbica/Izbicë on 28 March 1999 by Serbian forces. The Chamber accepts the evidence contained in the commentary that Ajet Beqiri was a member of the KLA and was killed earlier and that Sami Bajra was not killed during the massacre in Izbica/Izbicë on 28 March 1999.[2319] While Liri Loshi's commentary suggests that another person, Sali Shala, may have been killed in the mountains,[2320] the Chamber accepts the evidence of Mustafa Dragaj and Milazim Thaçi who identified him as one of the men killed in Izbica/Izbicë on 28 March 1999. As will be discussed in more detail later in this Judgement,[2321] the Chamber accepts that the video film recorded the victims of the killings in Izbica/Izbicë in the locations where they were killed. The Chamber is therefore satisfied that the bodies filmed, save for the above mentioned victims, were not brought from elsewhere, as contended by the Defence.

631. Some two months after the killings in Izbica/Izbicë, on 28 May 1999, from his position in the surrounding hills, Mustafa Dragaj observed shells falling on Izbica/Izbicë. This was followed by the return to the village of Serbian forces.[2322] In the course of the next four to five days, VJ and

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2312 Liri Loshi, Exhibit P288 (Video clip 5 and 6); Liri Loshi, T 708-710.
2313 Liri Loshi, T 709-710; Mustafa Dragaj, T 616-617.
2314 Liri Loshi also identified Ajet Beqiri and Zaim Beqiri as being buried. The Chamber draws attention to the fact that in the commentary to the video Liri Loshi recorded that these two men were members of the KLA and not part of the massacre in Izbica/Izbicë on 28 March 1999. (Exhibit P291, pp 23, 24; Exhibit P292; Liri Loshi, T 706). Their names have not been included below in the list of villagers killed in the village of Izbica/Izbicë on 28 March 1999.
2315 Exhibit P288.
2316 Exhibit P289; Exhibit P290.
2317 Exhibit P291.
2318 Exhibit P292.
2319 Exhibit P291, pp 23, 24; Exhibit P292; Liri Loshi, T 706.
2320 Exhibit P291, p 22.
2321 *See supra*, para 1412.
2322 Mustafa Dragaj, T 617-620.

police exhumed bodies that had been buried in the village on 31 March 1999 and 1 April 1999.[2323] On 10 June 1999, Liri Loshi observed that gloves apparently used in the exhumations and some of the wooden planks bearing names and dates of birth of deceased had been left on a strip of land from where bodies of the victims had been exhumed.[2324] As mentioned above, this was recorded in the video film tendered into evidence. A witness testified that some of the bodies buried in Izbica/Izbicë on 31 March 1999 and 1 April 1999, including that of Fatmir Osmani, were later reburied by Serbian authorities in Kosovska Mitrovica/Mitrovicë, in Suvi Do/Suhadoll in Lipljan/Lipjan municipality, near Vučitrn/Vuchtrri and at the Batajnica SAJ Centre, near Belgrade.[2325] A VJ report on war crimes and other serious crimes committed during the war contains an entry concerning the discovery of 144 "fresh" graves of unidentified persons on 29 May 1999 in Izbica/Izbicë.[2326] Radomir Gojović, the Chief of the Legal Department of the General Staff of the VJ at the time, testified that an investigation was initiated on 29 May 1999 and that this incident was classified as murder.[2327] Gojović testified that in January of 2010, efforts were still being made to identify the perpetrators. No one has been charged and no case has yet been brought to trial.[2328]

632. As it will be discussed in more detail later in this Judgement, the bodies of 29 of these victims, killed in Izbica/Izbicë on 28 March 1999, were exhumed in 2001 from Petrovo Selo PJP Centre.[2329] The Chamber received autopsy reports that established that the cause of death for 17 of these victims was related to gunshot wounds. The evidence did not provide for the cause of death to be ascertained for the remaining victims.[2330] No further evidence has been received by this Chamber as to the location where the remaining 103 victims were exhumed nor have any additional autopsy reports been received. In the absence of forensic reports, based on survivor eyewitness testimony and the accepted evidence of Liri Loshi, the Chamber finds that these remaining 103 victims died as a result of being shot by MUP forces in Izbica/Izbicë on 28 March 1999.

633. Based on the names of victims provided by survivor witnesses, Mustafa Dragaj and Milazim Thaçi, and the analysed list provided by Liri Loshi, the Chamber finds that no less than 132 individuals were killed when shot by Serbian forces in Izbica/Izbicë on 28 March 1999. The names of the victims suggest that they were Kosovo Albanians, which is confirmed by forensic reports for

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[2323] Mustafa Dragaj, T 618-619, 674.
[2324] Liri Loshi, T 723; Liri Loshi, Exhibit P293.
[2325] Mustafa Dragaj, T 619-620; *See supra*, paras 1478-1506.
[2326] Radomir Gojović, Exhibit D510, p 73.
[2327] Radomir Gojović, Exhibit D496 (*Milutinović* transcript), T 16682; Radomir Gojović, T 10335-10336.
[2328] Radomir Gojović, T 10458-10461.
[2329] *See supra*, paras 1507-1514, 1727. This figure does not include the two individuals discussed above who were killed in the fields and their remains were exhumed from Petrovo Selo.
[2330] *See supra*, paras 1511-1513.

the vast majority of them.[2331] The Chamber accepts that the victims were unarmed Kosovo Albanians taking no active part in hostilities and that they were being detained by Serbian forces at the time they were killed. The Chamber finds that the operation carried out by Serbian forces in Izbica/Izbicë was manifestly aimed at killing and expelling Kosovo Albanian villagers from their home. The Chamber also finds that the villagers were killed and expelled because they were Kosovo Albanians. The following 115 victims were scheduled in the Indictment:

Jetullah Alushi, Asllan Amrushi, Asslan Bajra, Bajram Bajra, Bajram C. Bajra, Bajram S. Bajra, Fazli Bajra, Ilaz Bajra, Bislim Bajraktari, Hajdar Bajraktari, Demush Behrami, Muhamet Behrami, Nuredin Behrami, Asllan Dajaku, Sali Dervishi, Bajram Dervishi, Ilaz Dervishi, Musli Doci (Doqi), Hamdi Doqi, Ali Draga, Cen Draga, Hajriz Draga (Dragaj), Ismet Draga, Murat Draga (Dragaj), Rahim Draga, Rustem (Rrustem) Draga, Avdullah Duraku, Bel A. Duraku, Dibran Duraku, Rexhep (Rexhe) Duraku, Muhamat Emra (or Muhamet Kadriu), Lah (Hajrullah) Fetahu, Halil Hajdari, Mehmet Hajra, Haliti (Haljiti/Halit) Haliti, Fajz Haxha, Hazir Hoti, Qerim Hoti, Rifat Hoti, Rrustem Hoti, Tahir Hoti, Muhamet Hoti, Saditk Hoti, Shefqet A. Hoti, Vehbi Hoti, Zenel Isufi, Beqir Jetullahu, Kajtaz Z. Kajtazdi, Bajram Kelmendi, Jetullah Kelmedi, Ram (Rame) Kotoori (Kotorri), Hajzer Kotoori (Kotorri), Deli Krasniqi, Mustaf Krasniqi, Azem Kuqina, Sami Loshi, Jashar (Jasar) Loshi (Ljosaj), Selman Loshi, Halil (Halit) Morina, Sokol H. Murseli, Beqir Musliu, Ilaz Musliu, Shaban Musliu, Halit Musliu, Naim Musliu, Mehmet Musliu, Hazan Mustafa (Mstafaj), Azem Osmani, Fatmir Osmani, Hetem Osmani, Muharrem Osmani, Sabit Qallapeku, Ismajl Qelaj, Rexhep Qelaj, Metush Qelaj, Harmz Qupeva, Ramadan Raci, Halit Ramaj, Muj (Muje) Rexhepi, Mustaf (Mustafa) Sejdiu, Azem Shabani, Hysen A. Shala, Idriz Shala, Isuf Shala, Muj (Muje) Shala, Sali (Salih) Shala, Zymer Shala, Halim Shala, Hijraz Shala, Sadik Sherifi, Zeqir Shpati, Rizah Spahiu, Ram (Rame) Syla, Brahim Tahiri, Gani Temaj, Hamdi Temaj, Hamit B. Thaçi, Ram (Rame) Thaqi, Ajet D. Thaçi, Sheremet (Shermet) Thaçi, Uke Uka, Zenel Veliki, Idriz Xhemajli, Qazim Xhemajli, Jahir Zeka, Milazim Zeka, Zyre (Zyhra) Fejza, Brahim Bajra, Dibran A. Dani, Ibrahim Gashi, Ram Gashi, Brahim Kootori, Rrahim Krasniqi, Pajazit Qaka, unidentified male.[2332]

634. The Chamber also accepts, based on the evidence, the killing of the following 17 people not listed by name in the Indictment. They are also listed in the Victim Chart, related to Izbica/Izbicë, annexed to this Judgement:

[2331] *See* supra, paras 1408-1410, 1727-1729; Eric Baccard, Exhibit P1139, p 44; Exhibit P1163; Exhibit P1164; Exhibit P1165, p 2.

[2332] Although the Chamber notes that this list does not include the names of those victims that the Chamber has already established were killed elsewhere in the village (*see supra*, paras 1727-1729). Liri Loshi, T 717-718; Mustafa Dragaj, T 608-611; Exhibit P291; Exhibit P292; Exhibit P821; *See* also, Exhibit P477.

Enver Bajra, Qazim Bajrami, Zaim Bajrami, Mehmet Beajruku, Sofijie Draga, Pajazit Deshevci, Sokol Duraku, Islam Haliti, Qerime Haliti, Kajtaz Islami, Rrahim Kelmendi, Florim Krasniqi, Qerime Mulaj, Rabije Osmani, Aziz Spahiu, Kujtim Shala and Zecir Xhemajli.[2333]

2. Expulsion from villages in Srbica/Skenderaj municipality

635. The village of Turicevac/Turiqec is situated in Srbica/Skenderaj municipality. It lies south-west, about 12 kilometres from the town of Srbica/Skenderaj and 13 kilometres from the town of Klina/Klinë.[2334] The other neighbouring villages are Gornji Obilic/Kopiliq-i-Epërm, Donji Obilic/Kopiliq-i-Poshtëm, Brocna/Burojë and Rakitnica/Rakinicë, all located in Srbica/Skenderaj municipality.[2335] Turicevac/Turiqec is divided into the neighbourhoods of Tulan, Fallabogte and Hot-e-Turqevcit.[2336] In March 1999, there were some 100 households and 1,000 residents in Turicevac/Turiqec, of whom less than one hundred had been displaced from the village of Prekaz/Prekaze. Prekaz/Prekaze is located about two kilometres away from Turicevac/Turiqec.[2337] At least a month prior to the relevant events, the KLA had established a headquarters in a school building in Turicevac/Turiqec.[2338] On 24 March 1999, when the NATO bombing campaign started, there were no Serbs in Turicevac/Turiqec or in the neighbouring villages.[2339]

636. On 26 March 1999, in the morning, the houses in Turicevac/Turiqec were shelled from the direction of Brocna/Burojë and gunshots were heard.[2340] The Chamber notes that only VJ had weapons capable of such shelling.[2341] Because of the shelling, at about 0900 hours, people from the village, all Kosovo Albanians, formed a convoy heading towards Tušilje/Tushilë.[2342] Tušilje/Tushilë is a small village, surrounded by hills and forest located about three kilometres from Turicevac/Turiqec, in Srbica/Skenderaj municipality. It was considered to be a safe area.[2343] On the way to Tušilje/Tushilë, the body of one woman and two children were seen near an asphalt road in Turicevac/Turiqec. The dead woman and the children were thought to have been killed when their convoy, going from Izbica/Izbicë to Tušilje/Tushilë, was hit by shells.[2344]

[2333] Exhibit P291; Exhibit P821; Mustafa Dragaj, T 608-611; *See* also, Exhibit P477.
[2334] Hadije Fazliu, Exhibit P624 (*Milošević* transcript), T 3734; Hadije Fazliu, Exhibit P623, p 2.
[2335] Hadije Fazliu, Exhibit P623, p 2.
[2336] Hadije Fazliu, Exhibit P623, p 2.
[2337] Hadije Fazliu, Exhibit P621 (*Milutinović* transcript), T 1952; Hadije Fazliu, Exhibit P623, p 2.
[2338] Hadije Fazliu, Exhibit P623, p 2; Hadije Fazliu, Exhibit P621 (*Milutinović* transcript), T 1968, 1971-1972.
[2339] Hadije Fazliu, Exhibit P623, p 2.
[2340] Hadije Fazliu, Exhibit P623, p 2; Hadije Fazliu, Exhibit P625 (*Milošević* transcript), T 3749, 3751. The vehicles demonstrate the forces to be VJ in the Chamber's finding.
[2341] *See supra*, paras 161, 163.
[2342] Hadije Fazliu, Exhibit P623, p 2.
[2343] Hadije Fazliu, Exhibit P623, p 2; Hadije Fazliu, Exhibit P621 (*Milutinović* transcript), T 1952-1953.
[2344] Hadije Fazliu, Exhibit P621 (*Milutinović* transcript), T 1954-1955, 1957.

637. On 26 March 1999, at around 1900 hours, Hadije Fazliu and her family arrived in Tušilje/Tushilë as displaced persons, where they stayed for three nights.[2345] The village was overcrowded with displaced persons from other towns and villages in Kosovo, including Srbica/Skenderaj, Klina/Klinë, Gllogovac/Gllogoc and Izbica/Izbicë.[2346] The displaced persons from Klina/Klinë, Gllogovac/Gllogoc and Izbica/Izbicë said they fled from their village because they feared for their lives at the hand of Serbian forces or because they had been expelled by them.[2347]

638. On 29 March 1999, at 0800 hours, Serbian forces comprising men wearing different uniforms surrounded Tušilje/Tushilë. As they approached the village they were shooting and they injured a number of people in the village.[2348] The forces entered the village on foot. Some of them wore dark blue camouflage uniforms with helmets and hats. Evidence concerning Serbian uniforms indicates, in the Chamber's finding, that these men were police. Other men on foot had bandannas and painted faces but this evidence is not sufficient to determine if these were police special forces or paramilitary forces. The Serbian forces on foot were followed by VJ who wore green camouflage military uniforms and travelled in VJ tanks and other vehicles. All the Serbian forces were heavily armed and they were acting together in a coordinated manner. They kept the village of Tušilje/Tushilë surrounded for two hours, during which time the people of the village were insulted and forced to sit on the ground.[2349]

639. On the same day, between around 1000 hours and 2100 hours, villagers and displaced people in Tushilë/Tušilje were told by VJ and police to go to Klina/Klinë. They then left Tushilë/Tušilje in successive groups and headed in a convoy on the main road towards the town of Klina/Klinë.[2350] As Hadije Fazliu testified, there was nowhere else to go.[2351] As Fazliu and her family left Tušilje/Tushilë, she observed that Serbian forces separated over 1,500 men from the women and the children in the convoy and took the men away.[2352] The men were taken to a school in the town of Srbica/Skenderaj for questioning. Some were released and others killed.[2353] The convoy of displaced persons continued under police escort towards Klina/Klinë. A large number of VJ in tanks and armoured vehicles were positioned on both sides of the road.[2354] Sometime during

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[2345] Hadije Fazliu, Exhibit P623, pp 2-3.
[2346] Hadije Fazliu, Exhibit P623, pp 2-3; Hadije Fazliu, Exhibit P621 (*Milutinović* transcript), T 1953.
[2347] Hadije Fazliu, Exhibit P621 (*Milutinović* transcript), T 1954.
[2348] Hadije Fazliu, Exhibit P623, pp 2-3; Hadije Fazliu, Exhibit P621 (*Milutinović* transcript), T 1972.
[2349] Hadije Fazliu, Exhibit P623, p 3.
[2350] Hadije Fazliu, Exhibit P621 (*Milutinović* transcript), T 1958; Hadije Fazliu, Exhibit P623, p 3.
[2351] Hadije Fazliu, Exhibit P623, p 3; Hadije Fazliu, Exhibit P621 (*Milutinović* transcript), T 1959-1960.
[2352] Hadije Fazliu, Exhibit P623, p 3.
[2353] Hadije Fazliu, Exhibit P623, p 3; Hadije Fazliu, Exhibit P621 (*Milutinović* transcript), T 1958, 1973-1975.
[2354] Hadije Fazliu, Exhibit P623, p 3. The presence of tanks demonstrates the forces to be VJ, in the Chamber's finding.

the day, Hadije Fazliu, members of her family, and others, managed to break away from the convoy to return to Turicevac/Turiqec. As Hadije Fazliu arrived in Turicevac/Turiqec during the course of the evening, she observed that the village had been burnt and was crowded with displaced people.[2355]

640. On 1 April 1999, Serbian forces wearing police uniforms came to Turicevac/Turiqec in civilian cars.[2356] When the villagers saw the police, they ran towards the nearby woods. As they fled, the police ordered them to stop and opened fire in their direction, killing three villagers.[2357] Hadije Fazliu and a group of about 40 women were encircled by police. They were insulted, questioned and ordered by the police to go to Klina/Klinë.[2358] However, they were immediately taken by the police to the school in Turicevac/Turiqec where a large number of women, children and elderly men had already been gathered. The police did not allow the people to go back to their houses, and the people at the school started walking in a convoy towards Klina/Klinë, passing through Brocna/Burojë. On the way, they stopped in the neighbourhood of Bejraktart in Jošanica/Jashanicë village, to spend the night. There were over 1,000 people in the convoy. These were women, children and a few elderly men.[2359] On the road between Turicevac/Turiqec and Jošanica/Jashanicë, Hadije Fazliu observed a number of dead bodies, both men and teenage boys. She also saw that the villages along the road had been burnt.[2360]

641. On 2 April 1999, the convoy of Kosovo Albanian women, children and elderly men attempted to return again to Brocna/Burojë but were turned away by Serbian forces who told them to go to Klina/Klinë. At 1515 hours, the convoy arrived in Klina/Klinë. There was a large Serbian presence in the town; both VJ and police were observed.[2361] Three trucks were provided. They were driven by civilians and took the displaced persons from the convoy from Klina/Klinë, to Volujak/Volljakë, which was located two to three kilometres away. The trucks had to drive back and forth a number of times to transport everyone. VJ were driving up and down the road in tanks as the people were taken in the trucks to Volujak/Volljakë.[2362]

642. From Volujak/Volljakë, the convoy of people again walked in the direction of Đakovica/Gjakovë. They encountered police checkpoints on the road. Approaching Đakovica/Gjakovë, it was observed that the town was burning. Police and VJ stopped the convoy

[2355] Hadije Fazliu, Exhibit P623, p 3.
[2356] Hadije Fazliu, Exhibit P623, p 3; Hadije Fazliu, Exhibit P621 (*Milutinović* transcript), T 1959.
[2357] Hadije Fazliu, Exhibit P623, p 3; Hadije Fazliu, Exhibit P621 (*Milutinović* transcript), T 1960-1961: As Hadije Fazliu returned to Turicevac/Turiqec, she saw the bodies of a young man and two old men in Turicevac/Turiqec.
[2358] Hadije Fazliu, Exhibit P623, p 3; Hadije Fazliu, Exhibit P621 (*Milutinović* transcript), T 1959.
[2359] Hadije Fazliu, Exhibit P623, pp 3-4.
[2360] Hadije Fazliu, Exhibit P623, p 4.
[2361] Hadije Fazliu, Exhibit P623, p 4.
[2362] Hadije Fazliu, Exhibit P623, p 4.

from passing through Đakovica/Gjakovë and diverted it along the Prizren road.[2363] As the convoy progressed, Serbian forces told the people in the convoy that the sides of the roads were mined and that they should hurry up.[2364]

643. On the night of 4 April 1999, the convoy arrived at the Albanian border crossing of Qafe e Prushit. Hadije Fazliu observed that tractors and vehicles with no licence plates were parked near the border. Serbian forces there used the vehicles by turning on their ignition with knives.[2365] The convoy passed through the border crossing into Albania. No documents or money were demanded.[2366]

644. In light of this evidence, the Chamber is satisfied that VJ and MUP forces in Turicevac/Turiqec, Tushilë/Tušilje and Klina/Klinë in March and April 1999 took part in joint operations in which Kosovo Albanians were expelled from Kosovo. The Chamber is further satisfied that they were expelled because they were Kosovo Albanians.

3. Kladernica/Klladërnicë

645. For a number of days in early April 1999, the village of Kladernica/Klladërnicë was shelled during the daytime. This drove the residents to seek shelter in the woods but they returned to the village at nightfall as the shelling subsided.[2367] Sadik Januzi, a resident of Brocna/Burojë who had come to Kladernica/Klladërnicë for safety, observed that there were more than 40 people staying in each house.[2368]

646. On 12 April 1999 before sunrise, shells fell again on Kladernica/Klladërnicë.[2369] Fearing for their safety, some of the young men in the village fled to the nearby woods, while the rest of the people went to the village's school, where between 10,000 and 12,000 people had gathered.[2370] These included women from surrounding villages.[2371]

647. At around 1000 hours that day, Serbian forces wearing dark police uniforms with "police" on their sleeves and other police wearing blue camouflage uniforms surrounded the school

[2363] Hadije Fazliu, Exhibit P623, p 4.
[2364] Hadije Fazliu, Exhibit P623, p 5.
[2365] Hadije Fazliu, Exhibit P623, p 5.
[2366] Hadije Fazliu, Exhibit P623, p 5; Hadije Fazliu, Exhibit P625 (*Milošević* transcript), T 3756.
[2367] Sadik Januzi, Exhibit P281, p 2.
[2368] Sadik Januzi, Exhibit P281, p 1; Sadik Januzi, Exhibit P 282, p 6.
[2369] Sadik Januzi, Exhibit P282, p 7.
[2370] Sadik Januzi, Exhibit P282, p 7; Sadik Januzi, Exhibit P281, p 2.
[2371] Sadik Januzi, Exhibit P282, p 7.

premises.[2372] The Chamber notes that although police wore solid blue uniforms, this colour sometimes appeared as black. These forces had automatic weapons and some had machine guns with stands.[2373] The Chamber therefore accepts that this description is consistent with MUP forces.[2374] The police separated approximately 300 to 400 young Kosovo Albanian men from the rest of the people and took them away.[2375] The evidence does not disclose what was done with these young men. Meanwhile, the remainder of the approximately 10,000 to 12,000 Kosovo Albanian women, children, elderly and handicapped people were ordered by the Serbian forces to go to Albania.[2376]

648. From Kladernica/Kllladërnicë, the displaced people travelled in a convoy, estimated to be approximately four kilometres long, through the villages of Obilic/Kopiliq, Turicevac/Turiceq, Brocna/Burojë and Jošanica/Joshanicë, in Klina/Klinë municipality. The convoy travelled by foot and in tractors.[2377] Until the convoy reached Jošanica/Joshanicë, it was escorted by Serbian forces in vehicles. There were VJ on both sides of the road.[2378] The villages along the way were burning and there was no sign of their inhabitants.[2379] The convoy then continued its route to Klina/Klinë, where it arrived at nightfall. At the bridge in Klina/Klinë, the people were questioned by Serbian forces, believed to be VJ, before being allowed to continue under escort toward Volujak/Volljakë, in Klina/Klinë municipality. In Volujak/Volljakë, people stopped for the night in a field. The escorting Serbian forces stayed in the surrounding area.[2380]

649. On 13 April, at around 0500 hours, the convoy left Volujak/Volljakë and travelled on the main road to Đakovica/Gjakovë. On the way, a number of burnt villages and VJ in vehicles and tanks were observed. The convoy arrived in Đakovica/Gjakovë after dark. The town was burning. Both VJ and police were there. The people in the convoy were ordered by Serbian forces to spend the night in a school building. During the night Serbian forces drove past the school in vehicles.[2381]

650. On 14 April 1999, the convoy left Đakovica/Gjakovë. A NATO plane was observed. It was believed to have destroyed the bridge in Đakovica/Gjakovë. The convoy moved on under police escort towards Prizren. A number of VJ posts, and houses occupied by VJ forces, were seen along

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[2372] Sadik Januzi, Exhibit P282, p 7; Sadik Januzi, Exhibit P281, p 2. While Sadik Januzi described the forces in blue camouflage uniform as VJ, in the Chamber's finding the uniform description identifies them as police, although perhaps from the PJP. The dark blue uniforms are consistent with ordinary police from the area.
[2373] Sadik Januzi, Exhibit P281, p 2.
[2374] *See supra,* para 53-54.
[2375] Sadik Januzi, Exhibit P282, pp 7-8; Sadik Januzi, Exhibit P281, p 2.
[2376] Sadik Januzi, Exhibit P282, p 8; Sadik Januzi, Exhibit P281, p 2.
[2377] Sadik Januzi, Exhibit P281, p 2.
[2378] Sadik Januzi, Exhibit P281, p 1.
[2379] Sadik Januzi, Exhibit P281, p 2.
[2380] Sadik Januzi, Exhibit P281, p 3.
[2381] Sadik Januzi, Exhibit P281, p 3.

the road. That night, the police ordered the people from the convoy to stay in a village school approximately 10 kilometres from Prizren.[2382]

651. On 15 April 1999, at around 1100 hours, the convoy arrived in Prizren. There, the people were made to wait in the centre of the town for two to three hours before being driven in buses to Zur/Zhur, in Prizren municipality, where there were Serbian forces. The displaced people from the convoy had to continue from Zur/Zhur to the Albanian border by foot, although the people in at least one bus paid the driver to drive to the border. At the border, VJ collected identification documents and demanded money from the people in the convoy in order for them to be allowed to pass through the border. The people in the convoy crossed to Albania.[2383] The Chamber is satisfied, on the basis of the findings above, that in early April 1999, MUP and VJ forces, taking part in a joint operation expelled Kosovo Albanians from the village of Kladernica/Klladërnicë out of Kosovo. The Chamber accepts that they did so because the victims were Kosovo Albanians.

D. Suva Reka/Suharekë Municipality

652. At the time of the events described below, the population of the entire municipality of Suva Reka/Suharekë, which lies in the southern part of Kosovo, about 20 kilometres to the north-east of Prizren[2384] and within the jurisdiction of the Prizren SUP, was approximately 60,000, of which 8,000 made up the population of the town of Suva Reka/Suharekë itself.[2385] 95 per cent of the population of Suva Reka/Suharekë municipality were Kosovo Albanians, while the remaining five per cent consisted mostly of Serbs and some Roma.[2386] By June 1998, local Serb men in Suva Reka/Suharekë town had been mobilized into the ranks of the Serbian reserve forces and remained mobilized until the end of the war in June 1999.[2387] From June 1998 onwards, members of the Serbian police were stationed in Suva Reka/Suharekë town.[2388] The VJ had troops stationed in the premises of a construction company near the town, although this was not a permanent position.[2389] VJ forces would pass by Suva Reka/Suharekë town regularly to and from their other stations.[2390]

[2382] Sadik Januzi, Exhibit P281, p 3.
[2383] Sadik Januzi, Exhibit P281, p 4.
[2384] Exhibit D3; *see* also Exhibit P823, p 11; K83, T 372-373.
[2385] Halit Berisha, Exhibit P599 (*Milutinović* transcript), T 3605; Halit Berisha, Exhibit P600 (*Milošević* transcript), T 7443; Halit Berisha, T 3414.
[2386] Halit Berisha, Exhibit P599 (*Milutinović* transcript), T 3605; Halit Berisha, Exhibit P600 (*Milošević* transcript), T 7443; Halit Berisha, T 3396.
[2387] Halit Berisha, T 3417-3418; *see* also T 3393-3394.
[2388] Halit Berisha, T 3405; Hysni Berisha, T 3368.
[2389] Halit Bersiha, T 3405.
[2390] In his testimony in the *Milutinović* trial, the witness stated that the VJ was stationed in Birač/Biraq and Dulje/Duhël, that they would pass through Suva Reka/Suharekë town regularly, but that they were not permanently stationed in Suva Reka/Suharekë town (Halit Berisha, Exhibit P599 (*Milutinović* transcript), T 3661).

653. Suva Reka/Suharekë municipality was within the KLA Pashtrik Operational Zone.[2391] In January 1999, KLA's 123rd and 121st brigades operated in most of the villages in Suva Reka/Suharekë municipality.[2392] In February and March 1999, Serbian forces, being units of VJ and the MUP, were deployed in various locations in Suva Reka/Suharekë municipality.[2393] At this time, the KLA had positions in several villages, including in Pecane/Peqan, Slapužane/Sllapuzhan, Semetište/Semetisht, Samodraža/Samadrexhë, Blace/Bllacë, and the mountains of Dobrodeljane/Dobërdelan, in Suva Reka/Suharekë municipality.[2394] Over the course of 20 and 21 March 1999, Serbian forces shelled several villages in Suva Reka/Suharekë municipality, including, *inter alia,* the above named villages where the KLA had positions, as well as Raštane/Reshtan, Studencane/Studençan, Greiçec/Grejcevce and Budakovo/Budakovë.[2395] Members of the 37th PJP Detachment were deployed to the area and took part in actions there.[2396] As a result, as will be discussed further below, thousands of Kosovo Albanian people from these villages fled to the villages of Belanica/Bellanicë and Nišor/Nishor in the northwestern part of Suva Reka/Suharekë municipality,[2397] to Banja/Banje in Mališevo/Malishevë municipality,[2398] in a westerly direction to Pagaruša/Pagarushë in Orahovac/Rahovec municipality,[2399] and to the village of Mamuša/Mamushë in Prizren municipality.[2400]

2391 Bislim Zyrapi, Exhibit P427, paras 16-17.

2392 Bislim Zyrapi, T 2431-2432; Exhibit P445.

2393 Exhibit P350, pp 1-2; Exhibit P896, pp 5-6; Exhibit P1234, pp 3-4, 8; Exhibit P1316, pp 1-3; Exhibit P1317.

2394 Additional KLA positions were in the villages of Kraviserija/Kravasari, Ladrović/Lladroviq and Guncat/Ngucat, also in Suva Reka/Suharekë municipality, as well as in the village of Pagaruša/Pagarushë in Orahovac/Rahovec municipality, and in the villages of Trpeza/Tërpezë Landrovac/Ladroc, Banja/Banjë and Senik in Mališevo/Malishevë municipality, Shefqet Zogaj, Exhibit P616, p 3; Shefqet Zogaj, Exhibit P617 (*Milutinović* transcript), T 5858-5859; Shefqet Zogaj, T 3431-3432; Halit Berisha, T 3405. Concerning a KLA presence in Pecane/Peqan, *see* also Hamide Fondaj, Exhibit P626 (*Milutinović* transcript), T 3826-3827, 3844-3846. *See* also Halit Berisha, T 3391-3392, 3405.

2395 Exhibit P823, pp 10, 11; Shefqet Zogaj, Exhibit P615, p 2; Shefqet Zogaj, Exhibit P617 (*Milutinović* transcript), T 5879-5880. It is the evidence of Shefqet Zogaj that in addition to the villages that were shelled by Serbian forces in Suva Reka/Suharekë municipality, the villages of Trpeza/Terpezë in Mališevo/Malishevë municipality and Beriša/Berishë (in Glogovac/Gllogoc municipality), as well as the villages of Dragobilje/Dragobil, Miruša/Mirushë, and Drenovac/Drenoc (in Orahovac/Rahovec municipality) and Ljubižda/Lubizhdë in Prizren municipality, were also shelled from the positions known as "Smonica" and "Orllat", Shefqet Zogaj, Exhibit P615, p 2; Hamide Fondaj, Exhibit P627, p 3.

2396 K79, Exhibit P1259 (*Milutinović* transcript), T 9643-9645. Orders deploying members of, *inter alia,* the 37th PJP Detachment to areas throughout the Prizren SUP were issued in March of 1999, Exhibits P346; Exhibit P1190; *see* also Exhibit P1197, report on implementation of a deployment order.

2397 Shefqet Zogaj, Exhibit P615, p 2; Shefqet Zogaj, Exhibit P616, p 3; Hamide Fondaj, Exhibit P627, p 3.

2398 Shefqet Zogaj stated that he saw around 10,000 people sheltering in Banja/Banjë, Mališevo/Malishevë municipality, shortly after the start of the Serbian offensive on several villages in the area around 20 or 21 March 1999; he describes the poor conditions in Banja/Banjë, in particular the lack of medical care for the wounded, (Shefqet Zogaj, Exhibit P615, pp 2-3).

2399 Shefqet Zogaj describes passing by Pagaruša/Pagarushë village, Orahovac/Rahovec municipality, shortly after the start of the Serbian offensive on or about 20-21 March 1999 and seeing some 40,000 displaced persons in this town (Exhibit P615, pp 2- 3).

2400 Shefquet Zogaj, Exhibit P615, p 2; Shefqet Zogaj, Exhibit P616, p 3.

1. Suva Reka/Suharekë town

(a) Background

654. While the KLA was active in most villages in Suva Reka/Suharekë municipality at the beginning of 1999, the evidence demonstrates that it had no positions in Suva Reka/Suharekë town itself.[2401] In the period leading up to the start of the NATO campaign on 24 March 1999, clashes between the police and the KLA had however taken place on the road towards the village of Raštane/Reshtan, about two or three kilometres from Suva Reka/Suharekë town centre, where the KLA had checkpoints.[2402] There were also occasions on which the police station in Suva Reka/Suharekë town was fired upon, and for this reason, it was secured 24 hours a day.[2403] The evidence reflects, further, that deployment of a PJP unit to the "Suva Reka-Raštane" village axis was envisioned by a MUP Staff Order dated 19 February 1999, to break up and destroy terrorist forces in this sector.[2404] The plan envisioned that the PJP company commander would be based in Raštane/Reshtan village, and for VJ support of the action.[2405] Following the action, this PJP unit was to join the 37th PJP detachment in an action on an axis further to the north in Suva Reka/Suharekë, including Suva Reka/Suharekë town.[2406] Several platoons of the 37th PJP detachment were deployed to the Prizren SUP by Dispatch of 21 March 1999, signed by the Accused, and they remained on duty for a period of 40 days.[2407] As demonstrated by the evidence set out below, members of the 37th PJP detachment were in Suva Reka/Suharekë town on the morning of 26 March 1999; their participation in the action that unfolded in town on this day is described in more detail below.

655. The OSCE had arrived in Suva Reka/Suharekë in 1998, where it was headquartered at the Boss Hotel in Shiroko/Shiroq owned by Milorad Nišavić, aka "Mišković", before moving its

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2401 Bislim Zyrapi, T 2429-2432, 2469-2474, 2494; *see* also Bislim Zyrapi, Exhibit P427, paras 16-17; Bislim Zyrapi, Exhibit P428 (*Milutinović* transcript), T 6265; Exhibit P445; Exhibit D56; Hysni Berisha, T 3353, 3370; Hysni Berisha, Exhibit P587 (*Milutinović* transcript), T 4026-4028; Halit Berisha, T 3389. Halit Berisha testified that the KLA controlled the villages of Dobrodeljane/Dobërdolan, Semetište/Semetisht, Pagaruša/Pagarushë, Sllapuzhan/Slapužane, Pecane/Peqan, Halit Berisha, T 3391-3392, 3405. Halit Berisha also saw KLA forces in the village of Savrovo/Savrovë and Budakovo/Budakovë, Halit Berisha, T 3391-3392; Shefqet Zogaj, T 3431-3432; K83, T432-433. K83, when asked about fighting between the KLA and Serbian forces in Suva Reka/Suharekë town, mentions an incident where a member of the state security was shot, although he does not specify the date of this event, K83, T 374-375.

2402 K83, T 374-375.

2403 K83 gives this evidence in the context of a question put to him by the Defence concerning the period of time from the summer of 1998 to the end of the war in 1999 (K83, T 432-433).

2404 This axis included the villages of Raštane/Reshtan, Studencane/Studençan, Samodraža/Samadrexhë, and Dobrodeljane/Dobërdelan, Exhibit P1234, p 8.

2405 Exhibit P1234, p 8.

2406 The order envisioned the 37th PJP detachment to be deployed along the axis of Dulje/Duhël, Birač/Biraq, Suva Reka/Suharekë and Bela Crkva/Bellacërkë, and Đurđevica, Exhibit P1234, p 8.

2407 Exhibit P346, p 1; *see* also Exhibit P1190; *see* also Exhibit P1197, confirming the deployment of members of the 2nd Company of the 37th PJP detachment to the Prizren SUP.

headquarters to the house belonging to Shyhrete Berisha in Suva Reka/Suharekë town on Restanski Put,[2408] which led to the neighbouring village of Raštane/Reshtan.[2409] During this time, Shyhrete Berisha's family went to stay in the nearby village of Mushtisht/Mušutište with her parents.[2410] The OSCE employed local Albanians, Serbs and Roma.[2411] It stayed in this house until 20 March 1999,[2412] when it left Suva Reka/Suharekë town and Kosovo because of the danger of an imminent attack by NATO.[2413] Shyhrete Berisha's family returned to their home on the following day.[2414] In the days following the departure of the OSCE, the streets of Suva Reka/Suharekë town were empty of Albanians, who stayed in their homes.[2415]

656. Passing through the village of Raštane/Reshtan and Studencane/Studençan on the way to Orahovac/Rahovec on 20 March 1999, Shefquet Zogaj observed a convoy of Serbian VJ and police, consisting of 14 tanks and armoured cars travelling on this road.[2416] Attacks on these and other surrounding villages started soon after.

657. The Chamber notes that two days prior to the start of the NATO aerial bombing campaign on 24 March 1999, a Serb man named Bogdan Lazić was killed in his shop in Cara Dušana street in Suva Reka/Suharekë town;[2417] this was the main road passing through town linking Priština/Prishtinë and Prizren.[2418] It is also the street on which the police station was located, at the crossing with Restanski Put.[2419]

(b) Events on 24 to 26 March 1999 in Suva Reka/Suharekë town

658. When the NATO air-campaign started, on 24 March 1999, Serbian forces travelling in both MUP blue and VJ green vehicles were observed in Suva Reka/Suharekë town on the Priština/Prishtinë–Prizren road, moving in both directions.[2420] People, who were shouting in

[2408] The Chamber notes that this road is referred to by witnesses variably as "Restanski Put Street", "Restanski Put Road" and merely "Restanski Put" throughout the evidence. The Chamber shall refer to this road as Restanski Put throughout the Judgement.
[2409] Shyhrete Berisha, T 461, 498-500; K83, T 373-375; Exhibit P823, p 11.
[2410] Shyhrete Berisha, T 461.
[2411] Shyhrete Berisha, T 462, 498-500.
[2412] Shyhrete Berisha, T 462.
[2413] Hysni Berisha, Exhibit P584, p 2; Shefqet Zogaj, Exhibit P615, p 2.
[2414] Shyhrete Berisha, T 462.
[2415] Shefqet Zogaj, Exhibit P615, p 2; Shefqet Zogaj, Exhibit P617 (*Milutinović* transcript), T 5859.
[2416] Shefqet Zogaj, Exhibit P615, p 2.
[2417] Velibor Veljković, T 7115-7116; K83, T 436-438; 6D2, T 12270, 12360-12362; Exhibit D17. *See* also Hysni Berisha, Exhibit P584, p 2.
[2418] Velibor Veljković, T 7123-7124; Exhibit D309.
[2419] Velibor Veljković, T 7123-7124; Exhibit D309, "x" marking the location of the police station, "2" marking Cara Dušana street with the arrow marked "4" indicating the direction from Priština/Phristinë-Prizren, and "3" marking Restanski Put.
[2420] Shyhrete Berisha, T 464-467, 507; Exhibit P273.

Serbian, wearing headbands and drinking out of bottles, passed by in buses.[2421] In addition to an already large contingent of forces present in the town, the number of Serbian police and military forces, wearing blue camouflage and green camouflage uniforms respectively, increased from this day.[2422] There were also local Serbs wearing police and military uniforms, as well as a number of Roma, who patrolled the streets together with the police and army.[2423] In addition, there were men wearing black clothes and various kinds of bandannas.[2424] The Chamber accepts, on the basis of this evidence, that there were also Serb paramilitary forces present in Suva Reka/Suharekë town. Snipers were situated on buildings throughout the town and two mortars were positioned in front of the police station.[2425]

659. At around 0500 hours on 25 March 1999, three armed men came to the house of Shyrete Berisha situated on the right side of Restanski Put as it led away from the police station towards the village of Raštan/Reshtan.[2426] Shyhrete Berisha identified these men as policemen because they were armed and wearing uniforms; she was not able to remember the colour of their uniforms. She added that they had a white insignia on one shoulder.[2427] Neither Shyrete Berisha nor her husband Nexhat recognized any of the armed men who came to her house that morning.[2428]

660. These armed and uniformed men pointed their weapons at her and asked her "[w]here are your guests, the Americans?"[2429] One of these individuals searched the house for valuables and demanded money from Shyhrete Berisha in return for the life of her husband Nexhat; she paid him 1,000 German Marks. Another man with his shirt buttoned down and knives strapped on him started running towards her; the man who had taken money from her stopped him, and together they went to another part of the house which had previously functioned as the OSCE office, where her

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[2421] Shyhrete Berisha, T 464-465.

[2422] Halit Berisha, Exhibit P598, p 2; Halit Berisha T 3392; Hysni Berisha, Exhibit P584, p 2. The Chamber notes that witness Hysni Berisha used the term "regular police" to include civilian formations that were mobilized in either the police or the Serbian army, Hysni Berisha, Exhibit P587 (*Milutinović* transcript), T 4017-4018. Shyhrete Berisha describes the policemen wearing dark-green uniforms as well as blue camouflage uniforms, Shyhrete Berisha, T 463-465.

[2423] Halit Berisha, Exhibit 598, p 2; Halit Berisha, T 3395.

[2424] Halit Berisha, Exhibit P598, p 2; Halit Berisha, Exhibit P599 (*Milutinović* transcript), T 3646; *see* also Halit Berisha, T 3393-3394.

[2425] Halit Berisha, Exhibit P598, p 2; Exhibit P599 (*Milutinović* transcript), T 3606-3608; Exhibit P613, marking locations where "police or the military" placed snipers throughout the town – "A" is the post-office, "B" is the police station, "C" is the bell-tower, "D" is near the winery, "E" is the old post-office, "F" is the Balkan hotel; *See* also Velibor Veljković, T 7118, testifying about an observation point at the church-bell tower, and T 7128, testifying about a police position at the "Metohija Vino Company".

[2426] Shyhrete Berisha, T 467, 496, 471, 508; Exhibit P274, arrow indicating the location of Shyhrete Berisha's part of the house; Exhibit D20, marking "2" indicating the location of the police station. *See* also Velibor Veljković, T 7124-7125, Exhibit D309, "x" marking the location of the police station, number "3" marking Restanski Put and number "6" marking the Berisha house; *see* also K83, T 373 and Exhibit P823, p 11.

[2427] Shyhrete Berisha, T 467-468.

[2428] Shyhrete Berisha, T 467-468. 473.

[2429] Shyhrete Berisha, T 468, 501-502.

husband Nexhat had already been taken by others.[2430] At this point, Shyhrete Berisha observed a small wheeled armoured vehicle, which she described as a tank, parked in front of the house of her neighbour, Agron Berisha. The cannon of the vehicle was pointed towards her home.[2431]

661. Also parked in front of Shyhrete Berisha's house was a truck in which more armed and uniformed men, likewise believed by the witness to be policemen,[2432] were loading televisions, computers and other items from her home.[2433] They cursed at her and warned her not to come closer.[2434] Nexhat was then returned to the part of the house in which Shyhrete Berisha was. She saw her husband being hit with an automatic rifle and kicked. The armed and uniformed men demanded more money from Nexhat, warning him that the tank outside would blow up their house with their children in it if he did not hand it over. Fearing what would happen to them, Shyhrete Berisha gave these men a further 3,000 German Marks. Money was also demanded and taken from her sister-in-law, Fatime Berisha.[2435]

662. The men then left the Berisha home.[2436] Nexhat later told Shyhrete that in the former office of the OSCE, these men had found pictures of burnt villages that the OSCE had made, upon which they had beaten him, telling him "[n]ow the Americans should come and defend you. You asked for them for help so Father Clinton should come and help you now".[2437]

663. Neither Shyhrete Berisha nor her husband Nexhat recognized any of these armed and uniformed men, but their daughter Majlinda told Shyhrete later that she recognized one of the men as a policeman who boarded the same bus she used to travel beween Suva Reka/Suharekë and Mushtisht/Mušutište on a daily basis.[2438] When Shyhrete Berisha later spoke to her father about this and conveyed to him her daughter's description of the man, her father, who lived in the nearby village of Mushtisht/Mušutište, confirmed that this policeman worked at the Mushtisht/Mušutište police station.[2439] The Chamber is, however, not able on this evidence alone to determine that the

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[2430] Shyhrete Berisha, T 469, 503-506.
[2431] Shyhrete Berisha, T 470-471, 504-505; Exhibit P274, marking "1" indicating Agron Berisha's house, marking "2" indicating the location of the tank, and marking "3" indicating the entrance of Shyhrete Berisha's house where she was standing when she observed the tank.
[2432] The witness testified that she believed the men who came to her house that morning to be policemen only because they were wearing uniforms; she was not able to say what the colour of these uniforms was, Shyhrete Berisha, T 467-468.
[2433] Shyhrete Berisha, T 469. Asked how many "policemen" were in an around her home that morning, Shyhrete Berisha testified that there were in total some 15-20 of them (Shyhrete Berisha, T 473). The Chamber finds that this number includes the three men who entered the family home as well as the men the witness observed loading items taken from her home into a truck parked in front of her home.
[2434] Shyrete Berisha, T 470.
[2435] Shyhrete Berisha, T 472.
[2436] Shyhrete Berisha, T 472-473.
[2437] Shyhrete Berisha, T 471.
[2438] Shyhrete Berisha, T 473, 496.
[2439] Shyhrete Berisha, T 473.

men who came to the Berisha family home on 25 March 1999 were local policemen. Indeed, given that neither Shyhrete nor her husband Nexhat recognized any of these men, the Chamber is of the view that it is unlikely that the group of men that came to their house that morning included local police. One or more may have been from nearby villages. However, in the overall context of the actions in Suva Reka/Suharekë on both 25 and 26 March 1999, described in more detail below, it is satisfied that the armed uniformed men included both regular and reserve policemen, as well as possibly Serb paramilitary forces who were present in town on these days.

664. The evidence reveals that the action early on the morning of 25 March 1999 was not limited to the Shyhrete Berisha's family home. At about 0600 hours on 25 March 1999, shooting could be heard throughout Suva Reka/Suharekë town and flames were seen coming from the houses in the direction of the technical school in town.[2440] Shefqet Zogaj, who was a journalist at the time of the relevant events,[2441] from a distance of about two kilometres away,[2442] was able to see flames coming from the town on this day.[2443] Police in vehicles were moving up the main road through town.[2444] Halit Berisha testified that around 0630 hours, two separate Berisha families came to his house, located behind the municipal building, saying that they had left their homes in the city centre because people had been robbed and killed in that area.[2445] Halit Berisha told his family to join other families who were heading towards the river and the nearby village of Savrovo/Savrovë,[2446] while he remained at home with his wife and brother Jashar Berisha.[2447] Except for the movement of the police, the town of Suva Reka/Suharekë was quiet through the afternoon of 25 March 1999.[2448]

665. A few hours after the men had left Shyhrete Berisha's house on 25 March 1999, the family decided that it would be safer in the house belonging to Vesel Berisha, Nexhat's uncle, situated just behind their own house.[2449] Shyhrete Berisha's family spent the night of 25-26 March 1999 in this house, together with Vesel Berisha's family and that of Faton Berisha.[2450]

[2440] Hysni Berisha, Exhibit P584, p 2; Hysni Berisha, Exhibit P587 (*Milutinović* transcript), T 4032-4035.
[2441] Shefqet Zogaj, Exhibit P615, p 2; Shefqet Zogaj, T 3433-3434.
[2442] Shefqet Zogaj, P617 (*Milutinović* transcript), T 5882-5883.
[2443] Shefqet Zogaj, Exhibit P615, p 3; Shefqet Zogaj, T 3441-3442.
[2444] Hysni Berisha, Exhibit P584, p 2.
[2445] Halit Berisha, Exhibit P598, p 2; Halit Berisha, Exhibit P599 (*Milutinović* transcript), T 3600, 3720-3721; Exhibit P612.
[2446] Exhibit P823, p 11.
[2447] Halit Berisha, Exhibit P598, p 3.
[2448] Hysni Berisha, Exhibit P584, p 2.
[2449] Shyhrete Berisha, T 473-474, 511; Exhibit D21, marking "1" indicating the location of Vesel Berisha's house to which Shyhrete Berisha and her husband moved after the events on 25 March 1999; *see* also Shyhrete Berisha, T 470-471 and Exhibit P274, marking "1" indicating the location of her home.
[2450] Shyhrete Berisha, T 473-474, 506-507; *see* Exhibit P272 (Berisha family tree). The members of the Berisha family who spent the night in Vesel Berisha's house on the night of 25-26 March 1999 were Shyhrete and her husband Nexhat, their children Majlinda, Heroldina, Altin and Redon, Faton and his wife Sebahate together with their

666. On the morning of 26 March 1999, two large tanks were positioned at the top of the fields above the house of Vesel Berisha, with their cannons pointing in the direction of Shyhrete Berisha's house.[2451] At around 0800 hours, Serbian forces on the hill behind Suva Reka/Suharekë town started shelling surrounding towns, a common occurrence since August 1998.[2452] Some time before noon,[2453] reserve police members K83 and Miroslav "Miki" Petković, together with active police members Radovan Tanović and Sladjan Čukarić,[2454] returned to the Suva Reka/Suharekë police station, where they were based, having carried out patrol duties in the vicinity of the town.[2455] Also present at the police station on 26 March 1999 were the chief of the police station Dobrivoje Vitosević, and other members of his station staff–commander, Radojko Repanović, assistant commander Nenad Jovanović, reserve policeman Ivica Novković, and the driver of the patrol vehicle, Ramiz Papić.[2456] Velibor Veljković, who had an administrative duty within the police station and wore a police uniform, arrived at the station at around noon.[2457] Todor Jovanović was a crime technician of the Suva Reka/Suharekë OUP at the relevant time and although the evidence does not demonstrate that he was present at the police station on the morning of 26 March 1999 as is revealed by the evidence below he appeared there later in the day.[2458]

667. Velibor Veljković testified that soon after his arrival at the station, Repanović ordered him to join Petković, Tanović, and Čukarić to "commit the crime of murder"; it is his evidence that because he considered this order illegal, he did not obey. Instead, he entered the station.[2459] Veljković testified that a Kosovo Albanian detainee by the name of Petrit Elshani was then taken out of the detention room, and that about half an hour later, he heard several gunshots from the courtyard of the station. There, he saw Petković, Tanović, and Čukarić standing next to the dead

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children Ismet and Eron and their parents Ismet and Fatime, as well as Vesel Berisha's wife Hava Berisha, Sedat and Vjollca, Dafina, Drilon, and Gramoz Berisha, Bujar, Flora, Nexhmedin, Lirija, Vlrojan, Edon and Dorentina Berisha; a total of 25 members of the Berisha family. Members of these families that were not present that night were Vesel Berisha himself, Faik and Bahrije Berisha, Naim Berisha and Arben Berisha (Shyhrete Berisha, T 474).

2451 Shyhrete Berisha, T 476-477, 516. Asked to point out the location of these tanks on an aerial photograph depicting the homes on Restanksi Put , Shyhrete Berisha testified that its not possible to see the location of the tanks on the photographs as they were above the fields that were above the house (Shyhrete Berisha, T 516; Exhibit D9).

2452 Hysni Berisha, Exhibit P584, p 2; Hysni Berisha, Exhibit P588 (*Miloševic* transcript), T 7489-7490.

2453 K83 testified that he cannot be sure about the exact time but accepts that it might have been around 1100 hours (K83, T 376-377).

2454 K83, T 376-377, 415, 418; *see* also Velibor Veljković, T 7042, 7075.

2455 K83, T 372, 376-377, 415, 418.

2456 Velibor Veljković, T 7038, 7042, 7074-7075, 7065-7066, 7091, 7117-7118. Velibor Veljković testified that in total, there were about 10-15 active force policemen in Suva Reka/Suharekë town that day as well as reserve policemen, although he is not able to state the exact number, Velibor Veljković, T 7116. The Chamber notes that in a portion of Velibor Veljković's statement read out to him during cross-examination, it is said that Ramiz Papić was a member of the reserve police, Velibor Veljković, T 7065-7066; Exhibit D311, para 15; *see* also K83, T 375-376. The Chamber also notes the evidence of Hysni Berisha, referring to an individual named "Ramiz" being amongst the persons who came by his house on 21 May 1999 and ordered him to leave his house; he describes this individual as a member of the regular police, Hysni Berisha, Exhibit P584, pp 5-6. The Chamber is therefore satisfied that Ramiz Papić was a member of the local police.

2457 Velibor Veljković, T 7041.

2458 Velibor Veljković, T 7117; *see* also 6D2, T 12365.

body of the detainee Elshani with their automatic rifles. Petrit Elshani was a detainee, and not armed, nor was he taking any active part in hostilities, at the time he was killed. Petković, Tanović, and Čukarić then left the courtyard and the police station. It is the evidence of Velibor Veljković that about 10 minutes later, he heard automatic rifle shots in the close vicinity coming from the direction of Restanski Put.[2460] The Chamber has serious concerns with the veracity of aspects of this witness's evidence because of attempts to limit his own involvement in the events at the police station that morning and, thereafter, on Restanski Put. For this reason, and others discussed below, in making its findings, the Chamber has only relied on this witness's evidence to the extent that it is independently confirmed by that of other witnesses, and on those portions of his evidence which remain internally consistent and for which no apparent motive exists to disguise the truth.

668. Shortly after noon, two camouflage coloured trucks arrived at the police station,[2461] as well as a jeep carrying Radoslav Mitrović, whose call sign was "Cegar 1", commander of the 37th PJP detachment which went by the codename "Cegar".[2462] Several companies of this detachment had been deployed to the Prizren SUP in March of 1999.[2463] K83 testified that he had seen Mitrović at the police station several times during the war, when he came there to attend meetings.[2464] Members of Mitrović's unit, the 37th PJP detachment, left these trucks and set off in the direction of the houses across the road from the police station, which included Shyhrete Berisha's house.[2465] Commander Mitrović yelled at Nenad Jovanović and said "[w]hat are you staring at? What are you waiting for? Go after these men, who came to assist", a reference to the PJP from the trucks, upon which Jovanović told the members of the local patrol, *i.e.,* K83, Miroslav "Miki" Petković, Radovan Tanović and Sladjan Čukarić, to move.[2466] K83 testified that while the PJP was not under the command structure of the Suva Reka/Suharekë police station and were only temporarily

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[2459] Velibor Veljković, T 7042-7044, 7071-7074, 7153.

[2460] Velibor Veljković, T 7044-7046, 7157-7159.

[2461] The Chamber notes that when asked about these two trucks arriving at the police station, Velibor Veljković testified that he did not see the trucks and that save for the police at the station, he did not see members of any other unit that day (Velibor Veljković, T 7129). The Chamber does not accept this evidence as truthful and relies on the evidence of K83, who it considered to be reliable, in establishing that PJP troops, led by Mitrović, in fact did arrive at the station around noon that day.

[2462] K83, T 378-381, 406, 415, 454; Exhibit P270, marking "A" indicates the location of the trucks, marking "X" the location of K83's patrol, and the arrow indicating the direction into which the police went. *See* also Vlastimir Đorđević, T 9781; *see* also Exhibit P1061; K79, Exhibit P1259 (*Milutinović* transcript), T 9582-9583, 9711; Ljubinko Cvetić, T 6731-6732.

[2463] K79, Exhibit P1259 (*Milutinović* transcript), T 9579, 9585-9587.

[2464] K83, T 406.

[2465] K83, T 378, 380-383, 415-417; Exhibit P270, marking "A" indicates the location of the trucks , marking "B" indicates the place were "Cegar 1" was standing, marking "C" indicates the location of the police station, marking "X" the location of K83's patrol, and the arrow indicating the direction into which the police went, marking "D" indicates the location where the witness's patrol went, "E" the place where K83 was, and "L" the place where Miroslav Petković was; Exhibit D10, aerial photograph of the Berisha houses, markings indicate location where members of K83's patrol were standing; Shyhrete Berisha, T 511-514, 519; Exhibit P274, arrow and number "3" marking the location of her house; Exhibit D21, lines indicating the direction in which the police ran from the police station. *See* also Shyhrete Berisha, T 457-458; Exhibit P271, p 8, depicting Shyhrete Berisha's house.

stationed in Suva Reka/Suharekë municipality, the PJP assisted the police in carrying out regular police duties in the municipality.[2467]

669. At around noon, from Vesel Berisha's house, Shyhrete Berisha observed a large group of armed policemen as well as some individuals not wearing uniforms, heading first in the direction of the nearby house of Ismet Kuci[2468] before moving towards her house.[2469] By the time K83's patrol arrived at Shyhrete Berisha's house, members of the PJP unit were already present there.[2470] K83 and Miroslav Petković were ordered by Čukarić and Tanović to go to the house of Vesel Berisha, which was behind that of Shyhrete Berisha, in order to provide the police with cover in case anyone shot at them.[2471] Another individual who was present amongst the group of men who approached the house that day was Milorad Nišavić, aka "Mišković" or "Miško", a member of the state security of the MUP in Suva Reka/Suharekë town,[2472] well known amongst the local Albanians.[2473] Based on the totality of the evidence, the Chamber accepts that members of the MUP, including reserve and local police, approached Vesel Berisha's house.[2474]

2466 K83, T 381-382.

2467 K83, T 413-414. K83 also testified that the PJP unit was not in Suva Reka/Suharekë town itself very often, but mostly in the surrounding villages (K83, T 454). Part of the 37th PJP detachment was stationed in Suva Reka/Suharekë, K79, Exhibit P1259 (*Milutinović* transcript), T 9644. Ljubinko Cvetić testified that in 1999, the 37th detachment of the PJP was physically stationed in the Prizren SUP area, Ljubinko Cvetić, T 6732.

2468 Shyhrete Berisha was unable to identify the exact location of Ismet Kuči's house on a map (Shyhrete Berisha, T 511-514). She marked the different directions in which she saw individuals running from the the police station (Exhibit D21).

2469 Shyhrete Berisha, T 477.

2470 K83, T 381-383; Exhibit P270, marking "D" as the house where K83's patrol went.

2471 K83, T 382-383, 418; Exhibit P270, marking "D" as the house where K83's patrol went; marking "E" as the place where K83 stood and marking "L" as the place where Miroslav Petković stood; Exhibit D10, "1" marking location where K83 was standing and "2" marking location where Miroslav Petković was standing.

2472 Shyhrete Berisha, T 499; Hysni Berisha, T 3371; Shefqet Zogaj, Exhibit P615, p 3; Shefqet Zogaj, Exhibit P617 (*Milutinović* transcript), T 3781, 3804-3805, 5897-5898, Shefqet Zogaj, T 3441-3442; Halit Berisha, Exhibit P598, p 4; Halit Berisha, Exhibit P599 (*Milutinović* transcript), T 3617-3618; Halit Berisha, T 3407; 6D2, T 12404). It is also accepted by the Chamber that up until the departure of the OSCE on 20 March 1999, Milorad Nišavic's brother worked as a security guard for the OSCE stationed at Shyrete Berisha's house, Shyhrete Berisha, T 500-501.

2473 K83 testified that RDB member Milorad Nišavić was not involved in the events on 26 March 1999, K83, T 417. The evidence has demonstrated, however, that Milorad Nišavić was well known amongst the Albanians in town. Shyhrete Berisha saw him present at her house that day. The Chamber is satisfied that he was in fact present at Shyhrete Berisha's house on 26 March 1999 and shot Nexhat Berisha, as detailed below. The Chamber also notes the evidence of Shefqet Zogaj on the basis of a hearsay account he received on the events in Suva Reka/Suharekë town from a fellow villagers a few days after, who told him that the two persons "directing the police" in Suva Reka/Suharekë town when an "unprecedented massacre" took place, were "Zhika" (whose actual name he does not provide) and Milorad "Mišković", who the Chamber accepts to be Milorad Nišavić. It is his evidence, however that this occurred on 25 March 1999 (Shefqet Zogaj, Exhibit P615, p 3; *see* also Shefqet Zogaj, Exhibit P617 (*Milutinović* transcript), T 3781-3782, 3804-3805, 5897). The Chamber is satisfied, however, that the events he was told about and describes in fact took place on 26 March 1999, as described above.

2474 Shyhrete Berisha testified that among the men who arrived at the Berisha houses she recognised a Serb named "Zoran" who lived and worked in Suva Reka/Suharekë town and spoke fluent Albanian. Shyhrete Berisha did not specify whether "Zoran" wore a uniform or not. While she had never spoken to "Zoran" personally, she knew his wife and had met him on many occasions (Shyhrete Berisha, T 478-479, 521, 523, 526, 538, 540). She identified the speaker as "Zoran" because of the way he spoke Albanian as she had heard him speak many times before (Shyhrete Berisha, T 540). The witness testified that she heard "Zoran" call for Bujar Berisha to come out, saying "[c]all on the Americans, your friends now, to help you" (Shyhrete Berisha, T 479). The Chamber notes that

670. A member of the MUP forces called for Bujar Berisha to come out, saying "[c]all on the Americans, your friends now, to help you".[2475] When Bujar Berisha came out of the house, shots were fired, upon which members of the Berisha family who were staying in Vesel Berisha's house,[2476] fearing what may happen to them if they remained inside, left the house.[2477] As she left Vesel Berisha's house, Shyhrete Berisha saw the body of Bujar Berisha lying on the balcony.[2478] At the house of Shyhrete Berisha, situated just below that of Vesel Berisha, Milorad Nisavić aka "Mišković", who was not wearing a police uniform but black clothes, held Nexhat Berisha by the arm, saying "[n]ow the Americans should come and rescue you", and then shot him twice.[2479] A policeman grabbed Faton Berisha by the arm. Faton's mother Fatime (wife of Ismet, 48 years old) told the policemen to take her instead of her son. Sedat and Nexhmedin Berisha were also caught.[2480] Voices, in Serbian, were heard saying "[sh]oot, what are you waiting for" and the shooting then became more intense.[2481] The remaining group of the Berisha family members who had left Vesel Berisha's house, including Shyhrete Berisha and her children as well as Lirija Berisha, the pregnant wife of Nexhmedin, ran away from the house, across the road, in the direction of a shopping centre.[2482] Shyhrete saw Faton and his mother Fatime fall on the ground behind her as she ran from the house.[2483]

671. Velibor Veljković substantially confirms this evidence. He saw a house burning about 100 metres from the police station, civilians running away from a house on Restanski Put, mainly women, children and a few men, and heard rifle shots being fired. Five or six of the civilians who were running away were shot dead, although the witness claims not to have seen who fired these shots.[2484] Hysni Berisha further confirms some of this evidence in that sometime in the late

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Shyhrete Berisha was not able to positively identify Zoran Petković from an identification line up conducted for the purposes of her testimony before the War Crimes Chamber of the district court of Belgrade in Serbia in 2007, she explained that he had "changed a lot", having lost weight and wearing glasses (Shyhrete Berisha, T 533-534, 540; Exhibit D23). She testified, however, that when Zoran Petković spoke in court, she immediately recognized him (Shyhrete Berisha, T 540). The Chamber accepts the evidence of K83 that Zoran Petković was not with him on 26 March 1999 or at the events that followed at the pizzeria, K83, T 418. The Chamber finds that whilst there are discrepancies in the evidence as to the identity of all police officers present in Suva Reka/Suharekë town on 26 March 1999 this does not effect the Chamber's finding that members of the local and reserve police were present at Vesel Berisha's house on this day.

2475 Shyhrete Berisha, T 479. Whilst the witness testified that she identified the voice as that of Zoran Petković, as discussed above, the Chamber is unable to accept this identification.

2476 *See supra,* para 665.

2477 Shyhrete Berisha, T 479-481, 520; *see* also K83, T 383-386.

2478 Shyhrete Berisha, T 481, 520. The Chamber notes that the evidence does not establish who fired the shot that killed Bujar Berisha.

2479 Shyhrete Berisha, T 481-482, 501.

2480 Shyhrete Berisha, T 481-482.

2481 Shyhrete Berisha, T 482.

2482 Shyhrete Berisha, T 482-483. *See* also K83, T 383-384, 385, 386. *See* also Velibor Veljković, T 7046, 7125-7127; Exhibit D309, number "6" marking the Berisha house and number, small arrow and number "7" indicating from where the group ran and in which direction.

2483 Shyhrete Berisha, T 483.

2484 Velibor Veljković, T 7046, 7049, 7077, 7080, 7125-7126, 7135, 7158.

morning of 26 March 1999, he heard shooting across the street from the police station in the vicinity of the house of Sedat Berisha, Vesel Berisha's son, and saw flames and smoke in this area.[2485]

672. Shortly after his arrival at the Berisha houses, K83 saw local policemen Čukarić and Tanović checking the identifications cards of four men behind Shyhrete Berisha's home, formerly used by the OSCE. K83 testified that these four men were neither armed nor wearing uniforms.[2486] The Chamber accepts that Nexhat, Faton, Sedat and Nexhmedin Berisha are these four men. The Chamber is also satisfied, on the basis of Shyhrete Berisha's testimony and forensic evidence discussed later in this section, that Fatime (wife of Ismet) Berisha was shot outside the house when trying to save her son Faton, who was also shot. K83 and Miroslav Petković were ordered to follow the group of Berisha family members running away to see where they would go. K83 testified that as he set off to follow the group of Berisha family members, Čukarić and Tanović shot the four male members of the Berisha family named above.[2487] K83 also observed an elderly man and woman being injured by shots in their legs while running away from the house; they fell down, unable to continue.[2488] As stated above, according to Shyhrete Berisha, the individual who shot her husband was RDB member Milorad Nisavić aka "Mišković". In the Chamber's finding, Milorad Nisavić participated in the shooting of the men alongside Čukarić and Tanović. The Chamber accepts, confirmed by the evidence discussed above, that the following six members of the Berisha family, all listed by name in the Schedule to the Indictment, were killed by MUP forces, including members of the reserve and regular local police, at the Berisha family compound in Suva Reka/Suharekë town on 26 March 1999: Bujar, Nexhat, Faton, Fatime, Sedat and Nexhmedin. For two of these victims the cause of death was established as gunshot wounds.[2489] The Chamber also accepts that the elderly man and woman, left unnamed by the evidence and therefore not listed in the Schedule to the Indictment, were also killed by MUP forces in Suva Reka/Suharekë town on 26 March 1999. None of these individuals were armed or participating in the conflict. They were all Kosovo Albanian and based on the evidence the Chamber accepts that this is the reason they were killed. As discussed below, remains belonging to some of these Kosovo Albanian shot during

[2485] Hysni Berisha, Exhibit P584, p 2. The witness states that he heard shooting sometime late in the morning of 26 March 1999 and saw smoke and flames, adding that "[t]his continued until the evening", as a result of which his family was terrified and remained indoors throughout that day.
[2486] K83, T 383-386.
[2487] K83, T 383-386, 419-420; Exhibit D11, photograph indicating the road which K83 took to get to the pizzeria; *see* also Shyhrete Berisha, T 460.
[2488] K83, T 385-386; Exhibit P270, marking "F" indicates the location where the couple was injured.
[2489] *See infra,* para 1405; Schedule: Victims Chart.

these events in Suva Reka/Suharekë town were later exhumed from the Suva Reka/Suharekë cemetery, "Kroji-I-Popit" and/or Batajnica SAJ Centre.[2490]

673. Together with her daughter Herondilja, Shyhrete Berisha ran first to the petrol station owned by Jashar Berisha, her husband's cousin.[2491] She then saw family members gathered together at the nearby shopping centre and joined them there.[2492] One of her children, Altin Berisha, was wounded on his arm by a shot while running to the shopping centre.[2493]

674. At least 35 members of the Berisha family gathered together at the shopping centre.[2494] It is the evidence of K83 that a group of about 30-35 people had entered a pizzeria and locked themselves in.[2495] The Chamber notes that this location is referred to by witnesses interchangeably as a pizzeria or a café.[2496] In contrast to the evidence of K83 in this respect, Shyhrete Berisha testified that the members of the Berisha family at the shopping centre were told by policemen to enter the café and to sit down.[2497] It could be that Shyhrete Berisha's recollection is correct but that this did not occur while K83 was present, as for a time, he did move independently of the other police present at the pizzeria. In any event, in light of the events that followed and the charges in the Indictment pertaining to this incident, this discrepancy is not of material significance. In the Chamber's finding, upon seeing the group of Berisha family members in the pizzeria, K83 then returned to Čukarić and Tanović. He testified that he was frightened and not feeling well. Čukarić told him to go and get them some alcoholic drinks. In doing so, he passed by the elderly couple who he had earlier seen being shot while they were running away from the Berisha house. They were still alive. When he returned from collecting the drinks, the two elderly people were dead. He did not see how they died but heard shots and saw Čukarić about five to six metres from the bodies of the two elderly people. He then saw Čukarić moving towards the pizzeria.[2498] K83 then saw the bodies of the two elderly people had bullet wounds to their heads.[2499] Čukarić, Tanović, Miroslav Petković and K83 then sat around the corner from the pizzeria and had their drinks.[2500] K83

[2490] *See supra,* para 683.
[2491] Shyhrete Berisha, T 531.
[2492] Shyhrete Berisha, T 483.
[2493] Shyhrete Berisha, T 484.
[2494] Shyhrete Berisha, T 483-484; Exhibit P272.
[2495] K83, T 386-388, 422; Exhibit P270, marking "G" indicates the location of the pizzeria; Velibor Veljković, T 7061, Exhibit P1070, marking "5" indicating the location of the pizzeria / café.
[2496] *See* for example Velibor Veljković, T 7061.
[2497] Shyhrete Berisha, T 484-485.
[2498] K83, T 386-388, 422-423; Exhibit P270, marking "G" indicates the location of the pizzeria, marking "H" the location where the four policeman had their drinks; Exhibit D12, marking "X" indicates the pizzeria, "1" indicates the location where K83 saw the two elderly wounded individuals, marking "2" indicates the location where K83 went to get the liquor, and "3" where they had the drinks.
[2499] K83, T 388.
[2500] K83, T 388; Exhibit P270, marking "H" indicates the location where they had their drinks.

testified that other than these four individuals, there were no other policemen or other persons outside the pizzeria at this time.[2501]

675. After the four men finished their drinks, Tanović broke the window of the pizzeria with his rifle butt and threw a grenade inside.[2502] Čukarić, Miroslav Petković and K83 were standing around the corner to take shelter from the shattered glass and shrapnel caused by the explosion.[2503] K83 heard crying and moaning coming from inside the pizzeria.[2504] A few minutes later, Čukarić threw in a second grenade.[2505] Čukarić and Tanović then took turns shooting through the window of the pizzeria.[2506] Shyhrete Berisha could hear them shouting and saying that they were going to kill all of the Albanians.[2507] The shooting continued until all went quiet in the pizzeria.[2508] Shyhrete Berisha, who had sustained shrapnel injuries in her leg, chest and stomach, was still alive following the shooting. When this was noticed, she was shot by one of the policemen; this wound was to her arm.[2509] Drilon, Gramoz and Shyhrete Berisha's 11 year old son Altin were also still alive but pretended to be dead. When the policemen noticed that Altin was still alive, he also was shot once more; Shyhrete Berisha heard her son moan, and he died.[2510] Shyhrete Berisha pretended to be dead. The policemen then left the café.[2511] She then heard voices saying that the bodies should be loaded onto the truck.[2512] It was the testimony of K83 that following the killings at the pizzeria, Čukarić communicated with an unidentified person via his police Motorola equipment.[2513] K83 went to a kiosk on the main road to secure the area and prevent people from passing by.[2514]

676. The evidence demonstrates that all the people shot in the pizzeria were unarmed civilians, Albanians,[2515] and members of the Berisha family. It is accepted that they were targeted because

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[2501] K83, T 422.
[2502] K83, T 389.
[2503] K83, T 389.
[2504] K83, T 389.
[2505] K83, T 389.
[2506] The Chamber notes that it is the testimony of Shyhrete Berisha that there was first uninterrupted shooting into the café followed by grenades being thrown inside, Shyhrete Berisha, T 484-485. The Chamber however will rely on the evidence of K83 in this respect, who testified that prior to Cukarić and Tanović shooting into the café through the window of the pizzeria, two grenades had been thrown into the pizzeria, K83, T 389-390. This is confirmed by the evidence of Velibor Veljković, who first heard a grenade explosion, he thought from the direction of the Metohija Vino company (close to the pizzeria), followed by another explosion and then multiple gun shots, Velibor Veljković, T 7051-7052, 7058-7059, 7134, 7141.
[2507] Shyhrete Berisha, T 485. The Chamber accepts K83's testimony that the only persons outside of the pizzeria at the time of the killings were K83, Miroslav Petković, Čukarić, and Tanović, K83, T 472.
[2508] K83, T 389-390.
[2509] Shyhrete Berisha, T 485-486.
[2510] Shyhrete Berisha, T 486.
[2511] Shyhrete Berisha, T 485.
[2512] As they loaded Shyhrete Berisha's body onto the truck, they removed two golden chains she was wearing around her neck, Shyhrete Berisha, T 486-487.
[2513] K83, T 406-407.
[2514] He stood there for about an hour, to an hour and a half, K83, T 389-390; Exhibit P270, marking "M" indicating the location of the kiosk.
[2515] K83, T 408; *see* also Velibor Veljković, T 7049, 7052-7053, 7084.

they were Kosovo Albanians. It is the finding of the Chamber that a total of 35 members of the Berisha family were wounded by grenades or shot in the pizzeria by members of the local police of Suva Reka/Suharekë town on 26 March 1999. Of these, 32 died of their wounds that day. These are Majlinda, Heroldina, Altin, Redon, Sebahate, Sherina, Ismet (3 year old son of Faton and Sebahate), Eron, Dafina, Drilon, Hava, Vlorjan, Edon, Flora, Dorentina, Lirija (wife of Nexhmedin), Avdi, Fatime (wife of Avdi, 37 years old), Kushtrin, Vesel (55 years old, husband of Sofije Berisha), Sofije, Hajdin, Mihrije, Besim, Mevlude, Fatmire, Genci, and Graniti Berisha,[2516] as well as Hanumusha Berisha (9 years old, daughter of Hamdi and Zelihe Berisha and sister of Mirat Berisha), Hanumsha Berisha (81 years old, the wife of Sait Berisha), Musli Berisha (63 years old), Merita Berisha (10 year old daughter of Hamdi and Selija).[2517] At the time she was killed, Lirija Berisha was in her last month of pregnancy.[2518] Shyhrete, Vjollca and Gramoz Berisha were the only three persons to survive the killings at the pizzeria.[2519]

677. Jashar Berisha had heard the shooting and the explosions coming from the shopping centre and heard the screams of those being killed; he called his brother Halit Berisha and told him that people were being killed at the shopping centre and that Halit should get his family together and leave town.[2520] Jashar told his brother that he could not see the shopping centre but could hear explosions, shooting and screaming coming from it.[2521] He also told him that Sedat, Nexhat and Bujar Berisha had been killed by the police and that other members of the Berisha family members had been killed at the shopping centre.[2522]

678. K83 testified that while waiting at the kiosk to secure the area following the shooting in the pizzeria, he saw police crime technician Todor Jovanović bringing Jashar Berisha to the pizzeria; Jovanović was dressed in civilian clothes, and was driving in an official police vehicle.[2523] Dr Boban Vuksanović, a doctor working at the health centre in town and a member of the "Territorial Defence",[2524] called Jashar Berisha over, but Jashar Berisha refused and struggled, upon which

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[2516] Shyhrete Berisha, T 459-461, 483; Exhibit P272.

[2517] Shyhrete Berisha identified 28 of the 32 victims by name and the remaining four individuals by their photographs, Exhibit P272. For the four individuals whom she did not know by name, the same photographs were shown to Hysni Berisha, who identified them by name, Hysni Berisha, Exhibit P587 (*Milutinović* transcript), T 4012-4016; Exhibit P596, containing photographs of members of the Berisha family identified, by name, by Hysni Berisha; Exhibit P594, pp 17, 18, 24, 28.

[2518] Shyhrete Berisha, T 482, 530; *See infra*, para 1406; Schedule: Victims Chart.

[2519] Shyhrete Berisha, T 490; Exhibit P272.

[2520] Halit Berisha, Exhibit P598, p 3; Halit Berisha, T 3384.

[2521] Halit Berisha, Exhibit P598, p 3.

[2522] Halit Berisha, Exhibit P598, p 3; Halit Berisha, T 3384.

[2523] K83, T 392-393, 399, 426-427.

[2524] The Chamber notes that while K83 testifies that Dr Boban Vuksanović was a commander for the civilian defence protection, Velibor Veljković testified that Boban Vuksanović was with the "Territorial Defence", wore a green military uniform and carried an automatic rifle when he arrived at the pizzeria (Velibor Veljković, T 7055, 7132); Exhibit D308. Halit Berisha testified that Dr Vuskanović wore a military uniform and was commander of the Crisis Staff for Suva Reka/Suharekë municipality (Halit Berisha, T 3408). Halit Berisha testified that besides being

Čukarić shot him once in his back.[2525] Jashar Berisha was not seen alive after this day.[2526] Jashar Berisha was unarmed at the time and being detained by members of the Serbian forces. The evidence establishes that he was targeted because he was a Kosovo Albanian. The Chamber accepts that Jashar Berisha was killed by Serbian forces in Suva Reka/Suharekë town on 26 March 1999. Forensic evidence related to Jashar Berisha is discussed below.[2527]

679. Dr Boban Vuksanović, who had arrived at the pizzeria some 15 to 20 minutes after the killing, together with Mirko Đorđević, a "Territorial Defence" commander, examined the bodies.[2528] Crime technician Todor Jovanović took photographs of the bodies.[2529] The bodies at the pizzeria, including Jashar Berisha, were then loaded onto two trucks that had arrived one after the other from the direction of Prizren.[2530] The Chamber accepts that prior to the killings at the pizzeria, Velibor Veljković, a policeman from Suva Reka/Suharekë police station, was ordered to and involved[2531] in loading the body of the detainee killed earlier that day at the police station, as well as the bodies of persons that had been killed earlier on the same day and were lying on Restanski Put,[2532] although not all of these bodies, onto a truck that arrived from the direction of Prizren and was driven by a local policeman, Ramiz Papić.[2533] The truck was then driven down the

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a doctor by profession, Dr Vuksanović had once worked in the Executive Council of Suva Reka/Suharekë municipality and that then, "later on" he became the mayor; he also worked as the director of the health centre in town (Halit Berisha, T 3409). Hysni Berisha was asked whether Dr Vuksanović was the mayor of Suva Reka/Suharekë; he said he does not know but thinks he may have been. This appears to relate to an earlier period, however, when Hysni Berisha was in Germany from where he returned in 1996 (Hysni Berisha, T 3361, 3372-3373). The evidence demonstrates that Dr Vuksanović was killed by gunfire in April of 1999, allegedly by the KLA (Hysni Berisha, T 3372-3373); Halit Berisha, T 3408-3409; K83, T 443. Halit Berisha was told that that Vuksanović was wearing a camouflage military uniform when he was killed, Halit Berisha, Exhibit P600 (*Milošević* transcript), T 7447. On the basis of this evidence, the Chamber is satisfied that Dr Vuksanović, at the time of the killings at the pizzeria, was a member of the Territorial Defence Detachment of the VJ and wore a military uniform.

2525 K83, T 392-393.

2526 Halit Berisha, Exhibit P598, p 3; Halit Berisha, T 3384.

2527 *See supra,* para 683.

2528 K83, T 390-392, 426; Exhibit D14, number "3" indicating he place where Dr Boban Vuksanović and Mirko Dordević arrived by car.

2529 K83, T 400-405, 453.

2530 K83, T 391-392, 393, 424-425; Exhibit D14, marking "2" indicating the location where the trucks were when the bodies were loaded; *see* also Velibor Veljković, T 7159-7160.

2531 The Chamber notes the witness's testimony that he does not know who told him to collect the bodies (Velibor Veljković, T 7050, 7161). In his statement to the OTP in 2006, however, the witness stated that Radojko Repanović, commander of the police station, had ordered him to go after the group of men heading towards the houses on Restanski Put and to load the bodies of those killed (Velibor Veljković, Exhibit D311, para 16).

2532 The Chamber recalls the hearsay account of Shefqet Zogaj about killings of Kosovo Albanians in Suva Reka/Suharekë town, including Ramadan Sukaj, Hafiz Shala, Osman Elshani and Albert, whose last name he did not know (Shefqet Zogaj, Exhibit P615, p 3). It recalls its earlier finding that while Shefqet describes these killings occurring on 25 March 1999, on the basis of the other evidence received by the Chamber, it is satisfied that the events he referred to occurred on 26 March 1999.

2533 Velibor Veljković, T 7050-7052, 7088, 7129-7131, 7134, 7142, 7161. While the witness refers to picking up the bodies of the five to six civilians he saw running away from the house on Restanski Put on 26 March 1999, he also testified that it is possible he picked up more bodies on the road, "of people who had been killed earlier", Velibor Velković, T 7051. In statement given by the witness to the MUP in 2003, a portion of which was put to him by the Prosecution, he had stated that as they moved down Restanski Put they collected a number of dead bodies in a truck but left some dead bodies behind, Velibor Veljković, T 7183; Exhibit D313. In that same statement, evidence

road to Raštane/Reshtan in a search for other bodies before it was driven to the pizzeria to allow the bodies of those killed at the pizzeria to be loaded onto the same truck.[2534] Veljković testified that he went to the pizzeria with the truck because "I knew that the corpses should not be left just like that. This was a great [number] of bodies, and there would have been an outbreak if we had left them".[2535] The Chamber is satisfied, therefore, that the two trucks referred to by K83 consisted of the truck containing some of the bodies picked up from Restanski Put, as well another truck that arrived from the direction of Prizren for the purposes of collecting the bodies from the pizzeria.

680. The evidence demonstrates that those involved in the loading of the bodies onto the trucks included members of the civilian defence, as well as some young people who Dr Vuksanović had called to assist and who, upon refusing to take part, were threatened and ordered to do so by Čukarić.[2536] Velibor Veljković also assisted in the process of loading the bodies at the pizzeria onto the trucks.[2537] Veljković saw bodies of dead Albanian women and children in the pizzeria. It was his evidence that a 65-70 year old Albanian woman lying by the door said something to him in Albanian, after which he informed others about the fact that she was alive and left the pizzeria; shortly after, one of his colleagues, he claims not to remember who, shot the woman. Astoundingly, Veljković testified that he feared that the woman might have had a rifle and could have shot at him.[2538] He testified that another man who was still alive was also shot dead, again, by one of his colleagues.[2539] The Chamber does not accept the witness's attempts to distance himself from the killing of these two Berisha family members by attributing their killing to his colleagues.

681. Once all the bodies from the pizzeria were loaded onto the trucks, one of which already contained the bodies, *inter alia,* of some of the Berisha family members killed on Restanski Put, they were driven in the direction of Prizren.[2540] Shyhrete Berisha, Vjollca Berisha and her son

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which the Chamber accepts, Veljković stated that he also picked up the bodies of a number of individuals from Miladina Popovića street, about 250 metres from the police station, likewise leaving some of them behind, as well as the body of the detainee killed at the police station earlier that day, prior to proceeding to Restanski Put and the pizzeria, Velibor Veljković, T 7183; Exhibit D313. K83 confirmed the evidence that some of the bodies killed on Restanski Put were left lying there until 27 March 1999, testifying that photographs were taken of these bodies on this day by crime technician Todor Jovanović, K83, T 400-405, 453). K83 also testified that approximately 15-20 persons living in the houses on Restanski Put who were killed on 26 March 1999 were buried in the local cemetery, K83, T 451.

[2534] Velibor Veljković, T 7055, 7088, 7132, 7137-7138, 7146, 7185; D308.

[2535] Velibor Veljković, T 7134, 7160. The Chamber notes that in the present trial, Velibor Veljković testified that the bodies from the pizzeria were loaded onto the same truck as the bodies of the Berisha family members he collected on Restanski Put, although he conceded he was not certain that there was not more than one truck, Velibor Veljković, T 7055, 7132-7134, 7141. In his statement to the OTP in 2006, the witness had stated that the bodies of those killed in Suva Reka/Suharekë town were in fact loaded onto two trucks, Velibor Veljković, Exhibit D311, paras 16-17.

[2536] K83, T 390-392, 425-426.

[2537] *See infra,* para 679.

[2538] Velibor Veljković, T 7053-7054, 7137-7139.

[2539] Velibor Veljković, T 7055.

[2540] Shyhrete Berisha, T 487; K83, T 390-391; *see* also Velibor Veljković, T 7147.

Gramoz, all three of whom were wounded but still alive, had been loaded on the same truck. Having driven for only a short time, this truck stopped, and Shyhrete Berisha heard a woman speaking in Serbian saying "[m]y son, are you finished", to which a man answered in the affirmative and the woman wished him a good trip. Shyhrete and Vjollca Berisha both recognized the voice of "Vera", the mother of Zoran Petković referred to earlier as one of the individuals who approached Shyhrete's house earlier that morning.[2541] Although she never spoke to her personally, Shyhrete Berisha knew Zoran's mother well and used to see her quite often and hear her speak.[2542] After some time travelling in the truck, Shyhrete Berisha, Vjollca Berisha and her son Gramoz Berisha decided to jump off the back of the truck while it was moving. They did so and found themselves in Nova Šumadija/Malësi-e-Re, a village in the direction of Prizren. There, villagers gave Shyhrete Berisha first aid before taking her to Grejkoc/Grejkovce village to see a doctor.[2543]

682. In September 1999, a British forensic team conducted autopsies of the remains of individuals exhumed from the cemetery in Suva Reka/Suharekë town.[2544] Out of the total of 18 bodies examined, two of them were identified as belonging to Faton and his mother Fatime Berisha, both of whom were last seen falling to the ground near Shyhrete Berisha's house on Restanski Put;[2545] it was established that the cause of death of each of these individuals was a gunshot wound to the head.[2546] A third body identified at the cemetery was that of Sedat Berisha.[2547] Although no cause of death was established for this victim, on the basis of the eye-witness accounts described, the Chamber is satisfied he died as a result of being shot by Serbian forces in Suva Reka/Suharekë on 26 March 1999.[2548] The Chamber recalls here the evidence of K83 that some of the bodies of civilians from the houses on Restanski Put were left there until 27 March 1999 when photographs were taken of these bodies; he recalled about 15-20 individuals being subsequently buried in the local cemetery, "under the codes that were already there".[2549]

683. Also in September 1999, the British Forensic team conducted exhumations at the VJ firing range near Koriša/Korishë, close to Prizren,[2550] also referred to as "Kroj-I-Popit".[2551] Clothing, shoes, wallets and other items were exhumed in the vicinity of some human remains.[2552] All items

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[2541] Shyhrete Berisha, T 487, 526-527.
[2542] Shyhrete Berisha, T 487, 526-527.
[2543] Shyhrete Berisha, T 490-491.
[2544] *See supra,* para 1404.
[2545] *See supra,* paras 670, 672, 682, 1404, 1405.
[2546] *See supra,* para 1405.
[2547] *See supra,* para 1405.
[2548] *See supra,* para 1405.
[2549] K83, T 400-405, 451-454.
[2550] *See supra,* para 1406.
[2551] Halit Berisha, Exhibit P599 (*Milutinović* transcript), T 3712-3713; *see supra,* para 1406.
[2552] Hysni Berisha, T 3345-3346; Hysni Berisha, Exhibit P584, pp 8-9; *see* also Halit Berisha, T 3383-3386; Halit Berisha, Exhibit P599 (*Milutinović* transcript), T 3611-3612, 3636; Exhibit P591, p 6. Halit Berisha testifies about

were presented to family members for identification.[2553] Many of these items were identified as belonging to various members of the Berisha family.[2554] As discussed in more detail later in this Judgement, some of these items belonged to Berisha family members who were identified by an eyewitness survivor as being killed in the pizzeria, while some belonged to other Berisha family members.[2555] Items of clothing of Jashar Berisha, as well as a part of one of his limbs, were found at the site.[2556] Some two years later, in June 2001, the remains of no less than 24 members of the Berisha family, including human remains of Jashar Berisha and the unborn baby of Lirija Berisha, were found, and identified by DNA evidence, over 400 kilometres away in a mass grave site at the Batajnica SAJ Centre near Belgrade.[2557] The Chamber also notes that the remains of Afrim, Arta, Hamdi and Zana Berisha were amongst those 24 individuals exhumed from Batajnica 1. As discussed in more detail later in this Judgement, some personal items belonging to Afrim Berisha were also identified in Kroji-I-Popit. Based on the totality of the evidence and the pattern of attack by Serbian forces in Suva Reka/Suharekë town on 26 March 1999, the Chamber is satisfied that these four Berisha family members were also killed by Serbian forces. With respect to the remaining Berisha family members listed in Schedule D of the Indictment – Nefije, Sait, Mirat and Zelihe Berisha – the Chamber notes that their remains have not identified. In the context of the events described above, the Chamber considers it likely that Nefije, Zelihe and Mirat Berisha, as well as Sait Berisha were also killed on 26 March 1999 in Suva Reka/Suharekë town, although it is unable, on the evidence, to make this finding conclusively. Based on the totality of the evidence, including forensic findings pertaining to the members of the Berisha family, it is accepted by the Chamber that at least 45 members of the Berisha family were killed by MUP forces, including local and reserve policemen, on 26 March 1999.[2558]

684. The Chamber further accepts, on the basis of this evidence, including the forensic evidence discussed in greater detail later in this Judgement, that bodies of Berisha family members killed on 26 March 1999 were transported by truck to the VJ firing range near Koriša/Korishë, close to

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finding the clothes of his brother at this site "sometime in July of 1999" (Halit Berisha, Exhibit P599 (*Milutinović* transcript), T 3611-3612, 3636). As testified to by Hysni Berisha, the British forensic team initially visited the site in July of 1999, while the exhumations only started in September of 1999 (Hysni Berisha, Exhibit P584, pp 8-9; Hysni Berisha, T 3345-3346). The Chamber is satisfied, on the evidence, that the exhumation process and identification of items of clothing as well as part of the limb of Halit Berisha's brother Jashar Berisha, therefore, took place in September of 1999.

[2553] Hysni Berisha, Exhibit P584, pp 8-9; Halit Berisha, T 3385; *see* also Exhibit P590.

[2554] Hysni Berisha, Exhibit P584, pp 8-9; Hysni Berisha, Exhibit P587 (*Milutinović* transcript), T 4011-4012; Hysni Berisha, T 3345-3347; *see* also Exhibits P590, P591, P592, P593; *see supra,* para 1406. Hysni Berisha describes finding a handkerchief of 63 year old Musli Berisha, a sweater/jacket belonging to one of Musli Berisha's children Violeta or Afrim, a pencil case belonging to the 14 year old Merita Berisha (daughter of Hamdi Berisha), a notebook belonging to 10 year old Mirat Berisha (the son of Hamdi Berisha), and shoes belonging to Sofije Berisha and her husband, 55 year old Vesel Berisha.

[2555] *See supra,* para 1406.

[2556] Halit Berisha, T 3385-3386, 3613; Exhibit P591, p 6.

[2557] Halit Berisha, T 3386-3387; *see* also Exhibit P599 (*Milutinović* transcript), T 3613. *See supra,* para 1406.

Prizren, where they were buried for a short period of time before being disinterred, leaving behind several of the items subsequently found by the British forensic team accompanied by Hysni Berisha and Halit Berisha at this site, and subsequently transported to the Batajnica SAJ Centre near Belgrade to be buried in a mass grave.

685. The Chamber notes here the evidence of Velibor Veljković that K83 was with him throughout the day and was not amongst those men present at the pizzeria at the time of the shooting.[2559] This directly contradicts the evidence provided by him in earlier interviews and statements,[2560] as well as contradicting the evidence of K83 himself about his involvement in the events. The Chamber accepts the evidence of K83 concerning his involvement in the events, convinced of its reliability. Velibor Veljković on the other hand gave unsatisfactory explanations for the obvious and significant discrepancies and ambiguities between his previous evidence and his testimony during this trial. Accordingly, the Chamber was not disposed to accept this aspect of his evidence that K83 was not amongst the men present at the pizzeria at the time of the shooting.[2561]

686. The findings above demonstrate that there was no on-site investigation following the killings of the Berisha family members at the pizzeria. While photographs were taken of the bodies at the pizzeria on 26 March 1999, as well as of the bodies left behind on Restanski Put on 27 March 1999,[2562] the fact that some of the bodies on Restanski Put and the bodies of those killed at the pizzeria were loaded into trucks and transported towards Prizren immediately after the killing prevented any type of investigation into the incident. The Chamber notes that there was an on-site investigation conducted in Suva Reka/Suharekë town on 30 March 1999; this investigation, however, was limited to the bodies of eight Kosovo Albanians discovered on Miladina Popovića street in Suva Reka/Suharekë town on that day.[2563] It records that these bodies were buried in the Muslim cemetery in Suva Reka/Suharekë town on the same day as the on-site investigation.[2564] No

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[2558] *See supra,* para 1403-1406.
[2559] Velibor Veljković, T 7085-7086, 7144-7146.
[2560] Velibor Veljković, T 7069, 7086-7087, 7145-7146, 7181-7185.
[2561] *See,* for example, Velibor Veljković, T 7071-7074, 7152-7153, 7172-7174, 7189-7190, with respect to the question of the order given by Commander Repanović on 26 March 1999 about what to do with the Albanian population; T 7076-7077; with respect to who ordered him to go and load the bodies of those that had been killed on Restanski Put on 26 March 1999; T 7078-7080, with respect to whether he did or did not see the individuals who were shooting at the civilians running from Vesel Berisha's house towards the shopping centre. *See* also T 7164-7169, 7188-7189, 7191-7192.
[2562] K83, T 400-405, 453.
[2563] Exhibit D802. The Chamber notes that Velibor Veljković also participated in the collection of a number of the bodies from Miladina Popović location on 26 March 1999; it is his evidence that they left some of the bodies behind there before moving on to collect the bodies of the Berisha family on Restanski Put and then the pizzeria at the shopping centre (Velibor Veljković, T 7183; 6D2, T 12272-12273. During cross-examination of K83, the Defence puts to K83 that there was an on-site investigation on 30 March 1999 on Miladin Popović street, for which K83 provided security detail, which the witness confirms (K83, T 449). The Chamber notes that K83 was not in the position, however, to explain to the Chamber where Miladin Popović street was. No statement was taken from K83 on this occasion (K83, T 450-451). *See infra,* paras 2089-2090.
[2564] Exhibit D802, p 6.

mention is made in the report of this investigation of the bodies on Restanski Put or the bodies at the pizzeria. The lack of a proper investigation into the killings of the Berisha family members is discussed in more detail later in this Judgement.[2565]

(c) Expulsion from Suva Reka/Suharekë town and adjoining villages. Destruction of the Mosque in Suva Reka/Suharekë town

687. It is the evidence of policeman Velibor Veljković, that upon returning to the Suva Reka/Suharekë police station following the killings of the Berisha family members on Restanski Put and in the pizzeria on 26 March 1999, he was told by a colleague that there had been an order from Belgrade to cease the killings, and that the Albanian population in town should be told to leave within half an hour or meet the fate of the Berisha family.[2566] There is other confirmatory evidence that this occurred.[2567] Velibor Veljković also testified that following the killings of the Berisha family members on 26 March 1999, the houses on Restanski Put were set on fire by the police.[2568]

688. Evidence demonstrates that soon after the Berisha killings, the Albanian community commenced to leave en masse towards Prizren and Albania.[2569] This evidence receives some support from that of villagers Hysni Berisha and Halit Berisha, who detailed their flight from Suva Reka/Suharekë town following the attack by the police on 26 March 1999, as well as on the destruction of the town's mosque. The factual findings for these events are set out below, in chronological order.

689. On 27 March 1999, there was a large movement of police on the main road and back streets of Suva Reka/Suharekë town. From his home in Suva Reka/Suharekë town Hysni Berisha saw police setting fire to houses in the part of town where the massacre of the Berisha family members had occurred.[2570] That night, Hysni Berisha and his family, together with some of his neighbours, hid in the basement of a house, fearing that the police would soon arrive at that part of town in which he lived.[2571] The following day, fearing for their safety, Hysni Berisha took his family and

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[2565] *See infra,* para 2087-2091.
[2566] Velibor Veljković, T 7062, 7172, 7174.
[2567] The Chamber notes the evidence of Shefquet Zogaj, that a few days after the events in Suva Reka/Suharekë town, while in Belanica/Bellanicë, he was told by residents of Suva Reka/Suharekë town that the police had surrounded all of the houses between the police station and the village of Raštane/Reshtan, ordered people to leave their homes, and subsequently burned these homes (Shefqet Zogaj, Exhibit P615, p 3). While Shefqet Zogaj states that this occurred on 25 March 1999, the Chamber accepts, on the basis of evidence of Shyhrete Berisha and Velibor Veljković, that the burning of the houses on this street in fact took place on 26 March 1999.
[2568] Velibor Veljković, T 7063, Shefqet Zogaj, Exhibit P615, p 3.
[2569] Velibor Veljković, T 7063.
[2570] Hysni Berisha, Exhibit P584, p 3; Hysni Berisha, Exhibit P588 (*Milošević* transcript), T 7490.
[2571] Hysni Berisha, Exhibit P584, p 3; Hysni Berisha, Exhibit P588 (*Milošević* transcript), T 7490.

went to stay with a cousin who lived further away from the area where the police were burning houses.[2572]

690. Around noon on 28 March 1999, standing in the garden of his home, Halit Berisha heard an explosion and at a distance of about 300 metres, he saw that at the site of the explosion, the minaret of the mosque in Suva Reka/Suharekë was destroyed.[2573] While the mosque would usually have been full of Albanians because it was the Muslim day of Bajram, it was empty that day (no doubt because of the events described in the previous section of this Judgement); nobody was wounded.[2574] A few minutes after the explosion, a green and olive camouflage Gazik army vehicle was observed moving from the vicinity of the mosque in the direction of the military base in Birač/Biraq.[2575] The destruction of the minaret of the mosque in question, identified elsewhere in the evidence as the Xhamia-eBardhe Mosque, was caused by an explosion from within the building.[2576]

691. Throughout 28 March 1999, convoys of Kosovo Albanian civilians expelled from Suva Reka/Suharekë town by Serbian forces were leaving town in the direction of Prizren.[2577] Around 1800 hours that day, Halit Berisha's neighbour, reserve policeman Djuro Nović, wearing a blue camouflage uniform, came to his house and told Halit Berisha that he should get ready as soon as possible, and that "[y]ou must go to Albania, paramilitaries will come and kill you".[2578] The Chamber finds that this constituted a threat to Halit Berisha. As a result, he left for Albania.[2579] Together with his wife, he left his home and went to Savrovo/Savrovë village to meet the rest of his family that had gone there earlier.[2580] On the following morning, 29 March 1999, Halit Berisha and his family left Savrovo/Savrovë village and went to Bužalja/Buzhallë, where he stayed in a house together with approximately 130 other Kosovo Albanians.[2581] On about 2 April 1999, Serbian forces launched a further offensive in a number of villages throughout Suva Reka/Suharekë municipality, including Sopina/Sopijë, Mušutište/Mushtisht, Vranic/Vraniq, Savrovo/Savrovë,

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[2572] Hysni Berisha, Exhibit P584, p 3; Hysni Berisha, Exhibit P588 (*Milošević* transcript), T 7492-7494.
[2573] Halit Berisha, T 3387-3389, 3416; Halit Berisha, Exhibit P599 (*Milutinović* transcript), T 3608-3609, 3614-3615; Halit Berisha, Exhibit P600 (*Milošević* transcript), T 7456; Exhibit P613, marking "H" to indicate the location of the mosque; Exhibit P614. *See* also Hysni Berisha, Exhibit P586, p 2.
[2574] Halit Berisha, Exhibit P598, p 3; Halit Berisha, Exhibit P599 (*Milutinović* transcript), T 3614-3615; Halit Berisha, Exhibit P600 (*Milošević* transcript), T 7456; Halit Berisha, T 3388-3389.
[2575] Halit Berisha, T 3387-3388, 3420; Halit Berisha, Exhibit P599 (*Milutinović* transcript), T 3615-3616, 3661, 3666-3667; Halit Berisha, Exhibit P600 (*Milošević* transcript), T 7456; *see also* para 1820.
[2576] *See infra*, paras 1821-1825.
[2577] Halit Berisha, T 3392, 3415; Halit Berisha Exhibit P598, p 3.
[2578] Halit Berisha, Exhibit P598, p 3; Halit Berisha, Exhibit P600 (*Milošević* transcript), T 7462; Halit Berisha, Exhibit P599 (*Milutinović* transcript), T 3616-3617, 3651; Halit Berisha, T 3379, 3405-3406.
[2579] Halit Berisha, T 3406.
[2580] Halit Berisha, Exhibit P598, p 3; Halit Berisha, T 3415. *See* also *supra*, para 664.
[2581] Halit Berisha, Exhibit P598, p 4.

Bukosh/Bukoš[2582] and Bužalja/Buzhallë.[2583] Because of this offensive, some of Halit Berisha's family left Bužalja/Buzhallë village and drove toward Albania via Prizren, while Halit Berisha and his two sons took shelter in the mountains, in an area called Llanishte.[2584] Halit Berisha rejoined the members of his family, who had driven towards Albania, two days later in the village of Savrovo/Savrovë; they told him that on their journey to Albania, they had been stopped by police and told to return to Savrovo/Savrovë.[2585] Halit Berisha and his family remained in Savrovo/Savrovë for two more days before returning to Suva Reka/Suharekë town.[2586]

692. On the morning of 3 April 1999, individuals whom Hysni Berisha described as "Serb paramilitaries wearing blue camouflage uniforms, some in black uniforms with black bandannas on their heads and beards, some had shaved heads, carrying automatic AK-47's weapons, knives, weapons used for creating fire", approached the house of a cousin of Hysni Berisha in Suva Reka/Suharekë town where the witness and his family had taken shelter.[2587] While in his statement to the OTP in 2001 it appears that he understood the term "paramilitaries" broadly to incorporate several forces,[2588] when questioned in court, he demonstrated that he was, however, able to distinguish among the various forces present in Suva Reka/Suharekë town.[2589] Moreover, his description of some of these individuals wearing blue or blue camouflage uniforms has remained consistent throughout all of his evidence.[2590] Similarly consistent is his evidence of individuals with unshaven faces, shaved heads, some with tattoos, and their dress and equipment. On this basis, and on the basis of other evidence as to uniforms, dress, appearance and equipment used by

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[2582] The Chamber notes that K79, a member of a PJP unit testified about an operation in Bukošh/Bukoš, but does not specify a time-frame (K79, Exhibit P1260 (*Milutinović* transcript), T 9673-9675).

[2583] Halit Berisha, T 3391, 3413-3415; *see* also Halit Berisha, Exhibit P598, p 4.

[2584] Halit Berisha, T 3413-3415; *see* also Halit Berisha, Exhibit P598, p 4; Halit Berisha, Exhibit P600 (*Milošević* transcript), T 7436-7437. The Chamber notes that Halit Berisha testified in *Milošević* that he "hid" in the "woods near Buzhallë" together with his two sons when the rest of his family headed towards Albania (Halit Berisha, Exhibit P600 (*Milošević* transcript), T 7436). In his testimony in this trial, however, he stated that he "took shelter" in the mountains in an area called "Llanishte" (Halit Berisha, T 3413-3413). In the view of the Chamber this is not an issue of significance to the credibility of Halit Berisha.

[2585] Halit Berisha, Exhibit P600 (*Milošević* transcript), T 7436-7437; *see* also Halit Berisha, Exhibit P598, p 4.

[2586] Halit Berisha, Exhibit P600 (*Milošević* transcript), T 7436-7437.

[2587] Hysni Berisha, Exhibit P584, p 3.

[2588] In his statement, Hysni Berisha explained that he referred to these forces as "paramilitaries" because they were not regular policemen and did not come from the area, as he did not recognize any of them (Hysni Berisha, Exhibit P584, p 3).

[2589] Hysni Berisha testified that he considered paramilitaries to be "all those citizens who were mobilized into the police and army forces" as well as the "special Yugoslav police forces", "because their uniforms were different from the regular army", Hysni Berisha, T 3350-3351. He further distinguished paramilitaries and the military on the basis of their outer appearance; paramilitaries had shaved heads and/or were unshaven and instead of caps would wear bandannas, and some had tattoos, Hysni Berisha, T 3350-3351, 3356, 3358. With respect to the police, Hysni Berisha knew them to wear two types of uniforms, blue and blue camouflage; they usually had inscriptions on their arms, Hysni Berisha, T 3350-3351; *see* also Hysni Berisha, T 3356, 3358. Some of the police he saw in Suva Reka/Suharekë town wore white and red ribbons, although it is not clear from the evidence on which occasion he sighted these individuals, Hysni Berisha, T 3350. The Chamber notes in this regard that there is evidence by some witnesses that ribbons were worn by both MUP and VJ forces during the Indictment period, *see supra*, paras 265-268.

[2590] Hysni Berisha, Exhibit P584, p 3; Hysni Berisha, P587, p 4017-4018; Hysni Berisha, T 3350, 3356-3359.

different units of the Serbian police, VJ forces, and paramilitary units, the Chamber accepts that amongst the individuals observed by the witness on 3 April 1999, there were members of the MUP, even though the witness did not recognize any locals among them, and also of paramilitary units.[2591]

693. The forces described by the witness were shooting and setting fire to houses in the Gashi neighbourhood of Suva Reka/Suharekë town; a total of 50-60 homes in that locality alone were burnt.[2592] Upon seeing these individuals approaching his home, Hysni Berisha and his family left their home and headed to a nearby field where other villagers had also collected, some in vehicles, some on foot.[2593] There they were surrounded.[2594] Hysni Berisha was ordered out of his car by members of these forces and forced to hand over money, after which he was told to "go to Albania".[2595] A convoy of people then left Suva Reka/Suharekë town, and was joined by more displaced persons along the way. By the time this convoy reached Koriša/Korishë village in Prizren municipality, it was approximately five kilometres long.[2596]

694. In the night of 4-5 April 1999, and again early in the morning of 5 April 1999, while the convoy was forced to remain in Koriša/Korishë village, individuals also described by Hysni Berisha as paramilitaries[2597] arrived in jeeps from the direction of Suva Reka/Suharekë, demanding and seizing money and valuables from the people in the convoy.[2598] At around 0900 hours in the morning of 5 April 1999, police and army forces in tanks and Pragas coming from the direction of Prizren towards Suva Reka/Suharekë passed the convoy waiting in Koriša/Korishë. Shots were occasionally fired at the people in the convoy and some vehicles were seized by the Serbian forces.[2599] This lasted for two days, while the convoy remained in Koriša/Korishë. Finally, the convoy was allowed to continue; it was stopped once more at the military barracks near the entrance of Prizren where it was joined by another convoy from Đakovica/Gjakovë before being allowed to carry on towards Albania.[2600]

695. Near the border with Albania, the convoy was met by a police vehicle carrying Milan Šipka, the former police commander of Suva Reka/Suharekë police station, who was wearing a blue camouflage uniform. Milan Šipka informed the people in the convoy that the border was closed

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[2591] *See supra*, paras 53-55, 64-66, 76, 202, 207, 211, 215.
[2592] Hysni Berisha, Exhibit P584, p 3; Hysni Berisha, Exhibit P587 (*Milutinović* transcript), T 4032, 4035.
[2593] Hysni Berisha, Exhibit P584, p 3.
[2594] Hysni Berisha, Exhibit P584, p 3.
[2595] Hysni Berisha, Exhibit P584, p 3.
[2596] Hysni Berisha, Exhibit P584, p 3.
[2597] Hysni Berisha, T 3350-3351, 3356, 3358.
[2598] Hysni Berisha, Exhibit P584, pp 3-4.
[2599] Hysni Berisha, Exhibit P584, p 4.
[2600] Hysni Berisha, Exhibit P584, p 4.

and that they should return to their homes.[2601] The convoy returned. Upon arriving in Suva Reka/Suharekë at around 2100 hours on 5 April 1999, Hysni Berisha was questioned by a police patrol at the shopping centre. They accused the witness of lying when he told them they had been ordered to return to their homes.[2602] Nevertheless, Hysni Berisha and his family were then allowed to return to their home; there, they found out that it had been broken into, looted, and there was no electricity.[2603] From the day of their return to their home in Suva Reka/Suharekë town, police paid regular visits to the family home.[2604]

696. On 7 May 1999, Hysni Berisha was visited in his home by individuals he described in his statement to the OTP as "another" group of "paramilitaries", who had arrived in Suva Reka/Suharekë town in several types of vehicles and started looting and burning houses on the main street.[2605] He describes this particular group of men who came to his house as wearing green and brown camouflage uniforms, with black bandannas on their heads and some with white bandannas, some with shaved heads. The majority of these men had tattoos on their arms, and some on their heads; he remembers seeing a tattoo of a snake.[2606] The individuals described by the witness questioned him; he was forced to find food and candles for them.[2607] These forces left Suva Reka/Suharekë town on 9 May 1999.[2608] While the Chamber accepts, from the witness's description of these men, that they included paramilitaries, it is unable to determine whether these paramilitaries were accompanied by members of the PJP or the SAJ.

697. The evidence demonstrates that witness Halit Berisha, upon his return with his family to Suva Reka/Suharekë from Savrovo/Savrovë on 7 April 1999, went to hide in the woods a second time with two of his sons; the remainder of his family stayed at his aunt's house in Suva Reka/Suharekë town where they had all taken refuge a few days earlier.[2609] On 2 May 1999, Halit Berisha left the woods and returned to stay in his aunt's house together with his family. His wife would occasionally go back to their own home in the town to collect food. The family home had been looted of valuable items and the furniture had been destroyed. Certain houses in the area,

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2601 Hysni Berisha, Exhibit 584, p 4; Hysni Berisha, Exhibit P587 (*Milutinović* transcript), T 4036-4037.
2602 Hysni Berisha, Exhibit P584, p 4; Hysni Berisha, Exhibit P588 (*Milošević* transcript), T 7500.
2603 Hysni Berisha, Exhibit P584, pp 4-5.
2604 Hysni Berisha, Exhibit P584, p 5.
2605 Hysni Berisha, Exhibit P584, p 5.
2606 Hysni Berisha, Exhibit P584, p 5; *see* also Hysni Berisha, T 3357. The Chamber notes that in this trial, the witness states that the men who came to his house on 7 May 1999 wore green camouflage uniforms. Hysni Berisha believed them to be of a special unit, but does not provide a sufficient basis for this claim (Hysni Berisha, T 3357; *see* also T 3350-3351, where the witness makes reference to a special unit which he was not able to identify at the time of events but learned about later. It is unclear how he learned of this unit or why he believed this was a "special unit").
2607 Hysni Berisha, Exhibit P584, p 5.
2608 Hysni Berisha, Exhibit P584, p 5.
2609 *See* supra, paras 691-692.

including that of his neighbour Asllan Berisha, and other Berisha relatives, had been burnt down completely.[2610]

698. On 16 May 1999, Halit Berisha, together with six others, was interviewed at the municipal building by Milorad Nisavić, aka "Mišković", a member of the RDB of the MUP, and questioned as to his whereabouts in the previous month.[2611] He was not mistreated and allowed to return to his Aunt's home, where he stayed until 21 May 1999.[2612]

699. The evidence demonstrates that in the course of the morning of 21 May 1999, villagers of Suva Reka/Suharekë town were ordered to leave their homes. At 1020 hours on 21 May 1999 six police officers wearing blue camouflage uniforms came to Halit Berisha's aunt's house in Suva Reka/Suharekë town where, at the time, Halit Berisha was staying with his family. One of the policemen, Šinisa Andrejević, told those present, including Halit Berisha, "you have 15 minutes to leave for Albania and you will never see this land again."[2613] Witness Hysni Berisha gives similar evidence; he testified that on that morning, several individuals known to him arrived at his house[2614] in a red civilian golf vehicle,[2615] wearing blue camouflage police uniforms and carrying automatic weapons.[2616] These were Šinisa Andrejević, Miroslav "Miki" Petković, as well as Milisav Gogić, who worked for the state security department of the MUP, and an individual Hysni Berisha refers to as "Ramiz" who was with the regular police, in addition to one unidentified individual.[2617] They ordered his family to leave.[2618] The Chamber accepts that "Ramiz" is in fact Ramiz Papić, the driver of the police patrol who took part in the events in Suva Reka/Suharekë town on 26 March 1999.[2619]

700. Having been ordered to leave their homes, people in town started to leave town on 21 May 1999; those who had vehicles were told to join a convoy while those without transportation were told to gather in the shopping centre where two buses and two trucks had been organized to

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[2610] Halit Berisha, Exhibit P598, p 4.
[2611] Halit Berisha, Exhibit P598, p 4; Halit Berisha, Exhibit P599 (*Milutinović* transcript), T 3617-3618; Halit Berisha, T 3407; *see supra* paras 670, 672.
[2612] Halit Berisha, Exhibit P598, p 4.
[2613] Halit Berisha, T 3410; Halit Berisha, Exhibit P598, p 4; Halit Berisha, Exhibit P599 (*Milutinović* transcript), T 3618-3619.
[2614] Hysni Berisha, Exhibit P584, pp 5-6; Hysni Berisha, Exhibit P587 (*Milutinović* transcript), T 4038.
[2615] Hysni Berisha testified that it was not uncommon for police to use civilian vehicles, (Hysni Berisha, Exhibit P587 (*Milutinović* transcript), T 4041.
[2616] Hysni Bersiha, T 3371; Hsyni Berisha, Exhibit P584, pp 5-6; Hysni Berisha, Exhibit P587 (*Milutinović* transcript), T 4037-4038, 4041.
[2617] The Chamber notes that Hysni Berisha refers to these individuals as "paramilitaries"; having named and described them individually, however, it is clear that the witness used this term broadly to describe Serbian forces (Hysni Berisha, Exhibit P584, pp 5-6). It also notes that the witness refers to a "Mikica" Petković, which the Chamber is satisfied is Miroslav "Miki" Petković, a reserve police member, *see supra,* para 666.
[2618] Hsyni Berisha, Exhibit P584, pp 5-6; Hysni Berisha, Exhibit P587 (*Milutinović* transcript), T 4037-4038, 4041.
[2619] *See supra,* para 666.

transport them to Albania.[2620] Halit Berisha and those staying in his aunt's house, by car, joined a convoy of several thousands of people leaving Suva Reka/Suharekë town.[2621] At a checkpoint just outside of Prizren at a pharmaceutical company, a policeman and a soldier checked and seized some of the people's identification documents.[2622] The convoy continued through Prizren and then to Žur/Zhur.[2623] Having reached the border crossing to Albania at Morina a few hours later, "a policeman and a soldier" looked at the hands of the people passing through.[2624] Other evidence suggests that this may have been done to look for signs of the use of firearms.[2625] Before crossing into Albania, identification documents and licences were seized from people in the convoy and registration plates were removed from the vehicles by Serbian authorities.[2626] By this means all formal means of identification and connection with Kosovo were removed. Halit Berisha and his family crossed the border into Albania and went to Kukës, from where they were subsequently taken to a refugee camp.[2627]

701. Despite being ordered to leave, Hysni Berisha, as opposed to Halit Berisha, decided not to join the column leaving Suva Reka/Suharekë town. He testified that this was because of the treatment received the last time they were ordered to leave their homes, on 3 April 1999.[2628] Together with his family, he hid in a house with another family on the night of 21-22 May 1999. The following morning on 22 May 1999, having observed a large movement of the police in town and realizing it was too dangerous to stay, Hysni Berisha and his family left Suva Reka/Suharekë town by vehicle and caught up with some buses being escorted by the police.[2629] Hysni Berisha and his family went to Prizren where they stayed in their aunt's house until 13 June 1999, after which he was able to return to his home in Suva Reka/Suharekë town.[2630]

702. The evidence of Hysni Berisha and Halit Berisha of civilians from Suva Reka/Suharekë being forced to leave is consistent with the evidence of Shyhrete Berisha. Shyhrete Berisha, having on 26 March 1999 jumped off the truck containing the dead bodies of the Berisha family members killed in Suva Reka/Suharekë town, and having been taken by villagers to Grejkovce/Greikoc for

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[2620] Hysni Berisha, Exhibit P584, p 6; Halit Berisha, Exhibit P598, p 4; *see* also Halit Berisha, T 3416.
[2621] Halit Berisha, Exhibit P598, p 4.
[2622] Halit Berisha, Exhibit P598, p 4; Halit Berisha, T 3412.
[2623] Halit Berisha, Exhibit P598, p 4.
[2624] Halit Berisha, T 3410-3412. The Chamber notes that it was the evidence in this trial of Halit Berisha that those who took their identification cards were police and soldiers (Halit Berisha, T 3410), although in his statement to the OTP in 2001 referred only to the police taking part in this process (Halit Berisha, Exhibit P598, p 4). The Chamber accepts his evidence.
[2625] *See* Shukri Gërxhaliu, Exhibit P512, para 35; *see* also Zoran Stanković, T 13464; Vukmir Mirčić, T 13253.
[2626] Halit Berisha, T 3410-3412. The Chamber notes that while Halit Berisha testified in this trial that those who took their identification cards were police and soldiers (Halit Berisha, T 3410), in his statement to the OTP in 2001, he refers to only the police taking part in this process (Halit Berisha, Exhibit P598, p 4).
[2627] Halit Berisha, Exhibit P598, p 4; Halit Berisha, T 3410-3412, 3416.
[2628] Hysni Berisha, Exhibit P584, p 6.
[2629] Hysni Berisha, Exhibit P584, p 6.

medical treatment, eventually met up with her parents in Budakovo/Budakovë village sometime in early May 1999.[2631] Together with her uncles, they went to stay on a mountain near Vraniq/Vranic for some time, before joining a convoy of displaced persons travelling initially to Bukosh/Bukoš village.[2632] In Bukosh/Bukoš, policemen took a number of men from the convoy, some of whom did not return. Women told her they had been robbed of their money and valuables before being allowed to return to the convoy.[2633] The policemen acted aggressively towards the people in the convoy, and told them "[w]e will kill all of you".[2634] From Bukosh/Bukoš the convoy continued to the Albanian border. Serbian policemen at the border demanded money from people and their identification documents, which were not returned.[2635] Shyhrete Berisha crossed into Albania with the convoy and arrived in Kukës on 5 or 6 May 1999.

2. Events in other villages in Suva Reka/Suharekë municipality

703. As already noted above, Serbian forces launched a large scale offensive in an area which included several villages in Suva Reka/Suharekë municipality starting on or about 20-21 March 1999.[2636] The operations launched in these other towns or villages are not separately and specifically charged in the Indictment. They have relevance, however, to the charge of Persecution in Count 5 of the Indictment and may also serve to enable a better understanding of the overall activities of the Serbian forces in the municipality, and Kosovo.

(i) Pecane/Peqan

704. There was an attack on Pecane/Peqan village on or about 20-21 March 1999.[2637] This village is situated approximately two kilometres to the north of Suva Reka/Suharekë town.[2638] While the evidence is unclear with respect to the forces that actually entered Pecane/Peqan village on this day, the Chamber accepts that this village was shelled (in the Chamber's finding by VJ forces as only the VJ was equipped to shell), and that Serbian forces –the evidence does not reliably identify whether they were police, army or paramilitary– entered Pecane/Peqan village around this time.[2639] The Chamber is also aware of evidence that virtually every one of the 200-300 households

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[2630] Hysni Berisha, Exhibit P584, p 6.
[2631] Shyhrete Berisha, T 491.
[2632] Shyhrete Berisha, T 491-492.
[2633] Shyhrete Berisha, T 492, 536-537.
[2634] Shyhrete Berisha, T 492.
[2635] Shyhrete Berisha, T 492-493, 536.
[2636] *See supra*, para 653.
[2637] Shefqet Zogaj, Exhibit P615, p 2; Shefqet Zofaj, Exhibit P617 (*Milutinović* transcript), T 5879-5880; Hamide Fondaj, Exhibit P627, p 3.
[2638] Exhibit P823, p 11 as stamped on the page.
[2639] In his statement to the OTP in April of 1999, Shefqet Zogaj states that he saw "eight tanks in the village of Peqan alone, seven armoured vehcies (APC's) and two Pragas" (Shefqet Zogaj, Exhibit P615, pp 2-3). In the *Milutinović* trial, when this portion of his statement is put to him concerning what he saw in Pecane/Peqan village,

in Pecane/Peqan village had a family member active in the KLA, and that the KLA was active in the village in March of 1999.[2640]

705. During cross-examination in the *Milutinović* case, Shefqet Zogaj agreed that KLA member Ilmet Fondaj, Hamide Fondaj's husband, had ordered the civilian population to leave Pecane/Peqan, but testified that this was done because Serbian forces were shelling the village, and not as a strategy to lay an ambush against Serbian forces.[2641] Despite a portion of her husband's statement to the OTP in 2001 in which reference is made to such an order, Hamide Fondaj testified that the population of Pecane/Peqan did not wait for an order from the KLA to leave the village, explaining that the villagers themselves decided to leave once the shelling started.[2642] When the attack against Pecane/Peqan started, Ilmet Fondaj escorted Hamide Fondaj and their children to the nearby village of Nišor/Nishor where other villagers from surrounding villages were also taking shelter.[2643] Serbian forces were not able to enter Nišor/Nishor at this time because of KLA resistance in the area.[2644] KLA forces present in Pecane/Peqan as well as in the surrounding area fought Serbian forces for eight consecutive days before withdrawing to the mountain above Belanica/Bellanicë.[2645]

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he stated, *inter alia,* that "I don't know about this figure, seven, or what you said" (Shefqet Zogaj, Exhibit P617 (*Milutinović* transcript), T 5885). The Chamber further notes that when Shefqet Zogaj's evidence concerning the vehicles and "policemen" he saw in Pecane/Peqan during the attack is put to him during the *Milutinović* trial, he claims that the description he provided in this respect does not relate to Pecane/Peqan village, but to Belanica/Bellanicë village (Shefqet Zogaj, Exhibit P615, pp 2-3; Shefqet Zogaj, Exhibit P617 (*Milutinović* transcript), T 5883-5885). Further, the witness's description of the individuals he identifies as "policemen" taking part in the attack in the village is unclear; while in his statement to the OTP in April 1999 he describes the "policemen" he saw as wearing uniforms with different colours, "more black than anything else", masked and with painted faces (Shefqet Zogaj, Exhibit P615, pp 2-3), in his testimony in the *Milutinović* trial, asked whether he saw these "policemen" with his own eyes, he testified that he does not believe he described the individuals in Pecane/Peqan as recorded in his statement, adding that "[w]hat I think I said was that in Belanica/Bellanicë they had painted faces and bandanas" (Shefqet Zogaj, Exhibit P617 (*Milutinović* transcript), T 5883-5885, 5904-5906). *See* also Shefqet Zogaj, Exhibit P617 (*Milutinović* transcript), T 3776-3777, 5869-5871 and Shefqet Zogaj, T 3441-3442 with respect to his altered description of the individual he identified as Zoran Lazić. Hamide Fondaj does not provide a description of any forces that entered Pecane/Peqan, stating only that Serbian forces shelled Pecane/Peqan (Hamide Fondaj, Exhibit P627, p 3).

2640 Shyhrete Berisha, T 3843-3844, 3849.

2641 Shefqet Zogaj, Exhibit P617 (*Milutinović* transcript), T 5881-5882; *see* also Hamide Fondaj, Exhibit P627, p 2; Hamide Fondaj, Exhibit P626 (*Milutinović* transcript), T 3827, 3836.

2642 Hamide Fondaj, Exhibit P626 (*Milutinović* transcript), T 3846-3847, 3851-3854.

2643 Hamide Fondaj, Exhibit P627, p 3; Exhibit P626 (*Milutinović* transcript), T 3846.

2644 Hamide Fondaj, Exhibit P627, p 3; Hamide Fondaj, Exhibit P626 (*Milutinović* transcript), T 3856-3857.

2645 Hamide Fondaj, Exhibit P627, p 3; Hamide Fondaj, Exhibit P626 (*Milutinović* transcript), T 3862-3863. The Chamber notes that in the *Milutinović* case, defence counsel put to Shefqet Zogaj that the KLA in Pecane/Peqan and the surrounding area withdrew to "Bellanice and the mountain behind it" after eight days of fighting, and the witness affirms this (Shefqet Zogaj, Exhibit P617 (*Milutinović* transcript), T 5881-5882). He, however, does not state in either of his statements that the KLA withdrew to Belanica/Bellanicë village on 28 March 1999 (Exhibits P616, P617). During his examination-in-chief in the *Milutinović* trial he testified that the KLA left Belanica/Bellanicë on 28 March 1999 (Shefqet Zogaj, Exhibit P617 (*Milutinović* transcript), T 3781-3787). Hamide Fondaj says nothing about the KLA retreating to Belanice/Bellanicë itself either, and in fact she refutes this (Hamide Fondaj, Exhibit P626 (*Milutinović* transcript), T 3862-3865). On the basis of this evidence, the Chamber is satisfied that around 28 March 1999, the KLA retreated to a mountain area above Belanica/Bellanicë village, but not that the KLA retreated to the village of Belanica/Bellanicë itself.

706. In the Chamber's finding, the fighting between Serbian forces and the KLA in Pecane/Peqan and in the surrounding area, while a contributing factor to the civilian population of the village leaving their village, was not the only or the main factor for their flight. Rather, it was that Pecane/Peqan was shelled on 20 or 21 March 1999, following which Serbian forces entered the village and fighting ensued.

707. At around the same time, due to the continuous shelling of Nišor/Nishor by Serbian forces, the population of Nišor/Nishor, as well as the people from surrounding villages taking refuge in Nišor/Nishor, including Hamide Fondaj and her children, left for Belanica/Bellanicë on 28 March 1999.[2646]

(ii) Trnje/Tërrnje

708. K54 and K82, both members of the VJ, in their evidence, describe a joint VJ and MUP operation in Trnje/Tërrnje village, slightly to the southwest of Suva Reka/Suharekë town,[2647] which started on 24 or 25 March 1999 and lasted about five days.[2648] Both K54 and K82 gave evidence of the orders given to VJ soldiers to enter the village and to make sure no one was left alive.[2649] The Chamber accepts their evidence of this, and that of K82, that no resistance was offered to the Serbian forces and that there was no KLA presence in the village at the time of the attack.[2650] As the Serbian forces entered the village, civilians who were trying to run away were shot dead.[2651] House to house searches were conducted; occupants of the houses were removed, and their houses were set on fire.[2652] A group of 10-15 Kosovo Albanian civilians were taken into a yard at gun-point, and shot dead.[2653] A further four to five men hiding in a creek between Trnje/Tërrnje and the neighbouring village of Mamuša/Mamushë, just across the border of Suva Reka/Suharekë municipality in Prizren municipality, were shot by Serbian forces moving from Trnje/Tërrnje village to Mamuša/Mamushë.[2654] When these forces returned through the village of Trnje/Tërrnje from Mamuša/Mamushë later in the evening, an elderly civilian man wearing a traditional white

[2646] Hamide Fondaj, Exhibit P627, p 3; Hamide Fondaj, Exhibit P626 (*Milutinović* transcript), T 3827-3828, 3855-3856, 3857.
[2647] K54, T 4466-4468; Exhibit D115, marking "Trnje" village.
[2648] K54, Exhibit P782, pp 5-6; K54, T 4375-4378, 4380, 4414-4415, 4474-4478 and Exhibit P785; K54, Exhibit D113 (*Milutinović* transcript), T 10508-10509, 10522, 10585; Exhibit D115; K82, Exhibit P1315, paras 7, 9-18; K82, T 8863-8867, 8891-8898.
[2649] K54, Exhibit P782, p 5; Exhibit D114 (*Milutinović* transcript), T 10508-10509; K54, T 4380-4381, 4415-4416; K82, Exhibit P1315, para 11; K82, T 8864, 8899-8900.
[2650] K82, Exhibit P1315, paras 8, 23; K82, Exhibit P1321 (*Milutinović* transcript), T 11752.
[2651] K54, T 4375-4376, 4413; K82, Exhbit P1315, para 14; K82, T 8864.
[2652] K54, T 4375-4376, 4380; K82, Exhibit P1315, paras 16-17, 19, 22; K82, Exhibit P1321 (*Milutinović* transcript), T 11748; K82, T 8866-8867.
[2653] K82, Exhibit P1315, paras 17-19; K82, Exhibit P1321 (*Milutinović* transcript), T 11748, 11777-11778, 11782-11784; K82, T 8866-8867, 8904-8906.
[2654] K82, Exhibit P1315, paras 25-26; K82, Exhibit P1321 (*Milutinović* transcript), T 11788-11789; K82, T 8869; *see* also Exhibit P1318.

Albanian cap was shot, as were a number of other civilians who, upon witnessing the incident, attempted to flee.[2655] An additional two young men in civilian clothes who were walking from Mamuša/Mamushë to Trnje/Tërrnje village were also shot by Serbian forces.[2656] Following the operation, K82 and K54, along with other soldiers, were ordered to collect the bodies of women and children that had been killed in Trnje/Tërrnje during the operation.[2657] K54 testified that the bodies of the children he had witnessed being killed during the operation as well as the bodies of some of the women were no longer there; he was told that the PJP had already collected these bodies.[2658] Approximately five bodies were loaded onto a truck which, escorted by about 10-20 soldiers, drove through Prizren to Žur/Zhur, a village near the border with Albania, and onto the village of Dragaš/Dragash.[2659] Somewhere in the vicinity of Dragaš/Dragash, the soldiers dug a shallow grave and buried the bodies.[2660] The Chamber finds, on the basis of the evidence summarised above and the descriptions of the killings, that none of the victims were armed or taking any active part in hostilities at the time. It further accepts that these people were killed because they were Kosovo Albanians.

709. The evidence demonstrates that an on-site investigation was conducted in Trnje/Tërrnje village on 2 April 1999 by the Prizren SUP. This on-site investigation, however, was limited to four bodies of Kosovo Albanian men in civilian clothes discovered in the village on that day.[2661] Following the investigation, they were buried in the Muslim cemetery in Trnje/Tërrnje, by members of the Suva Reka/Suharekë "Territorial Defence" in the presence of authorized officials of the Prizren SUP.[2662] The adequacy of this investigation is discussed in further detail elsewhere in this Judgement.[2663]

(iii) Belanica/Bellanicë

710. The evidence demonstrates, in the Chamber's finding, that as a result of attacks by Serbian forces on many villages throughout Suva Reka/Suharekë municipality on or about 20-21 March 1999 and in the following days–some of them discussed above–thousands of civilians left their

[2655] K82, Exhibit P1315, para 28; K82, T 8870.
[2656] K82, Exhibit P1315, para 29.
[2657] K54, Exhibit P782, p 6; K82, Exhibit P1315, paras 30-31; K82, Exhibit P1321 (*Milutinović* transcript), T 11752-11753, 11797; K82, T 8911-8912.
[2658] K54, Exhibit P782, p 6; K54, T 4384-4385.
[2659] K54, Exhibit P782, p 6; K54, Exhibit D114 (*Milutinović* transcript), T 10595-10596, 10621; K82, Exhibit P1315, paras 31-32; K82, Exhibit P1321 (*Milutinović* transcript), 11754, 11796-11797; K82, T 8872-8873, 8913.
[2660] K54, Exhibit P782, p 6; K82, Exhibit P1315, para 32; K82, Exhibit P1321 (*Milutinović* transcript), T 11753-11754.
[2661] Exhibit D806.
[2662] Exhibit D806.
[2663] *See infra*, para 2091.

homes and villages. Most of them gathered in Belanica/Bellanicë,[2664] which at that time was relatively calm.[2665] A village emergency commission had been set up in Belanica/Bellanicë to deal with this massive influx of persons.[2666] The Chamber accepts that by 1 April 1999, there were at least 30,000 displaced persons gathered in Belanica/Bellanicë village, the peace-time population of which was 3,500.[2667]

711. Much of the evidence concerning the events in Belanica/Bellanicë village on or about 1 April 1999 was given by housewife Hamide Fondaj and journalist Shefqet Zogaj, both of whom had some affiliation with the KLA at the time of the events.[2668] The Chamber has therefore evaluated their evidence with special caution.[2669] In a number of respects it has not been able to accept aspects of their evidence out of a concern that it may reflect bias, albeit unconsciously, or is exaggerated. The findings which follow reflect this caution.

712. The KLA was in Belanica/Bellanicë until 28 March 1999, when they withdrew because of approaching Serbian forces.[2670] KLA forces which had been active in other villages also withdrew from the general area and passed through Belanica/Bellanicë on the night of 31 March and 1 April 1999 on their way to the mountains of Llapusha. By 0800 hours of 1 April 1999, the KLA

[2664] *See* supra, paras 653, 707; *see* also Shefqet Zogaj, Exhibit P616, pp 1-4; Shefqet Zogaj, Exhibit P617 (*Milutinović* transcript), T 3790, 3802-3803, 5900-5903, 5910-5911; Exhibit P619.

[2665] Shefqet Zogaj, Exhibit P616, p 3; Shefqet Zogaj, Exhibit P617 (*Milutinović* transcript), T 5901; Shefqet Zogaj, T 3431.

[2666] Shefqet Zogaj, Exhibit P616, p 3.

[2667] Hamide Fondaj stated that upon her arrival in Belanica/Bellanicë in late March 1999, she saw tens of thousands of Kosovo Albanians from surrounding villages gathered there (Hamide Fondaj, Exhibit P627, p 3; Hamide Fondaj, Exhibit P626 (*Milutinović* transcript), T 3828). The Chamber considers exaggerated the evidence of Shefqet Zogaj that there were approximately 80,000 people in the village at this time (Shefquet Zogaj, Exhibit P615, p 4; Shefqet Zogaj, Exhibit P617 (*Milutinović* transcript), T 3780, 3789-3790, 5900-5903, 5910-5911, 5921-5922). Shefqet Zogaj stated that the regular size of the population of Belanica/Bellanicë was 3,500 (Shefqet Zogaj, Exhibit P615, p 4). An increase to 80,000 appears to the Chamber to be unrealistic, especially taking into account the evidence of Halit Berisha to the effect that the entire population of Suva Reka/Suharekë municipality as a whole, during peace-time, was 60,000 (Halit Berisha, Exhibit P599 (*Milutinović* transcript), T 3605). The Chamber also notes a post-operation analysis prepared by the VJ, dated 30 March 1999, which refers to the VJ encountering 30,000 displaced people in the village of Belanica/Bellanicë around this time (Exhibit P944). The Chamber therefore accepts that there were at least 30,000 people gathered in Belanica/Bellanicë by 31 March 1999.

[2668] Hamide Fondaj's husband was a KLA member, *see supra,* para 705; *see* also Shefqet Zogaj, Exhibit P617 (*Milutinović* transcript), T 5881-5882; Hamide Fondaj, Exhibit P627, p 2; Hamide Fondaj, Exhibit P626 (*Milutinović* transcript) T 3827, 3837-3838, 3843, 3847-3848. Shefqet Zogaj, a journalist by profession at the time of the events, (Shefqet Zogaj, T 3433-3434, 3437) stated that he was neither a "KLA journalist" nor a member of the KLA (Shefqet Zogaj, Exhibit P616, p 2; Exhibit P617 (*Milutinović* transcript), T 5897; Shefqet Zogaj, T 3443). The Chamber notes, however, that during cross-examination in *Milutinović,* the witness testified that he followed the events on which he reported "from close up", "in the presence of the KLA, mostly during the shelling of the Serbian forces and the counter-attacks by the KLA" (Shefqet Zogaj, Exhibit P617 (*Milutinović* transcript), T 5906.

[2669] Defence Final Brief, para 777.

[2670] Shefqet Zogaj, Exhibit P617 (*Milutinović* transcript), T 3781-3787; *see* also Shefqet Zogaj, Exhibit P617 (*Milutinović* transcript), T 5881-5882, where the Defence put to the witness that the KLA withdrew to "Belanica and the mountain behind Belanica" after eight days of fighting Serbian forces in Pecane/Peqan. *See* also Defence Final Brief, para 778.

had left Belanica/Bellanicë village[2671] and had formed lines of defence approximately five kilometres from Belanica/Bellanicë in the direction of the mountains of Llapusha.[2672]

713. In the course of the morning of 1 April 1999, Serbian forces shelled the periphery of Belanica/Bellanicë from the villages of Banja/Banjë, Tumicina/Temeqinë and Blace/Bllacë.[2673]

714. On 1 April 1999, some time around noon, but before 1400 hours,[2674] Serbian forces comprised of VJ in green camouflage uniforms, regular MUP in blue camouflage uniforms as well as men wearing various kinds of clothes, headscarves or shaved heads, some with beards and some with painted faces, whom the Chamber accepts to be Serbian paramilitaries forces,[2675] approached Belanica/Bellanicë village.[2676] Around 60 elderly men had gone to the mosque at the entrance of

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[2671] Shefqet Zogaj, Exhibit P617 (*Milutinović* transcript), T 3781-3787, 3790-3791, 5913-5914; Shefqet Zogaj, T 3433; *see* also the evidence of Hamidë Fondaj, who testified that when the VJ, police and paramilitaries entered Belanica/Bellanicë village at around 1300 to 1400 hours on 1 April 1999, there were no KLA present in the village and there was no outgoing fire from Belanica/Bellanicë towards Serbian positions (Hamide Fondaj, Exhibit P626 (*Milutinović* transcript), T 3829; *see* also Bislim Zyrapi, Exhibit P428 (*Milutinović* transcript), T 5996-6006.

[2672] Shefqet Zogaj, Exhibit P617 (*Milutinović* transcript), T 5921; *see* also Bislim Zyrapi, Exhibit P428 (*Milutinović* transcript), T 5996-6001.

[2673] Shefqet Zogaj, Exhibit P615, p 4; Shefqet Zogaj, Exhibit P616, pp 2, 4; Shefqet Zogaj, Exhibit P617 (*Milutinović* transcript), T 5911-5912. The Chamber notes that while Shefqet Zogaj says in his statements that Belanica/Bellanicë village itself was shelled on 1 April 1999 (Shefqet Zogaj, Exhibit P615, p 4; Shefqet Zogaj, Exhibit P616, p 4), he agreed in the *Milutinović* trial, when it is put to him that despite his evidence that the village itself was shelled there were only a few casualities, that the shelling was initially directed "around the village", and then "in the periphery of the village" (Shefqet Zogaj, Exhibit P617 (*Milutinović* transcript), T 5911-5914).

[2674] Shefqet Zogaj, Exhibit P615, p 4; Hamide Fondaj, Exhibit P627, p 3; Hamide Fondaj, Exhibit P626 (*Milutinović* transcript), T 3857.

[2675] Hamide Fondaj, Exhibit P627, p 3; Shefqet Zogaj, T 3439-3440; Shefqet Zogaj, Exhibit P617 (*Milutinović* transcript), T 3791-3792, 5861-5862. The Chamber notes that while Shefqet Zogaj refers to these forces as "police" in a statement he gave to the OTP in 1999, he also stated that this included "soldiers and paramilitiaries of different units" (Shefqet Zogaj, Exhibit P615, p 4). In a statement to the OTP in 2001, he refers to these forces as "police and paramilitaries" (Shefqet Zogaj, Exhibit P616, p 4). In his testimony in this trial, he describes these forces as "police, army and paramilitaries" (Shefqet Zogaj, T 3791). He expands his description of the paramilitaries involved from stating that they wore black uniforms with scarves around their necks, with long hair or shaved heads and beards (Shefqet Zogaj, Exhibit P617 (*Milutinović* transcript), T 3791-3792), to individuals wearing different types of clothes, shaven heads, and head scarves (Shefqet Zogaj, T 3439-3440). The Chamber observes that the witness's evidence in this regard is not always consistent. It does accept, however, that the forces he observed approaching the village that day consisted of members of the police, the army, and an unidentified paramilitary formation.

[2676] Shefqet Zogaj, from the third floor of his house, at a distance of about 300-400 metres, saw what he described as a large convoy of "Serb police" approaching Belanica/Bellanicë from the direction of Temeqin, consisting of police tanks, bulldozers and trucks (Shefqet Zogaj, Exhibit P615, p 4; Shefqet Zogaj, Exhibit P617 (*Milutinović* transcript), T 3792-3983). When it was put to him, during cross-examination the *Milutinović* trial, that his description of the tanks as blue contradicts his identification of a tank shown to him on a photograph, which appears to be green camouflage. Shefqet Zogaj explained this discrepancy by stating that the vehicle shown to him on the photograph had several colours, including both green and blue (Shefqet Zogaj, Exhibit P617 (*Milutinović* transcript), T 5872-5879). The Chamber notes that both his evidence and that of Hamide Fondaj concerning the description of the forces they saw in Belanica/Bellanicë on 1 April 1999 include VJ members. Further, the Chamber notes that this evidence is consistent with Exhibit P898, an order of the 549th Motorised Brigade dated 29 March 1999, which calls for the 243rd Mechanized Brigade to support MUP forces in "breaking up and destroying STS" along an axes including, *inter alia,* Blace/Bllacë, Belanica/Bellanicë, Banja/Banje, Pagaruša/Pagarushë, and to "take control" of the villages on this axes (Exhibit P898, p 3). *See* also Exhibit P944, Analysis of operations of 549th Motorised Brigade dated 30 March 1999, p 3.

the village, carrying a white cloth as a sign of surrender. These elderly men were searched;[2677] their traditional white Albanian caps were taken off and they were beaten.[2678] Some VJ remained at the outskirts of the village surrounding it with tanks.[2679] Upon entering the village, the Serbian forces shot at houses and above people's heads and began torching houses.[2680] The inhabitants of these houses left their homes and joined the rest of the thousands of displaced persons that had already gathered in a field in the centre of the village.[2681] The news of the entry of the Serbian forces into the village spread fast; Shefqet Zogaj told those in his neighbourhood to leave their basements, start up their cars and tractors and get out onto the roads since this would be safer than staying in their homes.[2682] Hamide Fondaj gathered her family and together with 20 other people, boarded a tractor and headed to the field where it was considered safer.[2683] Hamide Fondaj and her children stayed in the trailer without food and in the rain during the night of 1/2 April 1999.[2684]

715. Shefqet Zogaj put his family on trucks and tractors piled high with food and clothing and went out onto the street in front of his house where dozens of other tractors and cars had gathered by this time.[2685] Attempting to leave Belanica/Bellanicë by car, Shefqet Zogaj was stopped only a few metres from his house by police in blue camouflage uniforms "wearing Serbian insignias"[2686] and paramilitaries wearing black uniforms and head scarves around their neck. He was searched and money and his press card were taken from him.[2687] He recognized a local policeman named "Zhika", as one of the policemen who stopped him. He was beaten by this man.[2688] During this time, the Serbian forces continued burning houses and were killing livestock in the village.[2689] He

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[2677] Shefqet Zogaj gives differing descriptions of the forces at the outskirts of the village who searched and beat these elderly men. In his statement to the OTP dated 25 April 1999, he says that the elderly men were "seized" by the police" yet goes on to state that the "Serbian forces" who seized the men and searched them included "soldiers and paramilitaries of different units (Exhibit P615, p 4). In *Milutinović*, he testified that the "Serbian military and police forces" beat the men up (Shefquet Zogaj, Exhibit P617 (*Milutinović* transcript), T 3790). Finally, in this trial, the witness testified that it was the "Serb police" doing this (Shefqet Zogaj, T 3424-3425). Having considered this evidence, the Chamber finds that the forces involved in searching and beating up these elderly men who had come out to the entrance of the village comprised of members of the VJ and the police.

[2678] Shefqet Zogaj, Exhibit P615, p 4; Shefqet Zogaj, Exhibit P616, p 4; Shefqet Zogaj, Exhibit P617 (*Milutinović* transcript), T 3790; Shefqet Zogaj, T 3424-3425; *see* also Hamide Fondaj, Exhibit P627, p 3.

[2679] Hamide Fondaj, Exhibit P627, p 3.

[2680] Hamide Fondaj, Exhibit P627, p 3; Hamide Fondaj, Exhibit P626 (*Milutinović* Transcript), T 3829; *see* also Shefqet Zogaj, Exhibit P615, pp 4, 5; Shefqet Zogaj, Exhibit P616, p 4; Shefqet Zogaj, T 3424-3425.

[2681] Shefqet Zogaj, Exhibit P615, p 4; Hamide Fondaj, Exhibit P626 (*Milutinović* transcript), T 3829.

[2682] Shefqet Zogaj, Exhibit P615, p 5.

[2683] Hamide Fondaj, Exhibit P626 (*Milutinović* transcript), T 3830-3831; *see* also Hamide Fondaj, Exhibit P627, p 3.

[2684] Hamide Fondaj, Exhibit P627, p 3.

[2685] Shefqet Zogaj, Exhibit P615, p 4; Shefqet Zogaj, Exhibit P616, pp 4-5.

[2686] Shefqet Zogaj, Exhibit P617 (*Milutinović* transcript), T 5899.

[2687] He describes the individuals who stops him as "soldiers and paramilitaries", but questioned during cross-examination in *Milutinović*, Shefqet Zogaj states that it was the police who had pulled him out of his car, and that there were soldiers and paramilitaries in the area (Shefqet Zogaj, Exhibit P615, p 5; Shefqet Zogaj, Exhibit P617 (*Milutinović* transcript), T 5864, 5865, 5886-5887).

[2688] Shefqet Zogaj, Exhibit P615, pp 6-7; Shefqet Zogaj, Exhibit P617 (*Milutinović* transcript), T 5885; Shefqet Zogaj, T 3440.

[2689] Shefqet Zogaj, Exhibit P615, p 7; Shefqet Zogaj, Exhibit P616, p 4; Shefqet Zogaj, Exhibit P617 (*Milutinović* transcript), T 3791.

saw police go into the assembled crowd of people in the centre of the village.[2690] Attempting to join the convoy and leave Belanica/Bellanicë village by tractor, Shefqet Zogaj was stopped several times more by police and paramilitaries and forced to provide more money to them on each occasion.[2691] He saw dozens of young men being taken into the direction of the village primary school.[2692] Two police officers pulled out two young men, who were from the village of Ostrozub and had taken shelter in Bellanica/Bellanicë, from the tractor driven by Shefqet's brother and demanded money from them as well as from his brother.[2693] The policemen then fired at the two men from Ostrozub, who were killed. The Chamber finds that these individuals were not armed, were in Serb custody and were not taking an active part in hostilities when killed. Upon witnessing this, Fatmir, Shefqet Zogaj's brother, handed over money to the police.[2694] Shefqet Zogaj then saw the police shoot and kill Agym Bytiqi, a 40 year old mentally handicapped man from Nišor/Nishor.[2695] The police pushed the men who did not have money in the direction of the primary school and beat them before leading them into the schoolyard.[2696] He then heard gunshots in the crowd of people gathered in the centre of the village and saw two local policemen walking through it.[2697] He recognised a number of other local policemen in the village that day.[2698]

716. There is evidence that on this day, the KLA issued an order for the evacuation of the civilian population of Belanica/Bellanicë to Guncat/Ngucat and the Berisha mountains for "security reasons" so that the civilian population would not get caught up in the fighting.[2699] However, the civilian population did not obey this order to leave Belanica/Bellanicë.[2700] Instead, as indicated by the above evidence, the population sought to surrender to the Serbian forces. The evidence demonstrates that having entered Belanica/Bellanicë, the police and the paramilitaries accompanying them forced people to leave town.[2701] Villagers were ordered to get on their tractors or be killed.[2702] There was no firing directed at the Serbian forces.[2703]

2690 Shefqet Zogaj, Exhibit P615, p 5.
2691 Shefqet Zogaj, Exhibit P615, p 6.
2692 Shefqet Zogaj, Exhibit P615, p 5.
2693 Shefqet Zogaj, Exhibit P615, p 5.
2694 Shefqet Zogaj, Exhibit P615, p 5.
2695 Shefqet Zogaj, Exhibit P615, p 6; Shefqet Zogaj, Exhibit P617 (*Milutinović* transcript), T 5914.
2696 Shefqet Zogaj, Exhibit P615, p 6.
2697 Shefqet Zogaj, Exhibit P615, p 6.
2698 Shefqet Zogaj, Exhibit P615, pp 6-7.
2699 Bislim Zyrapi, Exhibit P428 (*Milutinović* transcript), T 5996-6001, 6002-6007, 6150-6151; *see* also Exhibit P452, KLA General Staff Order signed by Bislim Zyrapi, dated1 April 1999; *see* also Shefqet Zogaj, Exhibit P617 (*Milutinović* transcript), T 5914-5915; Defence Final Brief, para 774.
2700 Bislim Zyrapi, Exhibit P428 (*Milutinović* transcript), T 5997-5998, 6000.
2701 Shefqet Zogaj, Exhibit P617 (*Milutinović* transcript), T 5914-5915.
2702 Hamide Fondaj, Exhibit P626 (*Milutinović* transcript), T 3830-3831. In her statement of 2001, the witness stated that when they entered the village, the "Serbs" told the old people that went to meet them at the entrance of the village that the villagers should get on their tractors, place a white sign on them, and that if they did not do so, they would be killed (Hamide Fondaj, Exhibit P627, p 3). The Chamber is aware that in her testimony in the she refers to these events as occurring on the morning of 2 April 1999, (Hamide Fondaj, Exhibit P626

717. At around 1315 hours, Shefqet Zogaj and his family, a total of 16 persons, were finally able to join the convoy leaving Belanica/Bellanicë.[2704] As the convoy was leaving the town, military vehicles including APC's, Pragas and bulldozers entered it so that it took Shefqet Zogaj's tractor six hours to reach the highway on the edge of town.[2705] In the meantime, people in the convoy were taunted by members of the Serbian forces with various references to NATO and Clinton, and money was taken from them.[2706] At this time, Shefqet Zogaj heard that several other people had been killed in Belanica/Bellanicë village by the Serbian forces that day.[2707]

718. The army and police, in the presence of paramilitaries,[2708] divided the convoy and directed one group in the direction of Banja/Banje, Mališevo/Malishevë, Orahovac/Rahovec, Zrze/Xërxë, and Prizren, while the other group was directed in the direction of Tumicina/Temeqinë, Blace/Bllacë, Dulje/Duhel,[2709] Suva Reka/Suharekë, and Prizren. The final destination for both groups, however, was the village of Morina/Morinë near the Albanian border.[2710]

719. Shefqet Zogaj and his family were in the convoy that followed the route to the Albanian border through Tumicina/Temeqinë village, which was in flames when the convoy passed through.[2711] At around 2100 hours on 1 April 1999, having passed by Suva Reka/Suharekë town, the convoy was stopped by ordinary traffic police outside a police station in Ljubižda/Lubizhdë, Prizren municipality.[2712] At the checkpoint, there were other Serbian forces wearing standard army and police uniforms, and some wearing black uniforms, masks, and knives on their belts.[2713] These Serbian forces were singing nationalistic songs, drinking, dancing and cursing at the people in the

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(*Milutinović* transcript), T 3831-3832). The Chamber accepts that the Serbian forces entered the village on 1 April 1999.

2703 Shefqet Zogaj, Exhibit P617 (*Milutinović* transcript), T 3791.

2704 Shefqet Zogaj, Exhibit P615, pp 7, 9.

2705 Shefqet Zogaj, Exhibit P615, pp 7, 9; Exhibit P616, pp 5-6.

2706 Shefqet Zogaj, Exhibit P615, p 7; *see* also Shefqet Zogaj, Exhibit P616, p 5.

2707 Shefqet Zogaj, Exhibit P615, p 7. The people he heard were killed in the village that day were Nazlie Kryeziu, and her daughter Drita; brothers Bekim and Osman Vrenezi; two elderly men named Izet Hoxha and Ibrahim Sertolli; two young men from Pagaruša/Pagarushë, and an elderly man from the village of Semetište/Semetisht.

2708 In a statement to the OTP in 1999, Shefquet Zogaj had stated that it was the police who guided the convoys, and that in a statement to the OTP in 2001, he referred to the convoy moving towards Suva Reka/Suharekë "without any direction from the Serbs", and that another convoy followed the lead of the first convoy (Shefqet Zogaj, Exhibit P615, p 7; Shefqet Zogaj, Exhibit P616, p 6; *see* also Shefqet Zogaj, Exhibit 617 (*Milutinović* transcript), T 5903-5904). In his testimony in this trial, he stated that those directing the convoy comprised of the police, the army and paramilitaries described by him throughout his evidence. Having considered the differences, and also what follows, the Chamber is persuaded to accept that both the VJ and the police were involved in this process, and that the paramilitaries, which the Chamber has accepted in taking part in the operation in the village, were present also at this time.

2709 The transcript of Shefqet Zogaj's evidence in the *Milutinović* trial refers to this village as "Duhla" (Shefqet Zogaj, Exhibit P617 (*Milutinović* transcript), T 3795). The Chamber accepts that this is the village of Dulje/Duhël, in Suva Reka/Suharekë municipality.

2710 Shefqet Zogaj, Exhibit P615, p 7; Shefqet Zogaj, Exhibit P616, p 6; Shefqet Zogaj, Exhibit P617 (*Milutinović* transcript), T 3795; *see* also Shefqet Zogaj, T 3425-3426.

2711 Shefqet Zogaj, Exhibit P616, p 6; Shefqet Zogaj, T 3425.

2712 Shefqet Zogaj, Exhibit P616, p 6; *see* also Shefqet Zogaj, Exhibit P615, p 8.

convoy, telling them that they would never return to Kosovo and that "[...] Kosovo has been and will be Serbian soil".[2714] From Ljubižda/Lubizhdë village, three traffic police vehicles escorted the convoy to the centre of Prizren where they were directed to continue on the main road towards Albania.[2715] At other police checkpoints enroute to the Albanian border, some drivers of the tractors in the convoy were beaten by the police.[2716] The journey to the border took a total of 30 hours, with delays caused by the congestion of other convoys of Kosovo Albanians from other directions which took the same direction to the border.[2717] Shefqet Zogaj and his family arrived in their convoy at the Morina/Morinë border crossing at around 1500-1700 hours on 2 April 1999.[2718] The convoy passed into Albania, but before they were allowed to cross, they were searched by the Sebrian police and an armed man in black civilians clothes with a walkie-talkie; their identity cards were taken from them and when this was done, they were told that they would never again see Kosovo.[2719]

720. Hamide Fondaj did not arrive at the border crossing at Morina/Morinë until 4 April 1999; on the night of 1/2 April 1999, she had remained in Belanica/Bellanicë in her tractor together with her children and other villagers. During that night, armed men dressed in black and wearing masks went from tractor to tractor demanding money from each person on the tractor and threatening to kill anyone who was not able to provide it.[2720] At around 0300 hours, she saw a burst of flames which she identified as a NATO bomb.[2721] On the morning of 2 April 1999, about 20 armed men to whom Hamide Fondaj referred as "police officers", all but one of them masked and wearing different kinds of uniforms, "some of them black and some of them naked from the waist up and with painted bodies", bandannas, and carrying knives, demanded money from two elderly men on

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[2713] The Chamber accepts from other evidence that this latter category of individuals described are members of a Serbian paramilitary force.

[2714] Shefqet Zogaj, Exhibit P615, p 8; Shefqet Zogaj, Exhibit P616, p 6.

[2715] Shefqet Zogaj, P616, p 6.

[2716] Shefqet Zogaj, Exhibit P615, p 8.

[2717] Shefqet Zogaj, Exhibit P615, p 8; Exhibit P616, p 6; Shefqet Zogaj, T 3426.

[2718] Shefqet Zogaj, Exhibit P615, p 9; Shefqet Zogaj, Exhibit P616, pp 6-7.

[2719] Shefqet Zogaj, Exhibit P615, p 8; Shefqet Zogaj, Exhibit P616, pp 6-7; *see* also Shefqet Zogaj, Exhibit P617 (*Milutinović* transcript), T 5867-5868). Shefqet Zogaj describes the individual who searched them as a "policeman" in his 1999 statement (Shefqet Zogaj, Exhibit P615, pp 8-9). In his 2001 statement, he refers to this same individual as a "traffic policeman" (Shefqet Zogaj, Exhibit P616, pp 6-7), but in both statements he also describes a man in black civilian clothes involved in this activity. In this trial, Shefqet Zogaj testified that it was the armed man in black civilian clothes who searched them and seized their documents (Shefqet Zogaj, T 3426). The Chamber attaches no significance to whether the search and the words spoken were by, and of, a policeman or the man in black civilian clothes as it finds that the man in civilian clothes worked together with the members of the police present at the border.

[2720] Hamide Fondaj, Exhibit P626 (*Milutinović* transcript), T 3830-3831. The Chamber notes that her statement of 2001 does not mention anyone coming to her tractor during the night of 1 April 1999, but on the morning of 2 April 1999 (Hamide Fondaj, Exhibit P627, p 3).

[2721] Hamide Fondaj, Exhibit P627, p 3; Hamide Fondaj, Exhibit P626 (*Milutinović* transcript), T 3858.

her tractor and beat the one that did not have any money for them.[2722] They pointed an automatic rifle at Hamide Fondaj and asked her "Do you like NATO? Do you like Clinton? Do you like Rugova? Where is the KLA and why are they not defending you?"[2723] They told her that they would kill them in front of all the others if she did not give them money, upon which she gave them all the money she had.[2724] The Chamber is unable to determine whether the men who approached Hamide Fondaj's tractors on the night of 1 April 1999 and on the morning of 2 April 1999 were police, or paramilitary forces because of her varying descriptions.

721. The trailer carrying Hamide Fondaj and her family moved off in a convoy at around 1000 hours that morning. Before reaching the end of Belanica/Bellanicë village, the trailer was stopped several times by the "police" who demanded more money, and insulted them.[2725] Again, those in the trailer gave them all they had, including jewellery.[2726] As the convoy was leaving Belanica/Bellanicë it passed by VJ personnel positioned at the outskirts of the village, who waved good-bye.[2727]

722. Hamide Fondaj and her family left Belanica/Bellanicë in the convoy and attempted to head in the direction of Suva Reka/Suharekë. An army convoy they came across told them to go in the direction of Orahovac/Rahovec instead.[2728] The convoy proceeded to pass through the village of Ostrozub/Astrazup, where they were stopped at a VJ checkpoint. Soldiers demanded money from them.[2729] The soldiers took off the traditional white Albanian caps worn by men in the convoy, threw them on the ground, and forced those in the convoy to run them over, as well as over an Albanian eagle that had been drawn on the ground.[2730] On the way, Hamide Fondaj saw that houses were being set on fire by men in military uniforms whom she variously describes as army or police.[2731] As some police special units wore military camouflage uniforms, the Chamber cannot

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[2722] Hamide Fondaj, Exhibit P627, p 4; *see* also Hamide Fondaj, Exhibit P626 (*Milutinović* transcript), T 3831-3832, 3858-3860. In her statement, Hamide Fondaj said that the men who came to her tractor on the morning of 2 April 1999 were "Serb police officers" (Hamide Fondaj, Exhibit P627, p 4). Her descriptions of these men varied in her testimony in *Milutinović*. During cross-examination in that case, she said that she was not paying much attention to insignia, and then stated that she saw the letters "police", but then said that she could not see this properly as she was scared (Exhibit P626 (*Milutinović* transcript), T 3859-3860).

[2723] Hamide Fondaj, Exhibit P627, p 4; Hamide Fondaj, Exhibit P626 (*Milutinović* transcript), T 3832-3833.

[2724] Hamide Fondaj, Exhibit P627, p 4.

[2725] Hamide Fondaj, Exhibit P627, p 4; Hamide Fondaj, Exhibit P626 (*Milutinović* transcript), T 3833.

[2726] Hamide Fondaj, Exhibit P627, p 4.

[2727] Hamide Fondaj, Exhibit P627, p 4.

[2728] Hamide Fondaj, Exhibit P626 (*Milutinović* transcript), T 3833. In her statement to the OTP of 2001, Hamide Fondaj states that the convoy she was in turned towards Suva Reka/Suharekë but that at a "VJ checkpoint", they were directed to Mališevo/Malishevë instead (Hamide Fondaj, Exhibit P627, p 4).

[2729] Hamide Fondaj, Exhibit P627, p 4.

[2730] Hamide Fondaj, Exhibit P627, p 4.

[2731] In her statement she describes the individuals setting fire to houses as "soldiers" (Hamide Fondaj, Exhibit P627, p 4), while during her testimony in the *Milutinović* case, describing what she saw, she states "[t]here were policemen, there were people wearing military uniforms, those that burned houses in Ostrozub while we were

determine whether the houses were being burnt by the VJ or the police. Having reached Mališevo/Malishevë, the tractor the witness was travelling on broke down. Soldiers ordered them to get the tractor moving and threatened that if they did not manage this, they would be placed with what appeared to be some thousands of people who were being held beside the road within a barbed wire encirclement.[2732] Hamide Fondaj was told that these people were waiting for buses to come and take them to the border.[2733] One of the tractors in the convoy was able to tow the witness's tractor, and the convoy moved along to Velika Kruša/Krushë-e-Madhe, in Orahovac/Rahovec municipality. There, Hamide Fondaj saw that a green military excavator was operating; many soldiers were gathered in the location.[2734]

723. The Defence submits that fear of the NATO bombing and of legitimate combat operations between Serbian forces and the KLA made people leave Belanica/Bellanicë.[2735] The Chamber does not accept this argument. While KLA forces may have been present in the area and a witness was able to see burst caused by NATO bombing in the area the evidence does not suggest or establish that these were the factors that drove people out of Belanica/Bellanicë. To the contrary, in the view of the Chamber the evidence establishes that the movement of people out of Belanica/Bellanicë was caused by acts of the Serbian forces, who killed men in the village, threatened the people, set houses on fire, killed livestock and demanded money.

724. The convoy proceeded towards Dušanovo/Dushanovë, Prizren, and the village of Žur/Zhur, where a soldier threw a wrench at the witness's 14 year old son, almost hitting him.[2736] In Vrbnica/Vërmicë, they stopped and tried to bake bread but were forbidden to do so by members of the VJ; it was raining constantly and it was cold.[2737] Along the route to the border, Hamide Fondaj saw other military forces.[2738] The convoy finally reached the Albanian border at 0200 hours on 4 April 1999. At the border, men wearing uniforms with police written on their backs told them that it was because of Rugova and NATO that they had to leave, and that they were sorry for this; the people on the tractor were not searched and no identification papers were taken from them.[2739] They then crossed over the border. The Chamber notes that at the time, vests with "policija" on the

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passing through", continuing to describe the uniformed men she saw while passing by the village as "army". She did not see any insignia on their uniforms (Hamide Fondaj, Exhibit P626 (*Milutinović* transcript), T 3838-3839).

2732 Hamide Fondaj, Exhibit P627, p 4; Hamide Fondaj, Exhibit P626 (*Milutinović* transcript), T 3833-3835.

2733 Hamide Fondaj, Exhibit P626 (*Milutinović* transcript), T 3834. Hamide Fondaj does not specify who gave her this information.

2734 Hamide Fondaj, Exhibit P627, pp 4-5.

2735 Defence Final Brief, para 778.

2736 Hamide Fondaj, Exhibit P627, p 5.

2737 Hamide Fondaj, Exhibit P627, pp 4-5.

2738 These "military forces" are not further specified by the witness (Hamide Fondaj, Exhibit P626 (*Milutinović* transcript), T 3835).

2739 Hamide Fondaj, Exhibit P626 (*Milutinović* transcript), T 3860-3861; Exhibit P627, p 5.

back were worn by members of the the PJP.[2740] From the Albanian side of the border where they stayed for approximately an hour while being provided with food and aid, Hamide Fondaj observed how people in the next convoy were beaten up and had their identification documents confiscated and burned before they were allowed to cross into Albania.[2741] She does not specify whether the persons involved in the beating and seizure of documents described by her were the same persons who let her through. While the Chamber is therefore unable to conclude that the persons she observed beating others in the convoy and taking their documents were PJP forces, it is satisfied that they were members of the MUP, or individuals working together with the police at the border.

725. PJP member K79 saw the convoy of displaced persons in which Hamide Fondaj travelled moving by the village of Ljubižda/Lubizdhë in Prizren municipality, where he was stationed with his unit at the time, on 2 or 3 April 1999. He testified that the convoy was about 30 kilometres long, moving in vehicles, tractors and trucks from the direction of Suva Reka/Suharekë towards Prizren.[2742] Near the village of Koriša/Korishë, just south of Ljubižda/Lubizdhë, he observed a member of the army asking Kosovo Albanian displaced persons in this same convoy for money.[2743] He observed displaced persons moving in this direction throughout the month of April 1999. Halit Berisha likewise witnessed this convoy of displaced persons moving towards the border on or around 2 April 1999. He saw this movement personally when escorting his family from Bužalja/Buzhallë, where the family was taking refuge at the time, up to Bukoš/Bukosh and Sopina/Sopijë. He was told about the expulsion by others, with whom he hid in the mountains in the area of Llanishte for a number of days after his family had left towards Albania.[2744]

726. When Shefqet Zogaj returned to his village of Belanica/Bellanicë on 21 June 1999, he found that about 70 per cent of it had been burnt down.[2745] Hamide Fondaj returned to the village in July of 1999.[2746]

(iv) Budakovo/Budakovë and Bukoš/Bukosh

727. The Chamber has also heard evidence of a PJP operation, on or around 20 April 1999, in the village of Budakovo/Budakovë, which had a stated aim of mopping up KLA members.[2747] Serbian documentary evidence demonstrates that starting on 23 April 1999, a joint VJ and MUP anti-terrorist operation commenced in the Jezerce/Jezerc mountain area, including the village of

[2740] K79, Exhibit P1260 (*Milutinović* transcript), T 9589-9590.
[2741] Hamide Fondaj, Exhibit P626 (*Milutinović* transcript), T 3861; Hamide Fondaj, Exhibit P627, p 5.
[2742] K79, Exhibit P1260 (*Milutinović* transcript), T 9654-9655.
[2743] K79, Exhibit P1260 (*Milutinović* transcript), T 9678-9679.
[2744] Hysni Berisha, T 3391, 3413-3415.
[2745] Shefqet Zogaj, Exhibit P617 (*Milutinović* transcript), T 3795; Shefqet Zogaj, T 3427; *see* Exhibit P620.
[2746] Hamide Fondaj, Exhibit P626 (*Milutinović* transcript), T 3864.
[2747] K79, Exhibit 1260 (*Milutinović* transcript), T 9667.

Budakovo/Budakovë;[2748] this operation lasted several weeks. *Inter alia,* it was the subject of discussion at a meeting of the MUP Staff for Kosovo held on 7 May 1999.[2749] During the operation in Budakovo/Budakovë, K79 and three other policemen observed their company commander kill two men, each approximately 30 years old, on a road; the two men did not wear uniforms, and did not carry weapons.[2750] They were not taking an active part in hostilities when they were killed. There was also an operation in the village of Bukoš/Bukošh, a small village in the direction of Budakovo/Budakovë about 10 kilometres from Suva Reka/Suharekë town, during which four KLA members were captured, put in a house, and killed by a grenade thrown into a window by a PJP member. Following this killing, people from the Suva Reka/Suharekë utility company collected the bodies of the four dead KLA members and loaded them onto a truck; K79 does not know what happened to the bodies.[2751] While the evidence is not specific as to the date of this second incident, the Chamber notes that due to an offensive by Serbian forces, by around 2 April 1999, a large number of villages in Suva Reka/Suharekë municipality, including Bukoš/Bukošh village, were empty of their Albanian population.[2752] The Chamber accepts from this evidence that these killings occurred in the course of the joint VJ and MUP anti-terrorist action in the Jezerce/Jezerc mountain area mentioned earlier in this paragraph. None of the six men killed in these incidents was armed or in a position to engage in conflict when killed.

728. Hysni Berisha also learned about a Serbian offensive in Budakovo/Budakovë that took place on 9-11 May 1999. He was also told, by Kosovo Albanian civilians in a column of about 50,000 travelling south from the direction of Štimlje/Shtime, that "paramilitaries" were separating men from the column and taking some to prison. On 12 May 1999, as the convoy passed by Suva Reka/Suharekë town, Hysni Berisha further learned from people in the convoy that they had been ordered by "paramilitaries" to go to Albania, but that they had been stopped on the main road upon reaching the village of Siroko/Shiroke, just below Suva Reka/Suharekë town, where Serbian police and army were stationed. There, they were detained in a factory for a day, before being told to return to their respective villages, escorted by the police.[2753]

E. Peć/Pejë municipality

729. The municipality of Peć/Pejë is located in western Kosovo. It borders the municipalities of Istok/Istog to the north, Klina/Klinë to the east and Dečani/Deçan to the south. To the west, the municipality of Peć/Pejë borders Montenegro.

[2748] Exhibit P767.
[2749] Exhibit P771, p 11.
[2750] K79, Exhibit P1260 (*Milutinović* transcript), T 9667-9668.
[2751] K79, Exhibit P1260 (*Milutinović* transcript), T 9674-9675.

730. The municipality of Peć/Pejë fell within the area of 133rd and 134th KLA brigades which were part of the Dukagjin Operational Zone. The 134th brigade became operative in late January or early February 1999.[2754]

1. Peć/Pejë town

731. At about 0630 hours on 27 March 1999, VJ started shelling the neighbourhood of Kapeshnica in Peć/Pejë using tanks. The tanks were located at the hospital yard and the secondary school.[2755] The neighbourhood of Kapeshnica was an exclusively Kosovo Albanian neighbourhood located opposite the neighbourhood of Puhovci/Sahat Kulla.[2756] That day, many armed men were seen in the neighbourhood of Puhovci/Sahat Kulla, including civilians who appeared to be Serb residents of this neighbourhood, and men dressed in blue camouflage uniforms which combined blue and black colours.[2757] Having regard to this, and to other evidence concerning the uniforms of the Serbian forces, the Chamber accepts that the men in blue camouflage uniforms were police.

732. At about 1400 hours on 27 March 1999, about 15 fully armed men wearing masks entered the yard of a house in the Karagaq neighbourhood in Peć/Pejë.[2758] They insulted the Kosovo Albanian residents and forced them to leave the house and go in the direction of Montenegro.[2759] The residents left as directed.[2760] Policemen, some of them wearing blue uniforms and camouflage trousers, directed this group of Kosovo Albanians to proceed on the side streets of Peć/Pejë and did not allow them to walk through the town centre.[2761] This group of residents continued to walk through side streets of the town. Towards the Jarina neighbourhood of Peć/Pejë, near a police station, they were stopped by more policemen who told them that there was no way for them to go

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2752 Hysni Berisha, T 3391, 3413-3415.
2753 Hysni Berisha, Exhibit P584, p 5.
2754 Bislim Zyrapi, T 2477; Exhibit D58.
2755 Edison Zatriqi, Exhibit P672, Statement of 20 June 2001, p 2; Edison Zatriqi, T 3803-3804; Exhibit P674.
2756 Edison Zatriqi, Exhibit P672, Statement of 20 June 2001, p 2; Edison Zatriqi, T 3803-3804; Exhibit P674. Edison Zatriqi had a very good view of Kapeshnica from his house, and he was able to see clearly that there was no shooting coming from this location, Edison Zatriqi, T 3819-3820.
2757 Edison Zatriqi, Exhibit P673 (*Milutinović* transcript), T 4414-4415.
2758 Ndrec Konaj, Exhibit P670, p 3. The Defence submits that Ndrec Konaj's evidence is not credible as the witness was inconsistent regarding his knowledge about events in Loda/Loxhë. It is submitted further that should the Chamber choose to rely on Konaj's evidence, it should also take into account his evidence that it was masked Serbian paramilitary forces and not policemen who asked him to leave his home on 27 March 1999, Defence Final Brief, paras 783-784. Having considered the totality of the evidence, however, the Chamber is satisfied that Ndrec Konaj's evidence is reliable to the extent relied on in this Judgement.
2759 People in the house were given five minutes to pack their belongings, while the masked men shot at the house to scare them, Ndrec Konaj, Exhibit P670, p 3.
2760 As they travelled, two Serbian soldiers in camouflage uniforms forced the men to give the soldiers all the money they had, Ndrec Konaj, Exhibit P670, p 3; Ndrec Konaj, T 3752.
2761 Ndrec Konaj, Exhibit P670, p 3; Ndrec Konaj, Exhibit P671 (*Milutinović* transcript), T 4911; Ndrec Konaj, T 3752. The same group of people were also stopped by a group of armed men driving civilian cars who did not appear to be regular soldiers as they had painted faces and were dressed in civilian clothes, Ndrec Konaj, Exhibit P670, p 3; Ndrec Konaj, T 3752-3753. They struck the men of the group in their backs, faces and legs with rifle butts, Ndrec Konaj, Exhibit P670, p 3; Ndrec Konaj, T 3752-3753.

other than to Montenegro.[2762] As they continued, the residents found, that at every side turn on their way, there were three or four men, wearing blue and green uniforms and camouflage trousers, who prevented them from taking any course other than that to Montenegro.[2763]

733. During the night of 27 March 1999, there was shooting, and Kosovo Albanian houses were burnt in the area of the high school in Peć/Pejë.[2764]

734. At about 0800 to 0830 hours in the morning of 28 March 1999, a Serbian policeman moved from house to house in the Jarina neighbourhood ordering the Kosovo Albanian people to leave within five minutes.[2765] Police cars had been stationed at one of the two entrances to the neighbourhood, thus leaving only one exit.[2766] Edison Zatriqi, a Kosovo Albanian owner of a bus company, with his family left by car a house in Jarina neighbourhood.[2767] They joined a convoy of Kosovo Albanians which, on foot and by car, was moving in the direction of Montenegro.[2768] Armed police wearing blue camouflage uniforms and armed civilians were directing the convoy towards Montenegro.[2769] As Zatriqi was leaving Peć/Pejë with the convoy of Kosovo Albanian people, he saw his buses filled with people from his neighbourhood.[2770] A few days before these events, two local policemen, Bato Bulatović and Milian Mišljen had ordered Edison Zatriqi to start his buses and then leave. Zatriqi was threatened at gunpoint by one of the policemen when he asked for a certificate for the buses, which were then confiscated by the police.[2771] When Zatriqi saw his buses on 28 March, they were driven by policemen wearing blue camouflage uniforms.[2772] Edison Zatriqi continued with the convoy in his car and reached Rozaje in Montenegro.[2773]

[2762] Ndrec Konaj, Exhibit P670, p 3; Ndrec Konaj, Exhibit P671 (*Milutinović* transcript), T 4912.
[2763] Ndrec Konaj, Exhibit P670, p 3; Ndrec Konaj, Exhibit P671 (*Milutinović* transcript), T 4889-4990.
[2764] Ndrec Konaj, Exhibit P670, p 4.
[2765] Edison Zatriqi, Exhibit P673 (*Milutinović* transcript), T 4415, 4420-4421; Edison Zatriqi, T 3809. The Defence submits that Edison Zatriqi's evidence lacked consistency in that his earlier statements did not refer to a policeman going door to door and ordering people to leave on 28 March 1999 and in relation to the number of buses loaded with people he saw in Peć/Pejë, and is, therefore, not credible. (Defence Final Brief, paras 781-782) Having considered the totality of the evidence, however, the Chamber is satisfied that Edison Zatriqi's evidence is reliable in respect of the matter relied on in this Judgement.
[2766] Edison Zatriqi, Exhibit P673 (*Milutinović* transcript), T 4419-4421; Edison Zatriqi, T 3809.
[2767] Edison Zatriqi, Exhibit P672, Statement of 20 June 2001, p 3.
[2768] Edison Zatriqi, Exhibit P673 (*Milutinović* transcript), T 4417.
[2769] Edison Zatriqi, Exhibit P672, Statement of 20 June 2001, p 3; Edison Zatriqi, Exhibit P673 (*Milutinović* transcript), T 4416-4418, 4424; Edison Zatriqi, T 3810.
[2770] Edison Zatriqi, Exhibit P672, Statement of 20 June 2001, pp 2-3; Edison Zatriqi, Exhibit P672, Statement of 29 January 2002, p 2; Edison Zatriqi, Exhibit P673 (*Milutinović* transcript), T 4417; Edison Zatriqi, T 3830.
[2771] Edison Zatriqi, Exhibit P672, Statement of 20 June 2001, p 3; Edison Zatriqi, Exhibit P673 (*Milutinović* transcript), T 4422-4423; Edison Zatriqi, T 3819.
[2772] Edison Zatriqi, Exhibit P673 (*Milutinović* transcript), T 4417; Edison Zatriqi, T 3830. In addition to his buses, Edison Zatriqi saw other buses that had also been confiscated from other colleagues, likewise packed with civilians, Edison Zatriqi, Exhibit P673 (*Milutinović* transcript), T 4417.
[2773] Edison Zatriqi, Exhibit P672, Statement of 20 June 2001, p 3; Edison Zatriqi, Exhibit P673 (*Milutinović* transcript), T 4424.

735. In the meantime, the group of Kosovo Albanians who were forced out of their houses in Karagaq neighbourhood of Peć/Pejë, continued to the road leading to Montenegro. There were many people in the streets in Peć/Pejë.[2774] They had been ordered to leave to Montenegro.[2775] Police, army and paramilitary forces were standing along the road at every corner preventing people from going back.[2776] Armed men dressed in green camouflage trousers, black T-shirts and various kinds of clothes were also present there.[2777] Some of them had moustaches and beards.[2778] The convoy was stopped near the Economy High School in Peć/Pejë by a group of about 30 police, army and paramilitary soldiers.[2779] Those civilians who had a car were told to proceed towards Montenegro, while the others were directed back to the town centre.[2780]

736. People from various parts of Peć/Pejë were gathering at the square in the town centre of Peć/Pejë.[2781] Policemen and soldiers were pointing their guns at them.[2782] There were some 20 trucks and buses and people were getting onto the buses.[2783] A traffic police commander, dressed in civilian clothes and using a megaphone, ordered the men to separate from the women and the children. However, people started to panic and the order was not enforced.[2784] Families got onto the buses and trucks, and on three different occasions convoys of these vehicles left travelling towards Prizren.[2785] Policemen and soldiers kept the main road clear so that the convoys could pass.[2786]

737. At about 1900 hours on 28 March 1999, three tanks entered the centre of Peć/Pejë. Two tanks swept their cannons towards the people who were there, which caused great fear. The tanks left at about 2000 hours and the lights in the town went out.[2787]

738. At about 2200 hours on the same evening, the buses and trucks that had left that morning, loaded with Kosovo Albanian people, returned empty. The buses and trucks were then reloaded with more Kosovo Albanian people.[2788] Once again the buses and trucks left Peć/Pejë in a convoy

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[2774] Ndrec Konaj, Exhibit P670, p 4.
[2775] Ndrec Konaj, Exhibit P670, p 4; Ndrec Konaj, Exhibit P671 (*Milutinović* transcript), T 4912; Ndrec Konaj, T 3754-3755. Ndrec Konaj joined this group with his family, walking in the side roads in the direction of Montenegro.
[2776] Ndrec Konaj, Exhibit P670, p 4; Ndrec Konaj, Exhibit P671 (*Milutinović* transcript), T 4889-4890.
[2777] Ndrec Konaj, Exhibit P671 (*Milutinović* transcript), T 4890.
[2778] Ndrec Konaj, Exhibit P671 (*Milutinović* transcript), T 4892.
[2779] Ndrec Konaj, Exhibit P670, p 4.
[2780] Ndrec Konaj, Exhibit P670, p 4.
[2781] Ndrec Konaj, Exhibit P670, p 4.
[2782] Ndrec Konaj, Exhibit P670, p 4.
[2783] Ndrec Konaj, Exhibit P670, p 4.
[2784] Ndrec Konaj, Exhibit P670, p 4; Ndrec Konaj, Exhibit P671 (*Milutinović* transcript), T 4913.
[2785] Ndrec Konaj, Exhibit P670, p 4.
[2786] Ndrec Konaj, Exhibit P671 (*Milutinović* transcript), T 4914.
[2787] Ndrec Konaj, Exhibit P670, p 4.
[2788] Ndrec Konaj, Exhibit P670, p 4. Ndrec Konaj testified that there must have been over a hundred persons on the bus that he boarded and the Serb driver appeared to be an "armed paramilitary", Ndrec Konaj, Exhibit P670, p 5.

in the direction of Prizren. The convoy was stopped at a checkpoint in the town of Đakovica/Gjakovë, opposite the police station at which was a large group of police and other Serbian forces, dressed in various camouflage uniforms.[2789] They were mistreating civilians who were also at the checkpoint.[2790] The convoy eventually arrived in Prizren at about 0100 hours on 29 March 1999, the people were dropped off at the junction leading to Vrbnica/Vërmicë and the bus driver directed them to go to Albania, adding: "This is not your place, this is Great Serbia."[2791] Police and soldiers were standing on the opposite side of the street.[2792] Several other buses then arrived and took the Kosovo Albanian people to Vrbnica/Vërmicë from where they were told to walk to the Albanian border.[2793]

739. This convoy of Kosovo Albanian people arrived at the border at 0500 hours on 29 March 1999. There, before they could cross into Albania, Serbian policemen told the people to throw their identification documents in a big wooden box which already contained many documents. Men were searched and women's bags were checked for identification documents. The people then crossed into Albania.[2794]

740. Upon his return to Peć/Pejë at the end of July 1999, Edison Zatriqi found his house and business office burnt along with his buses.[2795] Many other houses that had belonged to Kosovo Albanians were burnt or destroyed,[2796] the Serb houses, however, had not been damaged.[2797] A number of mosques were also burned and destroyed, including the old mosque in Puhovci/Sahat Kulla neighbourhood, Qarshia Xhamia in the heart of Peć/Pejë, red Xhamia in Kapeshnica, and Hamam Xhamia.[2798]

741. For reasons expressed in detail a little later in this Judgement, the Chamber is satisfied that the offence of deportation has been established with respect to the events in the town of Peć/Pejë on 27 and 28 March 1999.[2799]

742. The accepted evidence of eyewitnesses indicates that both members of the VJ and members of the MUP were involved in the events in the town of Peć/Pejë on 27 and 28 March 1999. The

[2789] Ndrec Konaj, Exhibit P670, p 5; Ndrec Konaj, T 3756, 3763.
[2790] Ndrec Konaj, Exhibit P670, p 5.
[2791] Ndrec Konaj, Exhibit P670, p 5; Ndrec Konaj, T 3756-3757, 3760-3762.
[2792] Ndrec Konaj, Exhibit P670, p 5.
[2793] Ndrec Konaj, Exhibit P670, p 5; Ndrec Konaj, T 3757.
[2794] Ndrec Konaj, Exhibit P670, p 5; Ndrec Konaj, T 3757.
[2795] Edison Zatriqi, Exhibit P672, Statement of 20 June 2001, p 3; Edison Zatriqi, Exhibit P673 (*Milutinović* transcript), T 4418.
[2796] Edison Zatriqi, Exhibit P673 (*Milutinović* transcript), T4418; Ndrec Konaj, Exhibit P671 (*Milutinović* transcript), T 4890; Ndrec Konaj, T 3758.
[2797] Edison Zatriqi, Exhibit P673 (*Milutinović* transcript), T 4418.
[2798] Edison Zatriqi, Exhibit P673 (*Milutinović* transcript), T 4418; Edison Zatriqi, T 3830-3831; Ndrec Konaj, Exhibit P671 (*Milutinović* transcript), T 4890.

Chamber refers in particular to evidence describing the forces' uniforms as blue and blue camouflage as well as green and green camouflage uniforms. The evidence of shelling and the presence of tanks in the town of Peć/Pejë on 27 and 28 March 1999 further confirms that VJ forces were present there. This evidence is consistent with documentary evidence received in the case. Exhibit P896 is an order of the command of the Priština Military District dated 27 March 1999 which, *inter alia*, tasks the 177th Military Territorial Detachment and the MUP with guarding the barracks in Peć/Pejë and the Serb population in the town of Peć/Pejë and in the villages Goraždevac/Gorazhdec, Bresnik (Brezanik/Brezhenic) and Vrelo Polje. The same order further tasks the same VJ and MUP forces with establishing combat control of the territory and to close off the axes of Drelje/Drelaj village--Peć/Pejë, Radevac--Peć/Pejë, and Dečani/Deçan--Peć/Pejë.[2800] The war diary of the armoured battalion of the 125th Motorised Brigade further records, in the entry for 28 March 1999, that some of the battalion's forces had participated in "clearing part of the town, in the Grammar School and Aslan Česma sector", in Peć/Pejë.[2801] The Chamber refers to its earlier finding that on 27 March tanks were located in the secondary school, that the neighbourhood of Kapeshnica was shelled and that during the night of 27/28 March 1999 houses in the area of the secondary school were burnt. Also in evidence is a further dispatch dated 2 March 1999 signed by the Accused sending two manoeuvre companies (from the 21st and the 22nd PJP detachments) and one territorial company (from the 72nd PJP detachment) to Peć/Pejë for a period of 40 days.[2802]

2. Cuška/Qyshk

743. The Indictment does not contain specific allegations with respect to events in the village of Cuška/Qyshk in Peć/Pejë municipality. The Chamber notes, however, that the Indictment alleges that forces of FRY and Serbia committed widespread or systematic acts of brutality and violence against Kosovo Albanian civilians in order to perpetuate a climate of fear and create chaos and a pervading fear for life. These allegations are relied on in support of the charge of persecutions (Count 5).[2803] For these reasons the Chamber has considered the evidence led in respect to events in Cuška/Qyshk in April and May 1999 and has made the factual findings recorded below. These matters will be considered further later in this Judgement in connection with the charge of persecutions.

[2799] *See infra*, para 1642.
[2800] Exhibit P896, p 4.
[2801] Exhibit P957, p 3.
[2802] Exhibit P1189, p 1
[2803] Indictment, paras 77(b), 27, 28.

744. The village of Cuška/Qyshk is situated in Peć/Pejë municipality, approximately three kilometres to the east from the town of Peć/Pejë.[2804] At the time of the events described below, Cuška/Qyshk had about 2,000 inhabitants, predominantly of Albanian ethnicity. However, three households in the village were Serb.[2805] While Cuška/Qyshk was the home of the father of the KLA military leader Agim Ceku, there is no evidence to suggest that there had been any KLA military presence in the village in 1998 and 1999.[2806]

745. Around mid April 1999 convoys of large numbers of people, cars and tractors moving from the town of Peć/Pejë towards Montengro were observed from Cuška/Qyshk.[2807]

746. On 16 or 17 April 1999, Serbian police and army entered Cuška/Qyshk and set on fire houses inhabited by people of Albanian ethnicity,[2808] as a result, some villagers attempted to leave Cuška/Qyshk but they were stopped by VJ soldiers, wearing green camouflage uniforms and policemen, wearing blue camouflage uniforms and dark coloured berets, who told them that they could only leave when they were told to.[2809] On 17 April 1999 Serbian police asked the Albanian villagers to hand over their weapons,[2810] as a result, a few weapons were handed over to the police.[2811]

747. On or about 19 April 1999, a police and an army vehicle arrived at Cuška/Qyshk. Approximately four VJ soldiers and four policemen approached a group of eight men who had gathered in the centre of the village.[2812] They took Syl Gashi, who was one of this group of eight men, away to his house and took a car and 3,000 German Marks from him.[2813] From that day on some villagers prepared to flee Cuška/Qyshk on short notice, should the police and army return.[2814]

748. There was evidence suggesting that on 13 or 14 May 1999 at around 1900 to 2000 hours an elderly couple was taken from Cuška/Qyshk and killed in the vicinity of the road connecting

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2804 Hazir Berisha, Exhibit P796, para 5; Tahir Kelmendi, T 4718, 4738-4739.
2805 Hazir Berisha, Exhibit P796, para 5; Hazir Berisha, T 4635. According to Tahir Kelmendi there were eight Serb families living in the village of Cuška/Qyshk, Tahir Kelmendi, Exhibit P803, para 5.
2806 Exhibit P755, pp 3-4.
2807 Tahir Kelmendi, T 4734-4735.
2808 Hazir Berisha, T 4605-4606, 4635. The Chamber notes that in an initial statement dated 28 July 1999, Hazir Berisha referred to the forces approaching Cuška/Qyshk on that day as "regular army and paramilitaries", *see* Exhibit D117, p 2.
2809 Hazir Berisha, Exhibit P796, paras 11, 13-14; Hazir Berisha, T 4606, 4608, 4631, 4635. When shown Exhibit P797 in court witness Hazir Berisha identified Slavisa Kastratović and Srecko Popović (photo 1) as being amongst the group of men that stopped him when he tried to leave the village, Hazir Berisha, T 4608.
2810 Tahir Kelmendi, Exhibit P803, para 6; Tahir Kelmendi, T 4714; Hazir Berisha, Exhibit P796, para 11; Hazir Berisha, T 4605-4606, 4635.
2811 Tahir Kelmendi, Exhibit P803, para 6; Tahir Kelmendi, T 4714. Hazir Berisha identified the soldier Srecko Popović as being involved in the seizure of the weapons when shown the third photograph of Exhibit P797, Hazir Berisha, T 4609.
2812 Hazir Berisha, Exhibit P796, paras 15-16.
2813 Hazir Berisha, Exhibit P796, paras 16-17.

Peć/Pejë town and Priština/Prishtinë.[2815] The witness saw a car with policemen and soldiers passing by and he later heard shots.[2816] There is no evidence of their bodies being found.[2817] No other evidence with respect to this incident has been presented. In the circumstances the Chamber is unable to make a finding that the murder of this elderly couple has been established.

749. On 13 May 1999 a police reservist with several policemen wearing blue police uniforms arrived in Cuška/Qyshk.[2818] This reservist indicated that other Serbian forces would arrive in Cuška/Qyshk on the following day and told the people that the villagers should not be afraid.[2819]

750. On the same day, 13 May 1999, a local police commander from Ozrim/Ozdrim village came to the village of Pasino Selo/Katundi-i-Ri, which adjoins Cuška/Qyshk.[2820] This commander told the villagers that they should go to Cuška/Qyshk from where, on the following day, the Serbian police would send all Albanian residents of Cuška/Qyshk to Albania.[2821] As a consequence, that evening 70 to 80 displaced Kosovo Albanians arrived in Cuška/Qyshk from Pasino Selo/Katundi-i-Ri.[2822]

751. On 14 May 1999 at around 0600 hours an armed Serbian force of about 80 men wearing variously either green or blue camouflage uniforms and T-shirts,[2823] some wearing bandannas,[2824] approached Cuška/Qyshk in lines and surrounded the village.[2825] They did not appear to have any unit patches or insignia.[2826] There were more dressed in blue uniforms than there were dressed in green uniforms.[2827] The men had black and green camouflage raggery on their faces.[2828] The force was armed with Kalashnikov rifles and hand grenades, some also had knives.[2829] The force closed

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2814 Hazir Berisha, Exhibit P796, para 18.
2815 Hazir Berisha, T 4623.
2816 Hazir Berisha, T 4624.
2817 Hazir Berisha, T 4624.
2818 Tahir Kelmendi, Exhibit P803, paras 25, 27-28. A witness believed that this policeman, identified as Mijo Brajović, was sent to Cuška/Qyshk by Commander Obrnović, the commander of the Klincina/Kliçinë police station, approximately five to seven kilometres away from Cuška/Qyshk, Tahir Kelmendi, Exhibit P803, paras 25, 27, 28; Tahir Kelmendi, T 4718-4720, 4770.
2819 Tahir Kelmendi, T 4719.
2820 Tahir Kelmendi, Exhibit P803, paras 30, 33-36.
2821 Tahir Kelmendi, Exhibit P803, paras 30, 33-36; Tahir Kelmendi, T 4775-4776.
2822 Tahir Kelmendi, T 4716-4717.
2823 Tahir Kelmendi, T 4765-4767.
2824 Tahir Klemendi, Exhibit 803, para 12.
2825 Tahir Kelmendi, T 4718, 4738-4739.
2826 Tahir Kelmendi Exhibit P803, para 12; Tahir Kelmendi, T 4765-4767; Hazir Berisha, Exhibit P796, para 69.
2827 Tahir Kelmendi, Exhibit P803, para 11; Tahir Kelmendi, T 4765-4767.
2828 Tahir Kelmendi, T 4718.
2829 Tahir Kelmendi, P803, para 14; Tahir Kelmendi, T 4767.

in on the village.[2830] There was also a green Jeep without a roof in which there were five persons in green camouflage uniforms and T-shirts.[2831] A submachine gun was mounted on the vehicle.[2832]

752. In the meantime Serbian policemen dressed in blue uniforms and armed with automatic Žastava rifles[2833] were patrolling on the road connecting Cuška/Qyshk with Peć/Pejë in three police cars.[2834] One of the policemen was identified by a witness as Commander Obranović from the Klincina/Kliçinë police station,[2835] although the Chamber is unable to accept the reliability of this identification.

753. By around 0800 or 0830 hours, houses in the village were burning and continuous gunfire was heard.[2836] Police in blue camouflage uniforms and VJ in green camouflage uniforms entered houses, and the Kosovo Albanian villagers went to the centre of Cuška/Qyshk,[2837] at the cemetery.[2838]

754. Approximately 250 to 300 villagers gathered at the cemetery in the centre of the village, believing that they would be sent to Albania.[2839] This group consisted mainly of women and children but there were also about 35 to 50 men;[2840] they were surrounded by policemen and soldiers.[2841]

755. The police and VJ forces ordered the men to separate from the women and children[2842] while members of the Serbian forces continued to fire their weapons.[2843] Both the men and the women were ordered to remove their valuables and to throw them on the ground.[2844] Two boys

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2830 Tahir Kelmendi, Exhibit P803, para 11. *See* also Hazir Berisha, Exhibit P796, para 19; Hazir Berisha, T 4610-4611 testifying that at about 0715 hours some of these forces were seen walking through the field into the village, while firing their weapons.

2831 Tahir Kelmendi, Exhibit P803, paras 15-16.

2832 Tahir Kelmendi, T 4769-4770.

2833 Tahir Kelmendi, Exhibit P803, para 20, 21.

2834 Tahir Kelmendi, Exhibit P803, para 19.

2835 Tahir Kelmendi, Exhibit P803, para 24.

2836 Hazir Berisha, Exhibit P796, para 22.

2837 Hazir Berisha, Exhibit P796, para 22; Hazir Berisha, T 4631; Tahir Kelmendi, Exhibit P803, paras 37-39.

2838 Tahir Kelmendi, Exhibit P803, paras 37-40; Hazir Berisha, Exhibit P796, para 22; Hazir Berisha, T 4601.

2839 Tahir Kelmendi, Exhibit P803, paras 37-40, 43. Hazir Berisha, Exhibit P796, para 22; Hazir Berisha, T 4611.

2840 Hazir Berisha, Exhibit P796, para 25; Hazir Berisha, T 4612. Estimates of numbers varied, *see* Hazir Berisha, Exhibit P796, para 37.

2841 Hazir Berisha, Exhibit P796, para 23.

2842 Hazir Berisha, Exhibit P796, para 24; Tahir Kelmendi, Exhibit P803, para 41; Tahir Kelmendi, T 4768. The Chamber notes that some eight old men were later moved to the group of women and children, Hazir Berisha, Exhibit P796, para 33.

2843 Hazir Berisha, Exhibit P796, para 24.

2844 Hazir Berisha, Exhibit P796, para 26; Tahir Kelmendi, T 4721. Hazir Berisha identified the individual who ordered the villagers to remove their personal items as Nebošja Minić when shown a photograph (Exhibit P772) in court, *see* also Hazir Berisha, Exhibit P796, para 73; Hazir Berisha, T 4612-4613, 4625. This photograph was shown to him for the first time after the KFOR arrival in Kosovo, Hazir Berisha, T 4658. Hazir Berisha did not remember whether he knew Nebojša Minić before 14 May and he learned his name only after the events, Hazir Beisha, T 4613, 4658.

collected the items under the directions of VJ soldier Srecko Popović.[2845] This man also ordered that anyone who had a vehicle should get it and return to the cemetery within five minutes.[2846] Four men left. Two of them returned with vehicles.[2847] These two men were made to join the group of men.[2848]

756. The women and children were taken to the courtyard of the house of Sali Rexha.[2849] The group of men[2850] were ordered to walk away from the women and children.[2851] As they were walking, approximately 12 of the men were directed into the courtyard of the house of Ajet Gashi[2852] and then taken to the house of Azem Gashi.[2853] Six members of the Serbian forces followed them.[2854] The men were ordered to hold their hands behind their head.[2855]

757. Some short time later the sound of automatic gunfire was heard coming from the direction of the house of Azem Gashi[2856] and five minutes later flames and smoke were seen coming from the house.[2857] As detailed a little later in this section the 12 men had been shot dead and their bodies left to burn in the house.

758. Some 10-15 minutes after these events, the same police and soldiers, without any of the men, returned to the remaining group of male villagers,[2858] who, were further divided into two groups.[2859] About half of these were taken initially to Sadik Gashi's house[2860] close to the cemetery in the centre of Cuška/Qyshk.[2861] However, before the group entered Sadik Gashi's compound a policeman or soldier objected that this house is too close to the road and that "it would be inappropriate because of the smell".[2862] Eventually, this group of male villagers was directed to Sahit Gashi's house by five or six of the Serbian policemen and soldiers.[2863] The men entered the

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[2845] Hazir Berisha, T 4608; Hazir Berisha, Exhibit P796, para 72; Exhibit P797 (photo 1).
[2846] Hazir Berisha, Exhibit P796, para 35.
[2847] Hazir Berisha, Exhibit P796, para 36.
[2848] Hazir Berisha, Exhibit P796, para 45.
[2849] Tahir Kelmendi, Exhibit P803, para 45; Tahir Kelmendi, T 4720-4722.
[2850] Hazir Berisha, Exhibit P796, para 37.
[2851] Tahir Kelmendi, Exhibit P803, para 41; Tahir Kelmendi, T 4767-4768; Hazir Berisha, Exhibit P796, para 37.
[2852] Hazir Berisha, Exhibit P796, para 37; Hazir Berisha, T 4614.
[2853] Hazir Berisha, Exhibit P796, para 46; Hazir Berisha, T 4616, 4663, 4672; Tahir Kelmendi, Exhibit P803, para 55; Tahir Kelmendi, T 4723.
[2854] Tahir Kelmendi, Exhibit P803, para 54.
[2855] Tahir Kelmendi, Exhibit P803, para 55.
[2856] Hazir Berisha, Exhibit P796, para 46; Hazir Berisha, T 4616, 4663, 4672; Tahir Kelmendi, Exhibit P803, para 55; Tahir Kelmendi, T 4723.
[2857] Tahir Kelmendi, T 4723-4724; Hazir Berisha, Exhibit P796, para 46; Hazir Berisha, T 4616, 4663, 4672.
[2858] Hazir Berisha, Exhibit P796, para 47; Hazir Berisha, T 4616.
[2859] Tahir Kelmendi, Exhibit P803, para 46; Tahir Kelmendi, T 4721. The locations where the villagers were brought to and the vantage point of witness Tahir Kelmendi are depicted in Exhibit D119, a sketch with markings by the witness, Tahir Kelmendi, T 4740-4742.
[2860] Tahir Kelmendi, Exhibit P803, para 54; Hazir Berisha, Exhibit P796, paras 53-54; Hazir Berisha, T 4617, 4626.
[2861] Hazir Berisha, Exhibit P796, para 52; Hazir Berisha, T 4617, 4621.
[2862] Hazir Berisha, Exhibit P796, para 52; Hazir Berisha, T 4617.
[2863] Hazir Berisha, Exhibit P796, paras 53-54; Hazir Berisha, T 4617, 4626.

house holding their hands behind their head, as ordered by the police,[2864] and were further directed into a room and ordered to sit down on a long L-shaped couch.[2865] Four members of the Serbian force entered the room; three of them were armed with Kalashnikov rifles and one of them carried an apparently heavier calibre machine gun.[2866] They cursed the men in the room and then fired shots at them in a sweeping motion[2867]; they then fired a second round of shots following which there was a pause and then single shots were fired at them.[2868] The men fell on top of each other. A foam mattress was then placed on them and blankets in the far corner of the room were set on fire.[2869] A few minutes later a member of the Serbian forces entered the room and threw a canister or a bottle which contained some kind of inflammable gas, into the room.[2870] The room caught fire. One of the shot villagers, Hazir Berisha, although seriously wounded, managed to climb through a window of the room and escape from the house. He saw the roof of the house collapsing as the house burnt.[2871] He heard Serbs' voices giving orders to set things on fire; later he heard truck and car engines being started.[2872] The bodies of the remaining villagers were left to burn in the house.

759. The remaining group of male villagers, comprising 10 to 12 men, were brought to Deme Gashi's house[2873] by six members of the Serbian forces,[2874] the men were holding their hands behind their head.[2875] A long burst of automatic gunfire was then heard coming from the direction of Deme Gashi's house.[2876] The male villagers had been shot by the members of the Serbian forces. Once again, one of the village men in this group managed to escape by climbing through a window.[2877] The bodies of the remaining villagers were left to burn in the house, which had been set on fire.

[2864] Tahir Kelmendi, Exhibit P803, para 55; Tahir Kelmendi, T 4724.
[2865] Hazir Berisha, Exhibit P796, para 54.
[2866] Hazir Berisha, Exhibit P796, para 55.
[2867] Hazir Berisha, Exhibit P796, para 56; Hazir Berisha, T 4617-4618.
[2868] Hazir Berisha, Exhibit P796, paras 57-58; Hazir Berisha, T 4618, 4601, 4618.
[2869] Hazir Berisha, Exhibit P796, para 60.
[2870] Hazir Berisha, Exhibit P796, para 61; Hazir Berisha, T 4619.
[2871] Hazir Berisha, Exhibit P796, para 65; Hazir Berisha, T 4621. The ruined house of Sahit Gashi is depicted on a photograph, Exhibit P797, p 3.
[2872] Hazir Berisha, Exhibit P796, para 64; Hazir Berisha, T 4621.
[2873] Tahir Kelmendi, Exhibit P803, para 54; Tahir Kelmendi, T 4731-4732; Hazir Berisha, Exhibit P796, para 50; Hazir Berisha, T 4622.
[2874] Tahir Kelmendi, Exhibit P803, para 54.
[2875] Tahir Kelmendi, Exhibit P803, para 55; Tahir Kelmendi, T 4723.
[2876] Tahir Kelmendi, Exhibit P803, para 55; Tahir Kelmendi, T 4723.
[2877] Hazir Berisha Exhibit P796, para 64; Hazir Berisha, T 4622; Tahir Kelmendi, Exhibit P803, para 57, Tahir Kelmendi, T 4731-4732.

760. Flammable cartridges fired from special weapons and flammable grenades were used to set on fire the three houses in which the male villagers were shot.[2878]

761. As the men were being taken to the three houses, the women and children in the village were ordered by members of the Serbian forces to gather at the courtyards of several houses in Cuška/Qyshk, at least one of which had already been set on fire.[2879] Eventually the women and children were taken out of the courtyards, made to board tractors and sent to the town of Peć/Pejë.[2880] Idish Kadrija was shot by Serbian forces because he was not able to drive a tractor.[2881] However, before arriving in Peć/Pejë the women and children were sent back to Cuška/Qyshk by the Serbian police.[2882]

762. Other Kosovo Albanian villagers were killed by Serbian forces in Cuška/Qyshk on 14 May 1999. That morning, Qaush Lushi from Cuška/Qyshk offered money to Serbian forces to spare the life of his son.[2883] After money was handed over, a Serbian policeman asked Qaush Lushi to enter the outer toilet in Azem Gashi's compound where another policeman executed him with an automatic rifle.[2884] Both policemen then slit his throat.[2885] At about 1100 hours Cuška/Qyshk resident Avdi Berisha, while trying to leave the village, was shot by a sniper who fired from a police car which patrolled on the main road to Peć/Pejë town.[2886]

763. After these events, the Serbian forces left Cuška/Qyshk in the direction of the adjoining villages of Pavlan/Plavljane and Zahać/Zahaq.[2887] On that same day, 14 May 1999, Pavlan/Plavljane and Zahać/Zahaq villages were also attacked by the Serbian forces.[2888] Constant shots coming from these villages were heard and smoke rising above them was seen from Cuška/Qyshk.[2889]

[2878] Tahir Kelmendi, Exhibit P803, paras 58-60, 61, 64; Hazir Berisha, T 4619, 4621. The ruined house of Sahit Gashi is depicted on a photograph in Exhibit P797, p 3.
[2879] Hazir Berisha, Exhibit P796, para 41; Hazir Berisha, T 4615; Tahir Kelmendi, T 4721.
[2880] Tahir Kelmendi, Exhibit P803, paras 61-62; Tahir Kelmendi, T 4728.
[2881] Tahir Kelmendi, Exhibit P803, para 62.
[2882] Hazir Berisha, T 4664-4665; Tahir Kelmendi testified that the women and children were sent back by the Serbian police positioned at a checkpoint at Peć/Pejë entrance. He further testified that another police patrol close to Cuška/Qyshk sent them back to Peć/Pejë, which happened three times, Tahir Kelmendi, Exhibit P803, para 64; Tahir Kelmendi T 4728-4729.
[2883] Tahir Kelmendi, Exhibit P803, paras 47-49, Tahir Kelmendi, T 4725-4726.
[2884] Tahir Kelmendi, Exhibit P803, paras 50, 51.
[2885] Tahir Kelmendi, T 4725-4726, 4780-4781; Exhibit P804; Tahir Kelmendi, T 4736-4737.
[2886] Tahir Kelmendi, Exhibit P803, paras 73-75; Tahir Kelmendi, T 4714-4715, 4733.
[2887] Tahir Kelmendi, Exhibit P803, para 63; Tahir Kelmendi, T 4763. Hazir Berisha testified that about 20 to 25 minutes after his escape from Sahit Gashi's house (*see supra*, para 758) all of the Serbian police and soldiers left Cuška/Qyshk, Hazir Berisha, Exhibit P796, para 66.
[2888] Tahir Kelmendi, Exhibit P803, para 63; Tahir Kelmendi, T 4763.
[2889] Hazir Berisha, T 4624.

764. After the Serbian forces had left Cuška/Qyshk, villagers entered the three houses to which the three groups of men had been taken.[2890] They found the bodies still burning there.[2891] The villagers collected the bodies and hid them from the police.[2892] Three days later the bodies and the bodies of other people from the village killed by the Serbian forces were buried in one mass grave in the centre of the village.[2893]

F. Kosovska Mitrovica/Mitrovicë municipality

765. Kosovska Mitrovica/Mitrovicë is located in the northern part of Kosovo and is surrounded by the municipalities of Podujevo/Podujevë, Vučitrn/Vushtrri and Srbica/Skenderaj. The town of Kosovska Mitrovica/Mitrovicë is located in the southern part of the municipality. At the time alleged in the Indictment about 60 per cent of the population in the town of Kosovska Mitrovica/Mitrovicë was Kosovo Albanian, and about 40 per cent was Serbian.[2894] Situated about three kilometres south-west from the town of Kosovska Mitrovica/Mitrovicë is the village of Zabare/Zhabar. At the time relevant to the Indictment, this village was an exclusively Kosovo Albanian village.[2895] The village of Zabare/Zhabar was composed of Lower and Upper Zabare/Zhabar and had approximately 5,600 houses.[2896] Lower and Upper Zabare/Zhabar are adjacent to each other but have their centres at a distance of around one kilometre.[2897] Upper Zabare/Zhabar is characterised by the mountain known as Grmova.[2898]

766. From January to early April 1999, members of the 35th and 85th PJP Detachments of the MUP were deployed to assist the Kosovska Mitrovica/Mitrovicë SUP with the performance of "special security tasks".[2899] Members of the 36th and 86th PJP Detachments of the MUP were also deployed to provide assistance, *inter alia,* to the Kosovska Mitrovica/Mitrovicë SUP, from January to early May 1999.[2900] Ljubinko Cvetić, Chief of the Kosovska Mitrovica/Mitrovicë SUP in 1999, reported that following a meeting at the headquarters of the MUP Staff in Priština/Prishtinë on 17 March 1999, and in accordance with orders given,[2901] the SUP in Kosovska Mitrovica/Mitrovicë,

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2890 Tahir Kelmendi, Exhibit P803, para 70; Tahir Kelmendi, T 4732.
2891 Tahir Kelmendi, T 4729-4730.
2892 Tahir Kelmendi, Exhibit P803, para 70; Tahir Kelmendi, T 4732.
2893 Tahir Kelmendi, Exhibit P803, para 70; Tahir Kelmendi, T 4732.
2894 Aferdita Hajrizi, Exhibit P773, p 3.
2895 Sadije Sadiku, Exhibit P502, para 6; Sadije Sadiku,T 2967; Mahmut Halimi, Exhibit P499 (*Milutinović* transcript), T 4454.
2896 Mahmut Halimi, T 2916; Exhibit P500; Exhibit D65; Sadije Sadiku, Exhibit P503 (*Milutinović* transcript), T 1892.
2897 Mahmut Halimi, T 2916.
2898 Mahmut Halimi, T 2901; Exhibit P500; Exhibit D65.
2899 Exhibit P1184; Exhibit P1186; Exhibit P1188; Exhibit P711; Exhibit P1191.
2900 Exhibit P139; Exhibit P712.
2901 At this meeting Sreten Lukić stated that all the SUPs should prepare and undertake all the necessary measures to go forward with mobilisation of the members of the reserve police forces, so that the ratio between active policemen and reserve policemen should be one to one, Ljubinko Cvetić, T 6609, 6691.

mobilized 665 reserve policemen to match the number of regular police officers.[2902] In March 1999, the regular police units and members of the PJPs totaled 1,990 men and there were 6034 men in reserve police units. In total there were approximately 8,000 police deployed in Kosovska Mitrovica/Mitrovicë by March 1999.[2903]

767. VJ documentary records reveal that on 7 March 1999, the VJ 37th motorised brigade was deployed to the general area of Kosovska Mitrovica/Mitrovicë with the stated aim of carrying out exercises and raising combat readiness.[2904] By 18 March 1999 the 211th brigade and other VJ units were also deployed in the vicinity of Kosovska Mitrovica/Mitrovicë[2905] and the 125th motorised brigade of the VJ was also deployed to the area from 24 March 1999 to "destroy the ŠTŠ"[2906] and "secure and control the territory" of Kosovska Mitrovica/Mitrovicë.[2907] Units of the Priština/Prishtinë military district were also deployed on 27 March 1999 to Kosovska Mitrovica/Mitrovicë and tasked to protect the Serbian population and, in coordination with MUP forces, to prevent operations of the KLA, to guard roads, military installations and other features, and to establish combat control over areas in Kosovska Mitrovica/Mitrovicë.[2908] An order of the Priština Corps Command further reveals that the 37th motorised brigade was still engaged on 2 April 1999 in the area of Kosovska Mitrovica/Mitrovicë and was under orders to "crush and destroy the KLA", to secure main roads and to establish combat control over that area.[2909] A Priština Corps Command order dated 9 April 1999 tasked MUP forces in the area, together with the VJ 37th Motorised Brigade, VJ 125th Motorised Brigade, VJ 15th Armoured Brigade and VJ 58th Light Infantry Brigade to gain control over the area of Kosovska Mitrovica/Mitrovicë.[2910]

768. The above evidence establishes, in the finding of the Chamber, that MUP forces, both ordinary uniformed police, and PJP units, were engaged in coordination with VJ units, *inter alia* to "establish combat control" in the area of Kosovska Mitrovica/Mitrovicë throughout the time period relevant to the Indictment.[2911] Moreover, it is accepted that various MUP forces and VJ units were engaged in a coordinated effort to ensure the movement of Kosovo Albanians to the borders with

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[2902] Ljubinko Cvetić, T 6609, 6691.
[2903] Ljubinko Cvetić, T 6609-6610.
[2904] Exhibit P934; Exhibit P965, p 11.
[2905] Exhibit P1339, p 7.
[2906] ŠTŠ is a reference to the Albanian terrorist groups.
[2907] Exhibit P954, pp 1, 3.
[2908] Exhibit P896.
[2909] Exhibit P912; Exhibit P930 is the order from the 37th Motorised Brigade implementing Exhibit P912. The Chamber also received evidence of the 52nd ARBR of the PVO being deployed to Kosovska Mitrovica/Mitrovicë on 5 April 1999 to evacuate mines and explosives, *see* Exhibit P958, p 11.
[2910] Exhibit P1039; Ljubinko Cvetić, T 6630, 6636-6637.
[2911] The Chamber also finds that Serbian paramilitary forces were also present in Kosovska Mitrovica/Mitrovicë at the time relevant to the Indictment and were engaged in some specific operations, *see* infra paras 774, 775, 785, 787.

Albania, and that MUP forces, including members of the Border Police, ensured that the Kosovo Albanians were sent across the border from Kosovo.

769. Kosovska Mitrovica/Mitrovicë municipality was situated between KLA operational zones Shala and Llap.[2912] Mahmut Halimi explained that in the village of Zabare/Zhabar in March 1999 there was a make-shift medical clinic which *inter alia* treated ill and wounded KLA soldiers.[2913] However, no KLA uniformed or armed members would enter the area for fear of attracting Serbian forces.[2914] The Defence submits that several areas within Kosovska Mitorvica/Mitrovicë municipality were KLA strongholds.[2915] The Defence relies on a report of the General Staff of the VJ, dated 15 April 1999, that details the number of alleged KLA members present in the village of Tamnik/Tavnik in Kosovska Mitrovica/Mitrovicë municipality. It was reported that among a population of 30,000 Kosovo Albanians, about 100 KLA members were hiding. The report also stated that there was sniper fire on MUP members.[2916] Whilst the Chamber accepts there may well have been a small number of KLA forces present in the municipality, it is not accepted that the acts of the Serbian forces, discussed below, were part of a legitimate terrorist operation nor were they justified. In what follows, it is evident that the actions of the Serbian forces were manifestly not to fight the KLA but to terrorise the Kosovo Albanian population and to expel them from the area.

1. Kosovska Mitrovica/Mitrovicë town

770. Aferdita Hajrizi was the wife of Agim Hajrizi, a Kosovo Albanian trade union activist in Kosovska Mitrovica/Mitrovicë.[2917] On the night of 24 to 25 March 1999 at 0030 hours, two vehicles stopped in front of the house of Aferdita Hajrizi and her husband Agim Hajrizi.[2918] Six police left the vehicles and approached the Hajrizi house. The men were dressed in dark blue camouflage pattern uniforms and black berets and carried long weapons. Aferdita Hajrizi identified four of the six men. They were Nenad Pavicević, Ratko Antonijević, Dejan Savić and a man known only to them as Boban.[2919] They were regular policemen in the town and Nenad Pavicević was her neighbour.[2920]

[2912] Byslim Zyrapi, T 2493; Exhibit P430.
[2913] Mahmut Halimi, Exhibit P499 (*Milutinović* transcript), T 4448; Mahmut Halimi, T 2946-2947.
[2914] Mahmut Halimi, Exhibit P499 (*Milutinović* transcript), T 4448; Mahmut Halimi, T 2947.
[2915] Defence Final Brief, para 790. The Defence also relied on Exhibit D302.
[2916] Exhibit D772, p 1.
[2917] Aferdita Hajrizi, Exhibit P773, p 2.
[2918] Aferdita Hajrizi, Exhibit P773, p 6.
[2919] Aferdita Hajrizi, Exhibit P773, p 6; Aferdita Hajrizi, Exhibit P776 (*Milutinović* transcript), T 4047, 4052.
[2920] The witness recalled that these men used to wear regular police uniforms, however, on the night of the killings they were dressed in the uniform described above, Aferdita Hajrizi, Exhibit P773, p 6; Aferdita Hajrizi, Exhibit P775 (*Milošević* transcript), T 3897; Aferdita Hajrizi, Exhibit P776 (*Milutinović* transcript), T 4047, 4049-4052; Aferdita Hajrizi, T 4308.

771. As the men were approaching their house, Agim Hajrizi phoned another activist to tell him to leave town.[2921] Aferdita Hajrizi, in fear, fled upstairs to the attic with her children. Her husband, mother-in-law and one of her sons stayed on the ground floor. Aferdita Hajrizi heard the front door being broken down and then shots being fired in the house. Her husband said "Mother" and then the mother in law said "Nenad, how can you shoot my son". The group of police then left.[2922] At approximately 0045 hours, Aferdita Hajrizi went downstairs, there she found the bodies of her husband, son and mother-in-law lying on the floor; all three were dead. Her son had bullet wounds visible on the left hip, abdomen and elbow. There were no visible bullet wounds on the bodies of Aferdita's husband and mother-in-law as she looked at the corpses, but the two bodies were lying in pools of blood.[2923] That same night, shots were also heard coming from the house of Latif Berisha who was a local Kosovo Albanian political leader.[2924] He too was shot dead that night.[2925] As is discussed in more detail below, Mahmut Halimi, a prominent Kosovo Albanian lawyer was also told to leave his home in Kosovska Mitrovica/Mitrovicë early in the morning of 25 March 1999.[2926]

772. After the shooting Aferdita Hajrizi left her house with her two children at about 0045 hours and went to stay at an elderly couple's house about 1200 metres from their house.[2927] At 0700-0730 hours on 25 March 1999, the elderly man went outside the house to check on the situation. He saw numerous police officers and soldiers. Later that day Aferdita Hajrizi and her children met her brother outside the municipality building in Kosovska Mitrovica/Mitrovicë about 300-400 metres from where she had stayed. Along the way she saw Serbian forces wearing green camouflage uniforms and they had their faces covered with green coloured masks.[2928] Her brother took them all to a relative's house in the Tamnik/Tavnik neighbourhood.[2929] Later in the day Aferdita Hajrizi and the children were driven back to her house. She discovered that all her jewellery, her family's identification documents, money and photographs were missing.[2930] They then returned to her

[2921] Aferdita Hajrizi, Exhibit P773, p 6.
[2922] Aferdita Hajrizi, Exhibit P773, p 7.
[2923] Aferdita Hajrizi, Exhibit P773, p 7. Agim Hajrizi's death was confirmed by Mahmut Halimi (Mahmut Halimi, Exhibit P499 (*Milutinović* transcript), T 4446; Mahmut Halimi, T 2897-2898).
[2924] Aferdita Hajrizi, Exhibit P773, p 8; Aferdita Hajrizi, Exhibit P776 (*Milutinović* transcript), T 4046; Mahmut Halimi, T 2898; Adnan Merovci, T 2213.
[2925] Aferdita Hajrizi, Exhibit P773, p 8; Aferdita Hajrizi, Exhibit P776 (*Milutinović* transcript), T 4046.
[2926] *See infra*, para 780. The witness had received an earlier call he considered threatening on 23 March 1999 however all he heard that time was gunshots, Mahmut Halimi, Exhibit P499 (*Milutinović* transcript), T 4445, 4476; Mahmut Halimi, T 2898, 2943-2945.
[2927] Aferdita Hajrizi, Exhibit P773, p 8; Aferdita Hajrizi, Exhibit P774, pp 2-3.
[2928] Aferdita Hajrizi, Exhibit P774, p 3.
[2929] Aferdita Hajrizi, Exhibit P773, p 8; Aferdita Hajrizi, Exhibit P774, p 4; Aferdita Hajrizi, Exhibit P776 (*Milutinović* transcript), T 4054.
[2930] Aferdita Hajrizi, Exhibit P773, p 8.

relative's house in Tamnik/Tavnik neighbourhood. Along the way she saw Serbian troops and vehicles on the streets, including normal police cars and APCs.[2931]

773. During the same day, Aferdita Hajrizi was too frightened to go to the hospital that day to collect the bodies of her family who had been killed the previous night.[2932] Instead, a relative acted as the next of kin, collected the bodies from the hospital and also attended the crime scene with an investigative judge and a doctor. The witness has never received a report from the investigative judge as to the outcome of the investigation.[2933] It is contended by the Defence that these killings are due to animosity between the witness's family and Nenad Pavicević,[2934] but this is not supported by the evidence. The Chamber finds that these killings were part of a larger plan to expel Kosovo Albanian villagers from the area.

774. On 28 March 1999, Serbian forces comprising of members of the VJ and police, including paramilitary forces, arrived in Tamnik/Tavnik. Tamnik/Tavnik was a predominantly Kosovo Albanian neighbourhood of Kosovska Mitrovica/Mitrovicë.[2935] The paramilitary forces had painted faces and knives on either side of their belts. The police were dressed in the regular police blue uniform.[2936]

775. Serbian forces burned down houses and ordered the residents to leave immediately for Albania. The forces yelled things such as "[t]his is not your country", and "[w]e will kill you all".[2937] Aferdita Hajrizi and her family joined a large column of people fleeing Tamnik/Tavnik. The witness stated "[w]e had no plans or goal of where to go. Just to go away and save our lives".[2938] The witness joined a column of people fleeing the town. They were directed by Serbian

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2931 Aferdita Hajrizi, Exhibit P774, pp 3-4.

2932 The witness also did not attend the funeral of her relatives the next day out of fear of Nenad Pavicević, one of the police present at the shooting of her family members, Aferdita Hajrizi, Exhibit P773, p 8.

2933 The Defence argued that all procedures continued to be undertaken by the Kosovska Mitrovica/Mitrovicë SUP in processing criminal reports filed, following which all necessary measures were put in place to investigate proceedings (Ljubinko Cvetić, T 6814; Defence Final Brief, para 791). While the Chamber accepts this may well have been the case, there is no evidence that investigations were completed by the SUP into the killing of Agim Hajrizi, his son and mother, Aferdita Hajrizi, Exhibit P773, p 8; Aferdita Hajrizi, Exhibit P774, p 5; Aferdita Hajrizi, Exhibit P775 (*Milošević* transcript), T 3898-3900). There is however, evidence from Mahmut Halimi, the Presiding Judge, acting as part of the interim administration governing Kosovo, in criminal proceedings against Lazar Gligorovski and Nenad Pavicević, policemen at the Kosovska Mitrovica/Mitrovicë police station, Mahmut Halimi, Exhibit P499 (*Milutinović* transcript), T 4468-4469. These two were charged in the year 2000 with the murder of Agim Hajrizi, his son and his mother, Mahmut Halimi, Exhibit P499 (*Milutinović* transcript), T 4462-4463, 4469. Nenad Pavicević was tried *in absentia* and found guilty of the murder of Agim Hajrizi and sentenced to 20 years imprisonment, Aferdita Hajrizi, Exhibit P776 (*Milutinović* transcript), T 4050; Exhibit P777. Lazar Gligorovski was acquitted, Aferdita Hajrizi, Exhibit P775 (*Milošević* transcript), T 3902). No evidence was provided that Nenad Pavicević served his sentence.

2934 Defence Final Brief, para 794.

2935 Aferdita Hajrizi, Exhibit P774, p 4; Aferdita Hajrizi, Exhibit P776 (*Milutinović* transcript), T 4054-4055, 4065-4066.

2936 Aferdita Hajrizi, Exhibit P776 (*Milutinović* transcript), T 4070, 4073; *See supra*, paras 53, 54.

2937 Aferdita Hajrizi, Exhibit P774, p 4; Exhibit P776 (*Milutinović* transcript), T 4055, 4066.

2938 Aferdita Hajrizi, Exhibit P774, p 4.

forces to Zabare/Zhabar, a village in the direction of Albania. Serbian forces were along the road to Zabare/Zhabar and they were firing weapons over the displaced persons heads.[2939]

776. This column of people stayed in Zabare/Zhabar for two to three days, until they were told to leave by Serbian forces.[2940] Aferdita Hajrizi and her children stayed in a house with about 100 other people. She heard on the radio on 28 March 1999, that there were 70,000 displaced persons in Zabare/Zhabar. In the village there were Serbian forces dressed in dark blue and black camouflage uniforms; they wore tall boots and big knives and had black masks and fingerless gloves.[2941] Aferdita Hajrizi understood these to be paramilitary forces, although the evidence is not sufficient to enable the Chamber to make such a finding. After three days in Zabare/Zhabar, on 1 April 1999, the displaced persons were told by Serbian forces to leave. Aferdita Hajrizi and her children did so and managed to return to Kosovska Mitrovica/Mitrovicë to stay in the Tamnik/Tavnik neighbourhood. When they returned there was still shooting in the streets and houses were burning.[2942] Kosovo Albanians lived in an atmosphere of fear.

777. On 3 April 1999, buses had been arranged by "Serbs" to transport Kosovo Albanians from Kosovska Mitrovica/Mitrovicë out of Kosovo. The buses belonged to a State transport company. Only Kosovo Albanian residents of Kosovska Mitrovica/Mitrovicë were taken on the buses; they had to pay for the bus ticket to leave. There were 16 or 17 buses, which was not enough for the number of residents seeking a place on the buses. Serbian forces were monitoring the departure of Kosovo Albanians from the bus station. On the morning of 4 April 1999, residents were driven on these buses to the Montenegrin border, where they arrived the same day.[2943] When the buses with the displaced persons arrived at the border, the men were ordered off the buses by Serbian forces, maltreated and interrogated about their possible connections to the KLA. The men were forced to shout "Serbia, Serbia." The men then rejoined the buses which were allowed to proceed to Montenegro. The displaced persons were allowed to retain their identification documents and valuables.[2944]

778. The Defence contends that the there is no showing of a campaign to deport or forcibly transfer Kosovo Albanians from Kosovska Mitrovica/Mitrovicë.[2945] It further submits that Kosovo Albanians leaving Kosovska Mitrovica/Mitrovicë, including those leaving by bus on 4 April 1999,

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[2939] Aferdita Hajrizi, Exhibit P774, p 4.
[2940] Aferdita Hajrizi, Exhibit P774, p 5.
[2941] Aferdita Hajrizi, Exhibit P774, p 4.
[2942] Aferdita Hajrizi, Exhibit P774, p 5.
[2943] Aferdita Hajrizi, Exhibit P774, p 6.
[2944] Aferdita Hajrizi, Exhibit P774, p 6; Aferdita Hajrizi, Exhibit P776 (*Milutinović* transcript), T 4060-4061.
[2945] Defence Final Brief, para 802.

expressed a genuine wish (consent) to leave the area.[2946] This contention is supported by the evidence that the people boarding the buses paid for their bus tickets, the buses were not escorted by police, the Serbian forces patrolling the bus station did not interfere and that the people on the buses were allowed to retain their identification documents at the Montenegrin boarder.[2947]

779. With respect to the displacement of Kosovo Albanians on 4 April 1999, the Chamber finds that it cannot reasonably infer genuine consent from the fact Kosovo Albanians bought their own bus tickets to leave Kosovska Mitrovica/Mitrovicë or from the other factors advanced by the Defence. It is the view of the Chamber that the coercive atmosphere that prevailed in the Kosovska Mitrovica/Mitrovicë at the time deprives the consent expressed of any value. The Chamber cannot reasonably find that the Kosovo Albanians voluntarily left Kosovska Mitrovica/Mitrovicë to Montenegro. The only reasonable conclusion available on the evidence is that the threatening and intimidating acts committed by the Serbian forces in Kosovska Mitrovica/Mitrovicë were calculated to instil fear on the Kosovo Albanian population in Kosovska Mitrovica/Mitrovicë and make them leave the country. The Chamber therefore finds that the displacement of Kosovo Albanians to Montenegro was forceful and unlawful; there was no genuine choice in their displacement.

2. Zabare/Zhabar

(a) Experience of Mahmut Halimi

780. Mahmut Halimi was a Kosovo Albanian lawyer who lived in Kosovska Mitrovica/Mitrovicë town. He was well known for his opposition to the Milošević government.[2948] At about 0600 hours on 25 March 1999, Mahmut Halimi received a telephone call from a woman speaking Serbian who warned him that he should leave his home as soon as possible.[2949] At around 0630-0645 hours he left Kosovska Mitrovica/Mitrovicë town with his family to take shelter in the village of Zabare/Zhabar.[2950] As Mr Halimi was leaving he was called again by the same woman who asked him if he already had left his house because "they" were approaching his house. The witness believed that she meant the Serbian military and paramilitary forces who were in the area.[2951] The Chamber is satisfied that the cognisance of his opposition to the Serbian government, coupled with the presence of Serbian forces in the area and the warning telephone call instilled in the mind of Mahmut Halimi fear for the safety of his family and himself. As a result they left the area.

[2946] Defence Final Brief, para 792.
[2947] Defence Final Brief, para 795.
[2948] Mahmut Halimi, T 2898-2899.
[2949] Mahmut Halimi, Exhibit P499 (*Milutinović* transcript), T 4445, 4476; Mahmut Halimi, T 2898, 2943-2945.
[2950] Mahmut Halimi, Exhibit P499 (*Milutinović* transcript), T 4445; Mahmut Halimi, T 2900-2901.
[2951] Mahmut Halimi, Exhibit P499 (*Milutinović* transcript), T 4445-4446, 4476.

781. Over the course of the next two days, 26 and 27 March 1999, the witness and his family stayed at his brother's house in Zabare/Zhabar.[2952] On 28 March 1999, Mahmut Halimi was asked by two unarmed men, he knew to be members of the KLA, to leave for the mountains because the "security forces" were looking for him and by staying in the village he was putting his life and that of the villagers at risk.[2953] He left with these two men and two sons of his brother and went to the mountains about four kilometres away.[2954] Mahmut Halimi stayed in the mountains for about six days. He returned to his brother's house in Zabare/Zhabar and rejoined his family on or about 3 or 4 April 1999.[2955]

782. The house of Mahmut Halimi's brother was situated in Lower Zabare/Zhabar. The house had a commanding view over Suvi Do/Suhadoll and the new stadium of Zabare/Zhabar.[2956] At about 1000 hours on 14 April 1999, Serbian forces began approaching the new stadium.[2957] The Serbian forces had arrived in two APCs and began shooting with their machine guns. There were also Pragas shooting their weapons in the direction of the upper part of the village.[2958] The witness was not able to see the uniforms these forces were wearing.[2959] The Defence submitted that this attack was in response to a KLA terrorist attack that day in Šipolje/Shipol near the road linking Zabare/Zhabar to Tamnik/Tavnik and Šipolje/Shipol. The KLA terrorist attack was reported at 1700 hours on 14 April 1999 whereas the evidence before the Chamber, discussed above, indicates that the attack of the Serbian forces started much earlier at 1000 hours.[2960] The "terrorist attack" was said to be aimed at members of the police at Šipolje/Shipol bridge in Kosovska Mitrovica/Mitrovicë. During the attack two policemen were wounded.[2961] No further details were provided about the terrorist attack. While the Chamber accepts that the attack at the Šipolje/Shipol bridge described above may have occurred, in the view of the Chamber, this is of no relevance to its factual findings about events earlier that day. The Chamber notes that the attack on Tamnik/Tavnik and other areas of Kosovska Mitrovica/Mitrovicë, described below, were targeted at the general population of Kosovo Albanians, including women, children and the elderly, rather than at KLA members. The evidence does not suggest that Serbian forces made any attempt to distinguish between civilians and KLA members. On the contrary, eyewitness accounts deal with threats that if

[2952] Mahmut Halimi, Exhibit P499 (*Milutinović* transcript), T 4445, 4447; Exhibit D65; Mahmut Halimi, T 2913.
[2953] Mahmut Halimi, Exhibit P499 (*Milutinović* transcript), T 4447, 4493; Mahmut Halimi, T 2945-2946.
[2954] Mahmut Halimi, Exhibit P499 (*Milutinović* transcript), T 4447-4448.
[2955] Mahmut Halimi, Exhibit P499 (*Milutinović* transcript), T 4448.
[2956] Mahmut Halimi, Exhibit P499 (*Milutinović* transcript), T 4448.
[2957] Mahmut Halimi, Exhibit P499 (*Milutinović* transcript), T 4448-4449; Mahmut Halimi, Exhibit P500 (house of his brother marked on the map with number "1" and upper Zabare/Zhabar with a number "2"); Mahmut Halimi, Exhibit D65 (in this map, the witness marked his brother's house in Zabare/Zhabar with a no. 1).
[2958] Mahmut Halimi, Exhibit P499 (*Milutinović* transcript), T 4448-4449; Mahmut Halimi, T 2953.
[2959] Mahmut Halimi, Exhibit P499 (*Milutinović* transcript), T 4449.
[2960] Exhibit D302, p 4.
[2961] Exhibit D302, p 4.

the villagers did not comply with the instructions of the Serbian forces the forces would "kill all Albanians".[2962] The evidence contradicts the Defence submission that the attack of the Serbian forces earlier in the day of 14 April 1999 in Kosovska Mitrovica/Mitrovicë was directed against the KLA and was in response to a strong KLA presence.[2963]

783. As a result of the Serbian forces attack, Mahmut Halimi and his family and his brother and his family left Lower Zabare/Zhabar along the Ibar river and went to a house in Upper Zabare/Zhabar.[2964] From the house in Upper Zabare/Zhabar, Mahmut Halimi could see the entire area of Zabare/Zhabar along with parts of the villages of Mitrovica/Mitrovicë, Tamnik/Tavnik, Šipolje/Shipol and the road between Mitrovica/Mitrovice and Peć/Pejë.[2965] From approximately 1000 hours on the following day, 15 April 1999, Mahmut Halimi saw displaced persons from the neighbouring villages of Šipolje/Shipol, Suvi Do/Suhadoll, and the Tamnik/Tavnik neighbourhood in Kosovska Mitrovica/Mitrovicë town begin to gather in Lower Zabare/Zhabar.[2966] This was a result of Serbian forces entering these neighbouring villages and forcing the people to leave to Zabare/Zhabar.[2967] By about 1530-1600 hours there were approximately 35,000 displaced persons gathered in Zabare/Zhabar.[2968] Shortly after, at about 1600 hours, Mahmut Halimi saw the mass of displaced persons begin to leave the village in a convoy, in the direction of Šipolje/Shipol.[2969] The convoy used the two available roads that led from the crossroads at Lower Zhabar to the school in Šipolje/Shipol.[2970] From another road leading from the school in Šipolje/Shipol, cars, tractors and lorries joined the convoy.[2971] Along the road there were vehicles burning and shots were heard.[2972] The witness saw that Serbian soldiers, described as a paramilitary force, had taken up station in Lower Zabare/Zhabar about 40 metres from the main road. The witness determined they were paramilitary forces because of their uniforms and weaponry; they had beards, shaved heads, wore scarves and bandannas on their heads and they had sophisticated weapons which included

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[2962] Aferdita Hajrizi, Exhibit P774, p 4; Exhibit P776 (*Milutinović* transcript), T 4055, 4066.
[2963] Defence Final Brief, para 790.
[2964] Mahmut Halimi, Exhibit P499 (*Milutinović* transcript), T 4448, 4449.
[2965] Mahmut Halimi, Exhibit P499 (*Milutinović* transcript), T 4449-5450; Exhibit P500 (house of his brother marked on the map with number "1", upper Zabare/Zhabar with a number "2", number "3" marks Tamnik/Tavnik, number "4" marks Šipolje/Shipol and number "5" the road towards Peć); Exhibit D65 (the brother's house in Zabare/Zhabar is marked with the number "1").
[2966] Mahmut Halimi, Exhibit P499 (*Milutinović* transcript), T 4449-4450; Mahmut Halimi, T 2951, 2955.
[2967] Mahmut Halimi, Exhibit P499 (*Milutinović* transcript), T 4450.
[2968] Mahmut Halimi, Exhibit P499 (*Milutinović* transcript), T 4450-4451; Mahmut Halimi, T 2902, 2951.
[2969] Mahmut Halimi, Exhibit P499 (*Milutinović* transcript), T 4450, 4451; Mahmut Halimi, T 2903; Exhibit P500.
[2970] Mahmut Halimi, Exhibit P499 (*Milutinović* transcript), T 4450-4451; Mahmut Halimi, Exhibit P500 (number "3" marks Tamnik/Tavnik, number "4" marks Šipolje/Shipol and number "5" the road towards Peć/Pejë) Mahmut Halimi, T 2903, 2914, 2949; Mahmut Halimi, Exhibit D65, (the school is marked with a number "3").
[2971] Mahmut Halimi, Exhibit P499 (*Milutinović* transcript), T 4450-4451; Mahmut Halimi, Exhibit P500 (number "3" marks Tamnik/Tavnik, number "4" marks Šipolje/Shipol and number "5" the road towards Peć/Pejë) Mahmut Halimi, T 2903, 2914, 2949; Mahmut Halimi, Exhibit D65, (the school is marked with a number "3").
[2972] Mahmut Halimi, Exhibit P499 (*Milutinović* transcript), T 4452.

long barrel weapons which the witness described as sniper rifles with small magazines.[2973] The Chamber accepts that the description given by Mahmut Halimi is consistent with the typical dress and equipment of paramilitary forces.

784. Mahmut Halimi heard that as the convoy progressed displaced persons had been shot, including three inhabitants of Zabare/Zhabar. There is no direct evidence however about these killings. The next day, 16 April 1999, from his brothers house Mahmut Halimi saw that the convoy was being forced to continue along the Peć/Pejë main road by Serbian forces. The convoy then disappeared from his view in the direction of Peć/Pejë and police forces then began to return to Zabare/Zhabar.[2974] They began to burn houses and shoot.[2975] At this time, Mahmut Halimi saw some villagers and displaced persons who had stayed in Zabare/Zhabar, or sought refuge there, leave the area and head to the carpentry compound called Gaterat.[2976]

785. As the Serbian police began to enter the village again, Mahmut Halimi and his brother realised that the Serbian forces had closed the road out of Upper Zabare/Zhabar. They decided to leave the house where they had been staying in at Upper Zabare/Zhabar in three cars in the direction of Montenegro.[2977] They were stopped on the main road between Kosovska Mitrovica/Mitrovicë and Zubin Potok by Serbian soldiers. They were allowed to take some things from the car and then had to leave by foot. The cars were taken by the soldiers.[2978] Mahmut Halimi and the group of Kosovo Albanians with which he was travelling decided to seek refuge in the carpentry compound Gataret. They spent the night there.[2979] As they were walking back to the compound, the witness saw two lorries, and a military jeep with a machinegun, on the side of the road, and five or six soldiers. He recognised these vehicles as the same type of vehicles used by the paramilitary forces that were stationed in Lower Zabare/Zhabar on 15 April 1999. These forces, however, wore black bandannas, very dark uniforms, possibly black in colour, and medium to long beards. One of the paramilitaries wore a black shirt and carried two knives.[2980] These paramilitary soldiers were removing contents from houses that had been abandoned as the residents fled from Zabare/Zhabar.

[2973] Mahmut Halimi, Exhibit P499 (*Milutinović* transcript), T 4452-4453.
[2974] This convoy continued in the direction of Pec/Pejë, Mahmut Halimi, Exhibit P499 (*Milutinović* transcript), T 4453, 4454, 4456.
[2975] The evidence of the witness persuaded the Chamber that he was able to differentiate between the VJ and MUP. More importantly, the Chamber is satisfied that the witness could clearly distinguish between MUP forces, specifically, identifying the difference between paramilitaries, regular police units and local reservists, Mahmut Halimi, Exhibit P499 (*Milutinović* transcript), T 4453-4454; Mahmut Halimi, T 2952, 2956-2957.
[2976] Mahmut Halimi, Exhibit P499 (*Milutinović* transcript), T 4453-4454; Mahmut Halimi, T 2904.
[2977] They left in three cars along with his brother's family and his brother in law's family (Mahmut Halimi, Exhibit P499 (*Milutinović* transcript), T 4454-4455; Mahmut Halimi, T 2904).
[2978] Mahmut Halimi, Exhibit P499 (*Milutinović* transcript), T 4464; Mahmut Halimi, T 2958.
[2979] Mahmut Halimi, Exhibit P499 (*Milutinović* transcript), T 4454-4455, 4464; Mahmut Halimi, T 2904.
[2980] Mahmut Halimi, Exhibit P499 (*Milutinović* transcript), T 4455.

These contents were loaded onto lorries.[2981] Cars that had been left behind as residents fled were taken by the police.[2982]

786. After spending the night in the carpentry compound, the following day, 17 April 1999, sometime before 1200 hours, police, wearing dark blue camouflage uniforms with an insignia that had a white eagle and the words "MUP Serbia" on it and their ranks in yellow on their shoulders, arrived and shouted orders to the people taking refuge in the carpentry compound to leave. As ordered by the police, the displaced persons left Zabare/Zhabar in a convoy and headed in the direction of Peć/Pejë and then to Albania.[2983]

787. The convoy passed through the village of Šipolje/Shipol where Mahmut Halimi and his brother's son-in-law found two defective vehicles which they were able to fix. They used these to travel in a convoy to the border crossing with Albania.[2984] As the convoy travelled to Albania, VJ and Serbian police, including paramilitaries, were monitoring and observing them.[2985] From Mitrovica/Mitrovicë, upon leaving Šipolje/Shipol to join the Peć/Pejë road, the whole area was controlled by regular police units. On the way to Albania the convoy passed through several municipalities including Srbica/Skenderaj, Istok/Istog, Prizren and Đakovica/Gjakovë.[2986] At one point, on both sides of the road, there were Serbian special forces. They were wearing a dark shade of uniform that was predominantly blue with some black, they carried automatic weapons and wore balaclavas. They were observing the people in the convoy.[2987] At the entrance to Prizren another paramilitary unit was seen to be beating displaced persons at a checkpoint.[2988] Mahmut Halimi arrived in the convoy to Zhur/Zur at about 1900 hours on 17 April 1999, stayed there over night, and the next morning they reached the border.[2989] At the border crossing at Vrbnica/Verbnica (Morina), there were three boxes in which the Kosovo Albanians refugees in the convoy were made to throw their identification cards, passports, drivers licences and car registration plates. The police threatened to execute the refugees in the convoy if they did not hand over these documents.[2990] The

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[2981] Mahmut Halimi, Exhibit P499 (*Milutinović* transcript), T 4455.
[2982] Mahmut Halimi, Exhibit P499 (*Milutinović* transcript), T 4464; Mahmut Halimi, T 2958.
[2983] Mahmut Halimi, Exhibit P499 (*Milutinović* transcript), T 4456.
[2984] Mahmut Halimi, Exhibit P499 (*Milutinović* transcript), T 4457; Mahmut Halimi, T 2958-2959; Mahmut Halimi, Exhibit D65 (number "3" marks the village of Šipolje/Shipol).
[2985] From Kosovska Mitrovica/Mitrovicë to Peć/Pejë the witness also saw army forces on the left side of the road wearing older style VJ uniforms that were a grey-olive colour, Mahmut Halimi, T 2957. There was also police units in the area from Rudnik/Runik to Rakoš/Rakosh, on the road from Brabonjic to Lubovec and on the top of the hill in front of the village of Dubovec (Mahmut Halimi, T 2905; Exhibit P501 (map marked by witness to depict the route of the convoy).
[2986] Mahmut Halimi, Exhibit P499 (*Milutinović* transcript), T 4457; Mahmut Halimi,T 2958-2959; *See* Exhibit P501.
[2987] Mahmut Halimi, T 2905.
[2988] Mahmut Halimi, Exhibit P499 (*Milutinović* transcript), T 4491.
[2989] Mahmut Halimi, Exhibit P499 (*Milutinović* transcript), T 4457.
[2990] Based on this strong evidence, the Chamber does not accept the Defence argument (Defence Final Brief, para 797) that Kosovo Albanians were not stripped of their identity documents at the border on the basis that Mahmut Halili

refugees then crossed over the border into Albania. As discussed in more detail later in this Judgement, the Chamber is satisfied that this convoy of people was forced by Serbian police to leave the area of Zabare/Zhabar on or about 14 April 1999 and the following days and go to Albania.[2991]

788. Mahmut Halimi was able to return to Kosovska Mitrovica/Mitrovicë from Albania on 11 July 1999. He observed that all four mosques in Kosovska Mitrovica/Mitrovicë town had been destroyed since he left on 25 March 1999.[2992] He heard from people who had stayed in the town that Serbian forces had destroyed all four mosques.[2993] His house had been completely burned and he was told by people in the town that his house had been set on fire on 3 or 4 April 1999.[2994] Whilst the Chamber also heard the evidence of András Riedlmayer, discussed in further detail elsewhere in this Judgement, no finding could be made as to how the mosques were destroyed, by which forces, or whether the mosques were being used for military purpose.[2995]

(b) Experience of Sadije Sadiku

789. The Chamber also heard the evidence of Sadije Sadiku, a Kosovo Albanian woman from Zabare/Zhabar, who was aged 20 at the time of the events described below. On or about 13 April 1999 Serbian police began burning houses in one end of the village and forcing people out of their homes.[2996] Those who were forced out of their homes gathered in the courtyard of the Gaterat carpentry compound of the village which was guarded by the police.[2997] The witness and her family fled to the mountains for the night, however, when they returned to their home the next day (about 14 April 1999) at 0800 hours, police officers in Pinzaugers told the witness and her family at gunpoint to leave or they would be killed.[2998] The witness described the uniforms worn by the police both as blue camouflage and dark blue and black.[2999] Based on the Chamber's earlier findings, it is satisfied that the men described by the witness were members of the MUP.[3000]

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managed to retain his passport in his bag (Mahmut Halimi, Exhibit P499 (*Milutinović* transcript), T 4458-4459, 4484, 4490).

2991 *See* supra paras 1647-1648.

2992 Mahmut Halimi, Exhibit P499 (*Milutinović* transcript), T 4461; Mahmut Halimi, T 2907-2908.

2993 Mahmut Halimi, Exhibit P499 (*Milutinović* transcript), T 4461.

2994 Mahmut Halimi, T 2907-2908, 2960; Mahmut Halimi, Exhibit P499 (*Milutinović* transcript), T 4460.

2995 *See infra*, paras 1827-1829.

2996 The Chamber is satisfied that the evidence of Sadije Sadiku reliably reveals events she experienced; whether these events commenced on 13 or 14 April 1999 is a matter of little significance. Sadije Sadiku, Exhibit P502, para 11; Sadije Sadiku, T 2988.

2997 Sadije Sadiku, Exhibit P502, para 11; Sadije Sadiku, Exhibit P503 (*Milutinović* transcript), T 1892-1893.

2998 Sadije Sadiku, Exhibit P502, para 14; Sadije Sadiku, Exhibit P503 (*Milutinović* transcript), T 1918, 1920; Sadije Sadiku, T 2989.

2999 Sadije Sadiku, Exhibit P502, para 14; Sadije Sadiku, Exhibit P503 (*Milutinović* transcript), T 1920; Sadije Sadiku, Exhibit P504; Sadije Sadiku, Exhibit D66; Sadije Sadiku, T 2968.

3000 *See* supra, para 64.

790. As instructed by the police, Sadije Sadiku and her family joined the villagers who had already assembled in the carpentry courtyard the previous day. They were ordered into a column by the police and told to leave for Tirana in Albania.[3001] Sadije Sadiku and her family were among some 8,000 to 9,000 people that left Zabare/Zhabar that day in the convoy. They travelled to Albania as ordered by the police.[3002] Checkpoints, manned by both police and VJ, were located about every two kilometres along the route to the border.[3003] As they passed through the checkpoints they were told by police to go quickly and disappear from Kosovo to Albania.[3004] During the convoy, the displaced persons were not provided with any food or water; they drank water from puddles in the ground. They were in fear of the police who treated them "very badly" while the VJ observed more "proper behaviour".[3005] At the checkpoint in Šipolje/Shipol the police directed the convoy to Peć/Pejë. By 16 April 1999, the convoy had reached Gornja Klina/Klinë-e-Eperme. In Gornja Klina/Klinë-e-Eperme a police officer on a motorcycle, split the convoy and ordered one part of the convoy - approximately 2,000 people - to return to Kosovska Mitrovica/Mitrovicë - and the other part of the column – approximately 6,000 people, including Sadije Sadiku and her family – to continue to Peć/Pejë.[3006] The column that was ordered in the direction of Peć/Pejë continued and passed by the town of Srbica/Skenderaj, on or about the night of 16 or 17 April 1999, where they stopped overnight.[3007] At 0500 hours the next morning they continued towards the village of Zablace/Zaballaq and arrived in Zlokucane/Zllakuqan on or about 19 April 1999.[3008] After about an hour, the convoy of displaced people was told to return to the village of Zablace/Zaballaq. When they arrived, a policeman fired his automatic gun in the air and told them to find shelter in the ruins of shelled houses in the village.[3009] Police officers were positioned at the entrance of the village.[3010]

791. Sadije Sadiku and her family were forced to stay in Zablace/Zaballaq from about 19 April 1999 for about three weeks. There was not enough accommodation for the displaced persons and no food was provided to them. At all times the village was guarded by the police and they were not allowed to leave the houses. If they tried to leave the houses or enter the yard of the houses where they had found shelter, the police would shoot at them.[3011] One day, around 8 May 1999, Sadije Sadiku and her friends ventured two or three houses from where they were

[3001] Sadije Sadiku, Exhibit P502, paras 13-16; Sadije Sadiku, T 2970.
[3002] Sadije Sadiku, Exhibit P502, para 16.
[3003] Sadije Sadiku, Exhibit P502, para 17.
[3004] Sadije Sadiku, Exhibit P502, para 16.
[3005] Sadije Sadiku, Exhibit P502, paras 17, 19.
[3006] Sadije Sadiku, Exhibit P502, para 20.
[3007] Sadije Sadiku, Exhibit P502, para 21.
[3008] Sadije Sadiku, Exhibit P502, para 22.
[3009] Sadije Sadiku, Exhibit P502, para 23; Sadije Sadiku, T 2973.
[3010] Sadije Sadiku, Exhibit P502, para 23.
[3011] Sadije Sadiku, Exhibit P502, para 24.

staying to collect some potatoes.[3012] As they went Sadije Sadiku saw police positioned near the church in the village.[3013] On their way back to the house, the witness fell to the ground in pain. She then heard shooting.[3014] The witness lost consciousness for about two or three minutes and when she regained consciousness she realised she had an exit wound from a bullet under her right breast. She had been hit in the middle of the back on the left hand side.[3015] By this stage, Sadije Sadiku's friends had fled. She tried to crawl back to the house using her arms. As she began to move the shooting resumed. She screamed for help but because the sniper shooting was continuing no-one from the house could come to assist her.[3016] From where Sadije Sadiku was lying she saw smoke coming from the church where she had seen the police positioned. She could see seven police near the church.[3017] After about 30 minutes, even as the sniper shooting continued, the witness's two sisters, Lutfije and Fikrije Sadiku, reached her and helped her to safety.[3018] Sadije Sadiku was able to clearly recall the events and identify those firing as the police. In light of the documented evidence of police presence, including PJPs, in the area which was discussed earlier in this Judgement, and her eyewitness account, the Chamber accepts that Sadije Sadiku was shot by members of the Serbian police.[3019]

792. When Sadije Sadiku's sisters managed to get her into the house they wrapped her in a blanket and a doctor from Kosovska Mitrovica/Mitrovicë, who was among the displaced people, came and examined her. There was nothing he could have done because he had no instruments.[3020] The witness was then carried by six men to the village of Zahac/Zahaq, a few kilometres away. There a doctor closed her wound with sutures, without any anaesthetic.[3021] The witness and her sister Luftije Sadiku spent the next four days in Zahac/Zahaq until she was moved to the house of a young man in the same village. Sadije Sadiku was in great pain and no medication was available.[3022]

793. On the fifth day, Serbian police began to expel the villagers from Zahac/Zahaq.[3023] Sadije Sadiku, her sister, a handicapped woman, nine other women, six children and a 12 year old boy

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[3012] Sadije Sadiku, Exhibit P502, para 25.
[3013] Sadije Sadiku, Exhibit P502, para 28.
[3014] Sadije Sadiku, Exhibit P502, para 25; Sadije Sadiku, Exhibit P503 (*Milutinović* transcript), T 1900; Sadije Sadiku, T 2973.
[3015] Sadije Sadiku, Exhibit P502, para 26; Sadije Sadiku, Exhibit P503 (*Milutinović* transcript), T 1900.
[3016] Sadije Sadiku, Exhibit P502, para 27.
[3017] Sadije Sadiku, Exhibit P502, para 28; Sadije Sadiku, Exhibit P503 (*Milutinović* transcript), T 1928-1929, 1937, 1939; Sadije Sadiku, T 2973, 2998.
[3018] Sadije Sadiku, Exhibit P502, paras 27, 29; Sadije Sadiku, Exhibit P503 (*Milutinović* transcript), T 1901; Sadije Sadiku, T 2998.
[3019] Forces of the PJP were dispatched to Kosovska Mitrovica/Mitrovicë with weapons, including sniper rifles, Exhibit P1184; *see* also, Exhibit P1186; *see* supra para 766.
[3020] Sadije Sadiku, Exhibit P502, para 32.
[3021] Sadije Sadiku, Exhibit P502, para 32; Sadije Sadiku, T 2974.
[3022] Sadije Sadiku, Exhibit P502, para 33.

were put on a tractor and joined the convoy of other tractors and cars heading in the direction of Peć/Pejë. As the convoy approached the main road, it was shelled.[3024] The Chamber notes that the only force which had the armament to shell the convoy was the VJ, which was present in the area. The convoy continued and was stopped at every checkpoint on the way to the Albanian border, including in Peć/Pejë, Dečani/Deçan, Đakovica/Gjakovë, Prizren, and Zur/Zhur.[3025] At each checkpoint money was demanded from the displaced persons. They had to pay.[3026] Out of fear that she would be taken away, Sadije Sadiku never asked for medical assistance for her injuries and pretended to be handicapped by birth.[3027] The journey to the Albanian border lasted three days.[3028]

794. Sadije Sadiku, and the convoy in which she was travelling, reached the border on or about 12 May 1999. At the border, there were Serbian border police. They wore uniforms which Sadije Sadiku described as both dark blue and black in colour, in the Chambers finding she was describing the police camouflage uniforms.[3029] The border police demanded money from the people in the tractor and all their identification documents were seized and burnt.[3030] The people on the tractor had to pay money to cross the border. They were then allowed to cross over into Albania.[3031] When Sadije Sadiku arrived to Kukës in Albania, because of the severity of her injuries, she was taken by helicopter to a hospital in Tirana where she underwent two separate operations. After three months in hospital in Tirana she was taken by the ICRC to a hospital in Germany where she underwent five more operations and six months of treatment.[3032] At the time of her testimony Sadije Sadiku had undergone in total 12 operations; she had suffered paraplegia as a result of the injuries she had received and is confined to a wheelchair.[3033]

G. Priština/Prishtinë municipality

795. Priština/Prishtinë is located in the east of Kosovo and the main town in the municipality, also called Priština/Prishtinë, was the capital of the province of Kosovo. The population of the

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[3023] Sadije Sadiku, Exhibit P502, para 34; Sadije Sadiku, T 2975.
[3024] Sadije Sadiku, Exhibit P502, para 34.
[3025] Sadije Sadiku, Exhibit P502, para 36; Sadije Sadiku, Exhibit P503 (*Milutinović* transcript), T 1902; Sadije Sadiku, T 2975.
[3026] Sadije Sadiku, Exhibit P502, para 35.
[3027] Sadije Sadiku, Exhibit P503 (*Milutinović* transcript), T 1944-1945.
[3028] Sadije Sadiku, Exhibit P503 (*Milutinović* transcript), T 1945.
[3029] Sadije Sadiku, Exhibit P503 (*Milutinović* transcript), T 1903; *see supra*, paras 53-54.
[3030] Sadije Sadiku, Exhibit P502, para 36; Sadije Sadiku, Exhibit P503 (*Milutinović* transcript), T 1903.
[3031] Sadije Sadiku, Exhibit P502, para 38.
[3032] The Chamber notes the discrepancy in the dates of the medical reports, however, finds this in no way impacts upon the findings in regards to the injuries suffered by Sadije Sadiku (Sadije Sadiku, Exhibit P502, paras 39-41; Sadije Sadiku, Exhibit P503 (*Milutinović* transcript), T 1907-1909).
[3033] Sadije Sadiku, T 2976.

municipality of Priština/Prishtinë was around 200,000 and it was predominately Kosovo Albanian.[3034]

1. Events prior to NATO bombing

796. At the end of February 1999, the VJ began deploying large number of troops, tanks and APCs to the outskirts of the city of Priština/Prishtinë.[3035] During that same period, checkpoints were set up in the outlying areas of Priština/Prishtinë and a curfew was imposed at night that prevented people from circulating freely in and out of town after around 1830 hours.[3036] During March 1999, representatives of the international media and OSCE verifiers began leaving Priština/Prishtinë, and on 20 March 999, the last of the OSCE verification mission left Priština/Prishtinë.[3037]

797. Kosovo Albanian residents of Priština/Prishtinë saw an increase of police and VJ activity in the streets of Priština/Prishtinë prior to the commencement of NATO bombing.[3038] The SUP Priština and the MUP Staff for Kosovo was headquartered in Priština/Prishtinë, and Priština SUP was functioning throughout the time relevant to the Indictment, as was the Joint Command.[3039] Members of the 36th and 86th PJP Detachments were deployed, by Orders signed by the Accused, to give assistance *inter alia* to the Priština/Prishtinë SUP from January to early May 1999 to perform special security tasks.[3040] Members of the 37th PJP Detachment were also dispatched to Priština/Prishtinë on 23 February 1999 to perform special security tasks for an indefinite period of time.[3041] For the purpose of carrying out special security tasks, members of the 21st and 22nd PJP Detachment were deployed to the Priština/Prishtinë SUP in March 1999 for a period of up to 40 days.[3042] During March 1999, an anti-terrorist unit of the VJ 52nd Military Police Battalion and the 72nd Special Brigade of the VJ were stationed at the VJ *Kosovski Junaci* barracks in Priština/Prishtinë.[3043]

798. The presence of paramilitary soldiers particularly intimidated Kosovo Albanian residents and they avoided being on the streets after 1700 hours as they feared for their safety.[3044] No-one

[3034] Exhibit P983, p 9.
[3035] Antonio Russo, Exhibit P1213, pp 3-4.
[3036] Antonio Russo, Exhibit P1213, p 4.
[3037] Nazlie Bala, T 2325.
[3038] Nazlie Bala, Exhibit P420, para 7.
[3039] *See supra,* paras 47, 230, 236.
[3040] Exhibit P139; Exhibit P712; Exhibit P138; Exhibit P711.
[3041] Exhibit P1188.
[3042] Exhibit P137; Exhibit P714.
[3043] K73, Exhibit P330, para 35.
[3044] Adnan Merovci, Exhibit P416, para 45; Baton Haxhiu, T 6227; Nazlie Bala, Exhibit P420, para 7.

went to work and the city's services functioned irregularly.[3045] Some Albanian residents sent their families to the outskirts of Priština/Prishtinë as they feared retaliation from Serbian police and military forces.[3046] On 21 March 1999, Arianit Kelmendi, a civilian, was killed by unknown perpetrators in front of the café where he worked in Priština/Prishtinë.[3047] A sign was displayed at the hotel which read "Albanians and dogs are forbidden to enter Grand Hotel".[3048]

799. On 22 and 23 March 1999, the city was under blockade and all movement was difficult.[3049] The night prior to the NATO air-strikes, explosions in the city were heard, and cafes and shops were destroyed by unidentified perpetrators.[3050] All telephone lines were cut off and in the evening of 24 March 1999, the electricity was cut off in various neighbourhoods of Priština/Prishtinë.[3051]

800. In the morning of 24 March 1999, the VJ 52nd Military Police Battalion and the 72nd Special Brigade of the VJ were relocated to Badovac/Badoz, near Gračanica/Grashticë, for a week, after which they were sent to other locations close to Priština/Prishtinë city where they were housed in empty houses that had previously belonged to Kosovo Albanians who had been "cleaned out" of their houses by the MUP.[3052] On this same day, paramilitary forces, including a force known as "Arkan's men", were also present in Priština/Prishtinë.[3053] Arkan's base was in the Grand Hotel in Priština/Prishtinë.[3054] Adnan Merovci saw what he described as huge numbers of paramilitary soldiers in the streets of Priština/Prishtinë as early as 21 March 1999. He described the paramilitary soldiers as predominantly young local men, most of whom wore civilian clothes with either green military style jackets or black leather jackets. They carried weapons openly.[3055] The Chamber finds that these were paramilitary forces; it also finds that among these paramilitary forces there were local Serb volunteers who were not part of a particular unit. After some days the paramilitary soldiers became very active and began beating people on the streets, taking their cars, and setting on fire Albanian owned businesses.[3056] They were organised and co-ordinated by the "Staff of Arkan" at the Grand Hotel.[3057]

[3045] Adnan Merovci, Exhibit P416, para 45.
[3046] Nazlie Bala, T 2330.
[3047] Baton Haxhiu, T 6227.
[3048] Adnan Merovci, T 2213.
[3049] Ibrahim Rugova, Exhibit P286 (*Milošević* transcript), T 4222.
[3050] Ibrahim Rugova, Exhibit P285, p 9.
[3051] Ibrahim Rugova, Exhibit P285, p 9; Ibrahim Rugova, Exhibit P286 (*Milošević* transcript), T 4222; Nazlie Bala, Exhibit P420, p 2; Nazlie Bala, T 2331.
[3052] K73, Exhibit P330, para 36; K73, T 1518, 1520; Exhibit P338 (War log of a unit of the Military Police Battalion), p 1.
[3053] Baton Haxhiu, T 6226; Adnan Merovci, Exhibit P916, para 44; Adnan Merovci, T 2210-2211.
[3054] Baton Haxhiu, Exhibit P994 (*Milutinović* transcript), T 6092; Adnan Merovci, T 2211-2213.
[3055] Adnan Merovci, Exhibit P416, paras 44, 48.
[3056] Adnan Merovci, Exhibit P416, para 45; Adnan Merovci, Exhibit P417 (*Milutinović* transcript), T 8434-8435; Adnan Merovci, T 2211.
[3057] Adnan Merovci, Exhibit P417 (*Milutinović* transcript), T 8433-8434; Adnan Merovci, Exhibit P416, para 44.

801. It is the evidence of a former KLA member and scientific advisor at the Institute of Albanian Studies in Priština/Prishtinë, Emin Kabashi, that during March 1999, the KLA was active in Priština/Prishtinë. There were no headquarters but there were groups of people who carried out different duties.[3058] Priština/Prishtinë was in the Lab/Llap KLA operational zone.[3059] A KLA logistics unit was based in Priština/Prishtinë,[3060] which supplied the KLA with some needs including medicine and food, but no weapons.[3061] The logistic unit was primarily based at a medical clinic in Priština/Prishtinë.[3062] The Chamber accepts the evidence of Emin Kabashi in respect of the presence of KLA in Priština/Prishtinë as credible and reliable.

802. Defence witness Milutin Filipović also spoke of KLA units active in the zone around Priština/Prishtinë and, in some cases, in the city itself.[3063] However, for reasons discussed below, the Chamber is not able to accept Filipović as a reliable witness or a witness of truth except in those areas of his evidence that coincide with the accepted evidence of Emin Kabashi.

2. Events during and after the NATO bombing

803. NATO executed its first aerial bombing campaign on 24 March 1999 at around 2020 hours.[3064] At around the same time VJ units, located in the outskirts of city, started shelling some areas of Priština/Prishtinë.[3065] Many buildings on the outskirts of the city were burned or otherwise destroyed by Serbian forces. These buildings included the LDK office and the USA office in Priština/Prishtinë.[3066] In the early hours of 25 March 1999, sometime between 0100 or 0200 hours, the hillsides surrounding the Mantica neighbourhood of Priština/Prishtinë were the subject of a "massive shelling attack by the Serbs".[3067]

804. During the night of 24 March 1999, the premises of the Albanian newspaper "Koha Ditore" was ransacked: computers were stolen, the printing shop was burnt, and a Kosovo Albanian man that was guarding the building was killed. Baton Haxhiu, founder of the newspaper, testified that when he arrived at the premises of the newspaper on 25 March 1999, he saw traces of blood on the

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[3058] Emin Kabashi, Exhibit P425 (*Milutinović* transcript), T 2084.
[3059] Byslim Zyrapi, T2493; Exhibit P427, para 16; Exhibit 430.
[3060] Emin Kabashi, Exhibit P435 (*Milutinović* transcript), T 2086-2087. There was also a civil protection unit that helped to evacuate the population when there was fighting, Byslim Zyrapi, T2457.
[3061] Emin Kabashi, Exhibit P425 (*Milutinović* transcript), T 2086; Emin Kabashi, T 2389.
[3062] Emin Kabashi, Exhibit P425 (*Milutinović* transcript), T 2084; Emin Kabashi, T 2389.
[3063] Witness for the Defence Milutin Filipović identified five different brigades of the KLA in the KLA operational zone around Priština/Prishtinë. On his evidence, after the NATO bombings, the KLA intensified its attacks against civilians, and against VJ and MUP units in the area of Priština/Prishtinë and within Priština/Prishtinë town (Milutin Filipović, Exhibit D712, (*Milutinović* transcript), T 19164, 19165, 19218; Milutin Filipović, T 11544-11546).
[3064] Veton Surroi, T 291.
[3065] Antonio Russo, Exhibit P1213, p 4.
[3066] Ibrahim Rugova, Exhibit P285, pp 8-9; Ibrahim Rugova, Exhibit P286 (*Milošević* transcript), T 4222-4224; Antonio Russo, Exhibit P1213, p 5.
[3067] Antonio Russo, Exhibit P1213, p 5.

floor. He talked to policemen in front of the premises who told him that perpetrators were unknown.[3068] The office of the LDK Albanian political party in Priština/Prishtinë was also burnt by unidentified Serbian forces during the first night of the NATO bombing.[3069]

805. On 25 March 1999, the streets of Priština/Prishtinë were filled with Serbian police and military.[3070] Reinforcements of Serbian military, police and volunteers had arrived on 24 March 1999 and entered the city on 25 March 1999.[3071]

806. VJ troops and armed Serbian forces, described by an Italian journalist as "militia", entered the Mantica neighbourhood at around 0930 hours on 25 March 1999. The journalist, Antonio Russo, saw three of these "militia", who were armed with AK47s, alight from an APC and begin firing into a civilian car that had been stopped. One of the four occupants of the car, who had managed to get out, was stopped by a "militia" member who put a rifle into his mouth and shot him. The militia then put him back in the car with the other occupants. The APC then rammed the car into the wall of a nearby house and crushed the car and the occupants.[3072]

807. In the days following the initiation of the NATO bombing, Nazlie Bala, a human rights assistant for the KVM, observed from the roof of her five storey house located in the old town of Priština/Prishtinë events as they unfolded in Priština/Prishtinë. She could not see into the centre of city from her roof terrace, however, she could clearly see the streets in Dragodan, Vranjevc/Kodra-e-Trimave and Taslixhe, neighbourhoods located on hills surrounding the town.[3073] Her vision from her roof terrace was aided by night vision binoculars she had from the OSCE.[3074]

808. During the night of 24 March and the early morning of 25 March 1999, Nazlie Bala saw local Serbian civilians shooting in the air with automatic weapons and hand guns as they drove around parts of the city.[3075] On 26 March 1999, Nazlie Bala observed Serbian forces, comprising members of the MUP, VJ and civilians, destroying houses and shops belonging to Kosovo Albanians in the neighbourhoods of Dragodan, Vranjevc/Kodra-e-Trimav, Taslixhe and Kolovica.[3076] During the night of that same day, she heard explosions coming from those

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[3068] Baton Haxhiu, T 6228-6229.
[3069] Ibrahim Rugova, Exhibit P285, p 9; Ibrahim Rugova, Exhibit P286 (*Milošević* transcript), T 4222-4223; Adnan Merovci, Exhibit P416, para 46; Adnan Merovci, T 2212.
[3070] Veton Surroi, T 292; *see* also Ibrahim Rugova, Exhibit P286 (*Milošević* transcript), T 4224.
[3071] Ibrahim Rugova, Exhibit P285, p 9; Ibrahim Rugova, Exhibit P286 (*Milošević* transcript), T 4223-4224.
[3072] Antonio Russo, Exhibit P1213, p 5.
[3073] Nazlie Bala, T 2289-2333; Nazlie Bala, Exhibit P420, p 8.
[3074] Nazlie Bala, T 2289.
[3075] Nazlie Bala, T 2289-2333; Nazlie Bala, Exhibit P420, p 2.
[3076] Nazlie Bala, Exhibit P 420, p 3.

neighbourhoods and on one occasion saw two Serbian APCs entering the Dragodan neighbourhood and then saw two houses burning in that neigbourhood.[3077]

809. In the morning of 28 March 1999, Nazlie Bala heard shooting in the neighbourhood of Vranjevc/Kodra-e-Trimav. From her rooftop she saw fighting between the Serbian forces and the Hartica family who had been using their house as a school for Albanian children who did not attend the normal schools in Priština/Prishtinë.[3078] The Hartica family, who were armed resisted for about two hours until Serbian forces blew up their house with grenades.[3079] Later that day, at around 1400 hours, Nazlie Bala observed from her roof terrace Serbian forces and a tank on the hillside of Vranjevc/Kodra-e-Trimav firing rounds of artillery towards the hillside of Kolovica.[3080] The Serbian forces were shooting at unarmed Albanian civilians who were fleeing. She heard the shooting continuing all the day.[3081] Villagers from Vranjevc/Kodra-e-Trimav who passed by the house of Nazlie Bala said they were leaving Vranjevc/Kodra-e-Trimav because of the shelling. Hasbie Krasniqi told her that Serbian forces had killed Kosovo Albanians and looted and burnt homes in the area. Explosions and shooting continued throughout the evening.[3082]

810. The evidence of Nazlie Bala concerning the events she saw from the terrace and related matters, was directly challenged by Defence witness Milutin Filipović.[3083] For the reasons discussed later in this section, the Chamber is not able to accept the evidence of Filipović in these respects to be reliable or honest.[3084] The Chamber accepts the soundness of the description by Nazlie Bala of her sightings from her roof terrace and related evidence discussed above.

811. In the week following the start of the NATO bombing, Kosovo Albanians were not allowed to circulate freely within Priština/Prishtinë.[3085] The Chamber accepts that civilian residents in Priština/Prishtinë only left their homes to buy elementary supplies and would then return to their homes.[3086] Checkpoints had been set up in many parts of the city and on the roads leading into and out of Priština/Prishtinë. The checkpoints were manned by Serbian police, VJ and "Serb civilians" or paramilitary.[3087] These Serb civilians or paramilitary wore black uniforms with no patches, their

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[3077] Nazlie Bala, Exhibit P420, p 3; Exhibit D51, p 2.
[3078] Nazlie Bala, Exhibit P420, p 9; Nazlie Bala, T 2343-2344.
[3079] Nazlie Bala, Exhibit P420, p 9; Nazlie Bala, Exhibit D51, p 2; Nazlie Bala, T 2342-2344.
[3080] Nazlie Bala, Exhibit P 420, p 3; Nazlie Bala, T 2341-2344.
[3081] Nazlie Bala, Exhibit P420, p 9.
[3082] Nazlie Bala, Exhibit P 420, pp 3-4.
[3083] Milutin Filipović, T 11574-11575, 11579, 11654-11656, 11671; Milutin Filipović, Exhibit D712, (*Milutinović* transcript), T 19180-19181, 19243, 19247-19249.
[3084] *See supra,* paras 842-851.
[3085] Nazlie Bala, Exhibit P420, p 3.
[3086] Veton Surroi, T 294.
[3087] Nazlie Bala, Exhibit P420, p 3; Nazlie Bala, Exhibit D51, p 1; Nazlie Bala, T 2290, 2334.

faces were either painted or masked, and some wore scarves on their heads and arms.[3088] In order to cross checkpoints, Albanian civilians were forced to pay money to the Serbian forces manning the checkpoints, or to hand-over their motor vehicles.[3089] The Defence witness Muilutin Filipović testified that there were no checkpoints in Priština/Prishtinë at this time, a proposition which is contradicted by much evidence which the Chamber accepts. He also contended that whenever Serbian police or military forces carried out what he described as "security checks", they would do so for all and without regard to ethnicity.[3090] The Chamber does not accept this evidence of Milutin Filipović to be reliable or honest.[3091]

812. During the course of the NATO bombing on one occasion the post office in Priština/Prishtinë was bombed.[3092] The explosion also damaged the windows of a nearby shopping mall. In addition, an adjoining house was hit, killing the family members taking shelter in it.[3093] Throughout the NATO bombardment NATO planes also targeted the airport, the main police station, and the VJ barracks located just outside the city at different time periods.[3094]

3. Killing and threats to prominent Albanian personalities

813. Several witnesses spoke of reliable reports of the killing, beating or threatening of some prominent Albanian citizens in Priština/Prishtinë by Serbian forces. One such report involved Bajram Kelmendi, a renowned lawyer and founder of the "Kosova Council for the Protection of Human Rights in Kosova", and his two sons, Kastriot and Kushtrim Kelmendi, who were taken by the police from their home in Priština/Prishtinë in the days after the commencement of NATO bombing of 24 March 1999, and were later found dead near Priština/Prishtinë.[3095] Baton Haxhiu, journalist and founder of the Albanian newspaper "Koha Ditore", also testified that Bajram Kelmendi, and his sons, were killed between 24 and 25 March 1999, three days after Kelmendi had defended Baton Haxhiu in the municipal court of Priština/Prishtinë for publishing a KLA communiqué in his newspaper, "Koha Ditore".[3096] Baton Haxhiu contended that it was a matter of

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[3088] Nazlie Bala, Exhibit P420, para 9.
[3089] Nazlie Bala, Exhibit P420, p 3.
[3090] Milutin Filipović, T 11573-11574, 11578; Milutin Filipović, Exhibit D712, (*Milutinović* transcript), T 19178.
[3091] *See supra,* paras 842-851.
[3092] Exhibit D4 (photograph depicting the bombing of the post office and damage to a shopping mall in Priština/Prishtinë).
[3093] Veton Surroi, T 355-356; Veton Surroi, Exhibit D5 (photograph depicting destruction of buildings in Priština/Prishtinë); Milutin Filipović, T 11555.
[3094] Emin Kabashi, Exhibit P424, p 6; Emin Kabashi, Exhibit P425 (*Milutinović* transcript), T 2052; Emin Kabashi, T 2376, 2385; Exhibit D54 (Map of Priština/Prishtinë); Veton Surroi, T 355-356; *See* Exhibit D4 (photograph depicting the bombing of the post office and damage to a shopping mall in Priština/Prishtinë); Milutin Filipović, Exhibit D712 (*Milutinović* transcript), T 19170-19174; Milutin Filipović, T 11555-11556; Milutin Filipović, Exhibit D716 (Video depicting damaged buildings in Priština/Prishtinë).
[3095] Veton Surroi, T 292-293; Ibrahim Rugova, Exhibit P285, p 9; Adnan Merovci, Exhibit P416, para 46; Baton Haxhiu, Exhibit P994 (*Milutinović* transcript), T 6087; Baton Haxhiu, T 6237-6239..
[3096] Baton Haxhiu, Exhibit P994 (*Milutinović* transcript), T 6087; Baton Haxhiu, T 6237-6239.

common knowledge that the police and secret police had committed the killings and that an investigation undertaken by the Council for the Protection of Human Rights and Freedom in Serbia, led by Natasha Kandić, had confirmed this.[3097]

814. Baton Haxhiu also testified that Fehmi Agani, a colleague of Ibrahim Rugova, was killed at the end of April or beginning of May 1999.[3098] It was his evidence that Fehmi Agani was made to board a train travelling towards FYROM and then taken from the train to a police station and shot.[3099] Ibrahim Rugova also heard when he arrived in Italy on 6 May 1999 of Fehimi Agani's death at the hands of VJ or paramilitary soldiers.[3100] Veton Surroi also testified that another activist, Mr Hajrizi, was killed during the course of the first night of the NATO bombing.[3101] The Chamber accepts that Bajram Kelmendi, his two sons and Fehimi Agani and Mr Hajrizi were killed in this period.

815. Having heard reports of the murder of the above mentioned people, including his lawyer Bajram Kelmendi, and as a result of recommendations of some friends, on 24-25 March 1999 Haxhiu left his home and hid in different houses located in neighbourhoods within Priština/Prishtinë.[3102] Baton Haxhiu feared for his safety as he was a public figure who openly disclosed his views against the Serbian government in his newspaper articles.

816. Around noon on 31 March 1999 three or four armed and uniformed men from the Serbian forces broke into the house of Ibrahim Rugova, the president of the LDK, in the neighbourhood of Velania. The commander of these forces was dressed in a green camouflage uniform and had a red beret.[3103] Other evidence in this case confirms this to be a JSO uniform. The JSO was the special unit of the State Security Service of the MUP.[3104] Adnan Merovci, the personal secretary to Rugova who had been taking shelter with his family in Rugova's house, confirmed that with this commander there were altogether a combined number of about 20 VJ and MUP at the house, dressed in their respective uniforms.[3105] Ibrahim Rugova, Adnan Merovci, their families, and a German journalist who were there at the time, were held in Rugova's house for several hours.[3106] Adnan Merovci was beaten in Rugova's house by these police and army personnel for over half an

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[3097] Baton Haxhiu, T 6239.
[3098] Baton Haxhiu, T 6239-6240.
[3099] Baton Haxhiu, T 6239-6240.
[3100] Ibrahim Rugova, Exhibit P285, p 12; Ibrahim Rugova, Exhibit P286 (*Milošević* transcript), T 4255.
[3101] Veton Surroi, T 294.
[3102] Baton Haxhiu, T 6287-6288; Baton Haxhiu, Exhibit P994 (*Milutinović* transcript), T 6090, 6093.
[3103] Ibrahim Rugova, Exhibit 285, pp 9-10; Ibrahim Rugova, Exhibit P286 (*Milošević* transcript), T 4225- 4227.
[3104] *See supra,* paras 80-81, 85, 86.
[3105] Adnan Merovci, T 2219-2220; *See* Adnan Merovci, Exhibit P416, para 53.
[3106] Ibrahim Rugova, Exhibit 285, pp 9-10; Ibrahim Rugova, Exhibit P286 (*Milošević* transcript), T 4225- 4227; Adnan Merovci, T 2220-2221.

hour.[3107] Ibrahim Rugova and Adnan Merovci were placed under house arrest in Rugova's home in Priština/Prishtinë on 31 March 1999 and held there until 4 - 5 May 1999.[3108]

4. Forced Expulsion from homes in Priština/Prishtinë and refugee convoys

817. Even in the first week of NATO bombing Serbian forces comprising VJ, MUP and others, expelled Kosovo Albanians from their homes in the city of Priština/Prishtinë. Expulsions of Kosovo Albanians from Priština/Prishtinë continued in the weeks that followed. The expulsions in the following weeks were not, however, as massive as in the first week of the bombing.[3109] Paramilitary soldiers or local Serb volunteers were used on some occasions to assist in the forced expulsion of Kosovo Albanians from their homes.[3110]

(a) Dragodan and Vranjevc/Kodra-e-Trimav neigbourhoods

818. Dragodan is located between the neighbourhoods of Lakrishta and Lahja-e-Ymerajve in the western part of Priština/Prishtinë. The Kosovo Albanian inhabitants from Dragodan neighbourhood were among the first to be expelled from their homes.[3111]

819. As discussed above, Nazlie Bala saw attacks taking place in Dragodan on 26 March 1999.[3112] On 28 March 1999, four VJ soldiers and eight members of the "special police"[3113] broke into a house in Dragodan neighbourhood where Emin Kabashi, along with four of his family members, and about six other men, women and children, were taking refuge.[3114] The VJ soldiers wore camouflaged uniforms with VJ insignia on the left arm; they were not wearing masks.[3115] The VJ and MUP entered a room on the second floor where Emin Kabashi and the group of people were located. At gunpoint, Emin Kabashi was told "get out, go to Albanian,

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[3107] Adnan Mervoci, T 2220; Adnan Merovci, Exhibit P416, para 52.
[3108] Ibrahim Rugova, Exhibit P285, pp 9-12; Ibrahim Rugova, Exhibit P286 (*Milošević* transcript), T 4252-4255; Adnan Merovci, T 2221-2222.
[3109] Veton Surroi, T 299.
[3110] Adnan Merovci, Exhibit P417 (*Milutinović* transcript), T 8435-8436.
[3111] Ibrahim Rugova, Exhibit P286 (*Milošević* transcript), T 4224.
[3112] *See supra,* para 808.
[3113] The Special Police were the PJP, SAJ or JSO; each being a component of the MUP.
[3114] Emin Kabashi had already sent his family to Priština/Prishtinë after he received threatening telephone calls that day at 1500 hours in his home village of Kosovo Polje/Fushe Kosova. Following these calls, that night at 2145 hours, explosives were aimed at his house and his house was fired upon. When the gunfire had stopped Emin Kabashi heard people running and saw them driving away in a blue police jeep that had a machine gun mounted at the back (Emin Kabashi, Exhibit P424, p 2). Some of the police and the neighbours were wearing civilian clothes while others were wearing police uniforms (Emin Kabashi, Exhibit P425 (*Milutinović* transcript), T 2063; Emin Kabashi, T 2371). Although the credibility of the witness and his ability to identify forces or vehicles was challenged by Defence counsel in *Milutinović* because it was dark at the time of the attack, the Chamber accepts the witness' explanation of the description of the uniforms and his identification of the neighbours by their voices. It is further accepted by the Chamber that as a result of this attack and the threatening telephone calls, Emin Kabashi and the people he was with left the village (Emin Kabashi, Exhibit P424 p 2).

NATO will defend you there".[3116] Following this, the women were forced to handover their identity cards and one of the Serbian forces tore the head scarf off one of the ladies and threw it on the floor with all the identity cards. One woman had her identification card returned.[3117] The women were then taken outside of the house.[3118] The men were then forced to handover any money they had and after receiving some money one member of the Serbian forces said "that is what your life costs". The group of men were then taken out of the room. At the stairs Emin Kabashi saw other special police dressed in dark blue camouflage uniforms.[3119] Some of them had painted faces, others were wearing masks. The police were wearing bullet proof vests, baseball style peaked caps, boots up to their knees and knives on their waist. The police had automatic rifles, some had sniper rifles, which were longer with telescopic sights.[3120] The men were taken out of the house and in the Chamber's finding, following this the men, women and children were directed to go Vranjevc/Kodra-e-Trimav in Priština/Prishtinë by the police.[3121] Although the Defence contend that the description of these uniforms does not match any uniforms worn by the police[3122] it is clear to the Chamber from other evidence about uniforms that these men described as wearing the dark blue camouflage uniforms were from one of the police special units, ie the PJP.[3123] Moreover, this evidence is a further illustration of VJ and police special units participating in a joint operation in Priština/Prishtinë.

820. When Emin Kabashi and four of his family members arrived at Vranjevc/Kodra-e-Trimav they were taken in by Qamil Berisha and his family.[3124] The following day, on or about 30 March 1999, there were gunshots and explosions in the Vranjevc/Kodra-e-Trimav neigbourhood. People were killed.[3125] At about 0800 hours that day, Serbian police surrounded the Vranjevc/Kodra-e-Trimav neigbourhood. Emin Kabashi and the four members of his family who were with him were told by members of the special police to leave Qamil Berisha's family house. These Serbian police said to him "Get out, you asked for NATO, go to FYROM, or Albania.

[3115] Emin Kabashi, Exhibit P424, p 4; Emin Kabashi, Exhibit P425 (*Milutinović* transcript), T 2047-2048; Emin Kabashi, T 2374. The witness at one point said that the VJ wore blue camouflage uniforms; the Chamber is satisfied from other evidence that this was a mistake by the witness.

[3116] Emin Kabashi, Exhibit P424, p 3; Emin Kabashi, Exhibit P425 (*Milutinović* transcript), T 2374, 2377.

[3117] The Defence suggested that this was probably because only her identification was legitimate (Defence Final brief, para 807). The Chamber has heard no evidence to support this assertion and therefore does not accept the suggestion that the women's identification cards were taken because they were illegitimate. Emin Kabashi, Exhibit P425 (*Milutinović* transcript), T 2374.

[3118] Emin Kabashi, Exhibit P424, p 3; Emin Kabashi, Exhibit P425 (*Milutinović* transcript), T 2374.

[3119] Emin Kabashi, Exhibit P424, p 4; Emin Kabashi, Exhibit P425 (*Milutinović* transcript), T 2047, 2359.

[3120] Emin Kabashi, Exhibit P424, pp 3-4.

[3121] Emin Kabashi, Exhibit P424, p 4; Emin Kabashi, T 2360; Exhibit P426 (Map of Priština/Prishtinë; no. 2 marks the Vranjevc/Kodra-e-Trimav neighbourhood).

[3122] Defence Final Brief, para 809.

[3123] *See supra,* paras 64, 65; Emin Kabashi, Exhibit P424, p 4; Emin Kabashi, Exhibit P425 (*Milutinović* transcript), T 2047, 2049; Emin Kabashi, T 2359.

[3124] Emin Kabashi, Exhibit P424, p 4; Exhibit P426 (Map of Priština/Prishtinë; no. 2 marks the Vranjevc/Kodra-e-Trimav neighbourhood).

Anyone who does not leave we will catch and burn. This is Serbia".[3126] Emin Kabashi and some of his family went to another house belonging to Rexhep Ajazi, a few hundred metres away, where they slept that night. During the rest of that day and that night, the witness saw people being killed, heard gunshots, explosions and saw houses on fire. The next morning at 0800 hours, Emin Kabashi and his family were thrown out of Rexhep Ajazi's house by the police. The police had surrounded the entire neighbourhood of Vranjevc/Kodra-e-Trimav and they forced all the people out onto the streets. This was a Kosovo Albanian neighbourhood. In the street Emin Kabashi was asked for his money. The police considered the amount he produced was not enough. It was given back to him and the police threatened to search his wife and kill him if he was hiding more money. It appears this threat was not acted on. In time the entire group of people that had gathered in the street were told by the police to "go to Albania".[3127] They were directed "downtown" by the police and they moved off to the Vranjevc bridge.[3128] At the Vranjevc bridge, where a VJ tank was stationed, the column of people was divided into two. One group was ordered to go to the Islamic seminary, and the other group was ordered to go to the railway station.[3129] Police escorted people to the railway station. On the way to the railway station there was a police patrol that had a list of KLA activists. When stopped by this patrol Kabashi did not give his real name but gave another name; he was allowed to continue with a warning that if he did not leave immediately for Albania, he would be killed.[3130] Police snipers were positioned to observe the column of people marching towards the railway station. At one point a boy tried leaving the column and he was shot dead.[3131]

821. At the railway station police ordered the people to go to a large field that separates Dragodan neighbourhood from the station. From that location the witness could see that houses were burning in Dragodan neighbourhood. After a time police told the people to go to the other side of the station. Columns of large numbers of people could be seen coming to the station from the city. None of the people in these columns were Serb civilians. Police directed that the people waiting get rid of any metal objects they possessed. Then buses started arriving. The waiting people were loaded onto the buses and taken away.[3132]

822. Emin Kabashi managed to avoid going on the buses and stayed at the railway station for three days, hoping that his other family members, whom he had left before he went to Vrajvec,

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[3125] Emin Kabashi, Exhibit P424, p 4.
[3126] Emin Kabashi, Exhibit P424, p 4; Emin Kabashi, T 2360.
[3127] Emin Kabashi, Exhibit P424, p 4.
[3128] Emin Kabashi, T 2360.
[3129] Emin Kabashi, Exhibit P424, p 4; Emin Kabashi, Exhibit P425 (*Milutinović* transcript), T 2050; Emin Kabashi, T 2360, 2377.
[3130] Emin Kabashi, Exhibit P424, p 4; Emin Kabashi, Exhibit P425 (*Milutinović* transcript), T 2057-2058.
[3131] Emin Kabashi, Exhibit P424, p 5.
[3132] Emin Kabashi, Exhibit P424, p 5.

would arrive.[3133] Each day buses, and between five and 12 trains, left the station.[3134] Armed police forced people on to the trains, with such force and chaos that people crushed each other.[3135] The people expelled from Priština/Prishtinë were all Kosovo Albanians and a few Romas.[3136] On or about 1 April 1999, early in the morning Emin Kabashi, together with other people, was forced onto a train by police. The train went to the FYROM border at a town called Đeneral Janković/Han-i-Elezit. There, the people from the train were forced to walk to the border crossing and into FYROM.[3137] Police ordered them to walk in between the rails saying that the other areas were mined. Before crossing the border, Emin Kabashi once again managed to wait for his family in a "no mans land", called Blace, located between the borders.[3138] He saw trains and buses bringing in more refugees.[3139] The number of refugees who crossed into FYROM grew to approximately 25,000.[3140] Some of them were sick, and some had been beaten. Ymer Sfarqa, a boy who had been beaten by the police at Kosovo Polje/Fushe Kosovë railway station, died of his injuries in Blace/Bllacë.[3141] At 0700 on approximately 6 April 1999, the refugees in Blace were required to leave that area by the police. The Red Cross helped them to get on some buses which took these refugees from Blace to Albania. At 0845 hours on the same day, the buses left for Albania in a convoy of about 121 buses which travelled all night and arrived in Korca, Albania, at 0800 on the following day.[3142] Emin Kabashi travelled on one of these buses to Albania. He crossed the border. There was no evidence that Emin Kabashi was forced to hand over his identification documents.[3143] Nevertheless, based on the totality of the evidence, the Chamber is satisfied that Emin Kabashi was forcibly transferred and then deported to Albania.[3144]

(b) Kolevic-e-Re neighbourhood

823. On 28 March 1999, armed Serbian police and soldiers expelled Kosovo Albanians from their homes in Kolevic-e-Re, a neighbourhood of Priština/Prishtinë located in the outskirts of town.[3145] The police came to the house of K14 in Kolevic-e-Re, they were dressed in plain blue

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[3133] The Defence contend that this was a personal choice of Emin Kabashi (Defence Final Brief, para 810). While the Chamber accepts that the witness did wait as long as possible to leave because he was waiting for his family, he was finally forced to leave for the border of FYROM and was then taken in a convoy to Albania. Emin Kabashi, Exhibit P424, p 5; Emin Kabashi, T2381.
[3134] Emin Kabashi, Exhibit P424, p 5.
[3135] Emin Kabashi, Exhibit P424, p 5; Emin Kabashi, Exhibit P425 (*Milutinović* transcript), T 2053.
[3136] Emin Kabashi, Exhibit P424, p 6; Emin Kabashi, Exhibit P425 (*Milutinović* transcript), T 2053; Emin Kabashi, T 2362-2363.
[3137] Emin Kabashi, Exhibit P424, p 5; *See* also Richard Ciagalinski, T 5289.
[3138] Emin Kabashi, Exhibit P424, p 5.
[3139] Emin Kabashi, Exhibit P424, p 6; Emin Kabashi, T2363.
[3140] Richard Ciagalinski, T 5288-5289; Exhibit P840 (Photograph taken by Ciagalinski depicting refugees in a field).
[3141] Emin Kabashi, Exhibit P424, p 6; Emin Kabashi, T 2363.
[3142] The witness counted 121 buses that arrived to Korca, Emin Kabashi, Exhibit P424, p 6.
[3143] Defence Final Brief, para 813.
[3144] *See supra,* paras 1649-1650.
[3145] K14, Exhibit P1325, pp 2-3; K14, T 8992-8994; K14, Exhibit P1326 (*Milošević* transcript), T 1421-1422.

uniforms and each had a blue ribbon around the arm. The plain blue uniform is consistent with the uniforms worn by local police, both regular and reserve.[3146] They were wearing baseball caps and bullet proof jackets. The soldiers with them were wearing green camouflage uniforms.[3147] The police threatened the people in the house with their rifles and told them "Get out of here. Go to your brothers in Albania".[3148] The people in the house were forced to leave. In the street they saw crowds of other Kosovo Albanians, crying and screaming.[3149] A convoy of these people was formed and sent by the Serbian forces in the direction of Graštica/Grashticë outside Priština/Prishtinë.[3150] All the people in the convoy were Kosovo Albanians.[3151] The convoy was escorted by police and soldiers.[3152]

824. During the journey to Graštica/Grashticë, men in the convoy were beaten by the police. The police swore at the people in the convoy and told them to go to their Albanian brothers and to "ask NATO for help".[3153] There was shelling and shooting in the village of Lukare/Llukar which the convoy passed walking towards Grastica/Grashtice.[3154] The people in the convoy were able to stay in Grastica/Grashtice. There shelling and shooting could be heard from Laplje Selo/Fshati Llap and flames could be seen from the village of Kolic/Koliq.[3155] After some two to three weeks they set off to return to Priština/Prishtinë because it was no longer safe to stay in Graštica/Grashticë.[3156] Some were on foot, others had cars. There were Serbian forces standing along the road to Priština/Prishtinë.[3157] These were policemen in uniforms described as combined "light and dark blue" which corresponds with the description of a standard police camouflage uniform typically worn by local MUP.[3158] The others were soldiers in green uniforms. There were also other men among the Serbian forces, who were dressed in green trousers, had bandannas on their shaved heads and wore knives. Evidence considered elsewhere in this Judgement, indicates that such dress is consistent with some Serbian paramilitary units, but the evidence is not sufficient to enable a

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[3146] *See supra,* paras 53-55.
[3147] K14, Exhibit P1325, p 3.
[3148] K14, Exhibit P1325, p 3; K14, Exhibit P1326 (*Milošević* transcript), T 1421-1422; K14, Exhibit P1327 (*Milutinović* transcript), T 10981; K14, T 8993-8994, 9016.
[3149] K14, T 8994, 9015.
[3150] K14, Exhibit P1325, p 3; K14, T 8994-8995.
[3151] K14, Exhibit P1325, p 3; K14, T 8994.
[3152] K14, Exhibit P1327 (*Milutinović* transcript), T 10969-10970.
[3153] K14, Exhibit P1325, p 3; K14, Exhibit P1326 (*Milošević* transcript), T 1421-1422; K14, T 8993-8995, 9016.
[3154] K14, Exhibit P1325, p 3.
[3155] K14, Exhibit P1325, p 3; K14, Exhibit P1326 (*Milošević* transcript), T 1425.
[3156] K14, Exhibit P1325, p 3; K14, Exhibit P1326 (*Milošević* transcript), T 1424, 1425; K14, T 9022-9023.
[3157] K14, Exhibit P1325, p 3; K14, T 8996.
[3158] *See supra,* paras 53, 54.

positive finding about the identity of these troops.[3159] A number of displaced persons travelling to Priština/Prishtinë by car were stopped by police who beat them, and confiscated their cars.[3160]

(c) Kodra-e-Diellit neighbourhood

825. On 29 March 1999, Serbian forces which included local police, together with men identified by a witness as "paramilitaries", rounded up inhabitants in Kodra-e-Diellit, a neighbourhood in Priština/Prishtinë.[3161] Baton Haxhiu, a journalist, described how one of the men, in a green uniform, arrived at the house of a friend of Haxhiu in Kodra-e-Diellit. Haxhiu had been sheltering there for two days. The man ordered the inhabitants of the house to leave.[3162] As instructed, Haxhiu and the other inhabitants left the house. They were escorted by policemen. They assembled in a parking lot in the centre of the neighbourhood where a large group of people, who had also been expelled from their houses had already gathered.[3163] Approximately 20,000 people had assembled in the parking lot.[3164] Men also wearing green uniforms ordered the inhabitants assembled in the parking lot to leave for FYROM, or Albania if they could travel by car; those on foot were to go the Kosovo Polje/Fushe Kosovë railway station.[3165] Accordingly, Baton Haxhiu travelled to FYROM by car. He was in a convoy of vehicles. Checkpoints manned by police and VJ soldiers had been set up all over Kodra-e-Diellit and on the main road to FYROM. Serbian forces in military and police vehicles gave directions to the convoy of vehicles.[3166] At one checkpoint on the way to FYROM, police and VJ demanded he hand over money; Baxton Haxhiu gave them money.[3167] By the time the convoy of vehicles reached the border with FYROM the convoy extended more than 15 kilometres. Haxhiu noted that this convoy was comprised of Kosovo Albanians from Vučitrn/Vushtrii, Košovska Mitrovica/Mitrovica, Priština/Prishtinë and other places.[3168] The Chamber accepts that Baton Haxhiu and others in the convoy were forced to leave Priština/Prishtinë and go to FYROM, especially as he was escorted to the border by Serbian forces. The Chamber does not accept the contention that he was not forced to leave because there is no evidence that he was forced to hand over his identification document.

3159 *See supra,* paras 85, 202, 207, 211, 215; K14, T 8996.
3160 K14, Exhibit P1325, p 3; K14, T 8996.
3161 The police wore dark blue uniforms. The men in green uniforms were identified as paramilitaries, because of the colour of their uniforms and that they wore masks and because of their poor physique, being described as generally "fat bellied" (Baton Haxhiu, T 6231-6232; Baton Haxhiu, Exhibit P994 (*Milutinović* transcript), T 6091-6092, 6094). The description of these men is consistent with paramilitary forces or with reservists. The description is not sufficient for certain identification.
3162 Baton Haxhiu, T 6230.
3163 Baton Haxhiu, T 6241-6242; Baton Haxhiu, Exhibit P995 (map of Priština/Prishtinë). Baton Haxhiu marked with a no. 7 the location of the parking lot in Kodra-e-Diellit.
3164 Baton Haxhiu, T 6243.
3165 Baton Haxhiu, T 6241-6243; Baton Haxhiu, Exhibit P995 (map of Priština/Prishtinë).
3166 Baton Haxhiu, T 6243-6244; Baton Haxhiu, Exhibit P994 (*Milutinović* transcript), T 6091.
3167 Baton Haxhiu, T 6243-6244.
3168 Baton Haxhiu, Exhibit P994 (*Milutinović* transcript), T 6092-6093.

(d) The old town and other parts of Priština/Prishtinë

826. Nazlie Bala described that, on 29 March 1999, a VJ officer accompanied by another man, whom she described as a "Roma", came to her house and other houses located in the old part of Priština/Prishtinë city. Both the VJ officer and the Roma were armed. At the time over one hundred persons were taking refuge in Bala's house. The VJ officer said that those in the house had "five minutes to leave".[3169] A back up team of Serbian forces, composed of men wearing military and police uniforms, and also some in civilian clothes, followed. They checked whether the inhabitants had left their homes as instructed. A 70 year old man and his wife, who had refused to leave their house, were severely beaten by members of the "back-up" team. Following the beating, the elderly couple left their home as ordered.[3170]

827. Nazlie Bala and the others who were taking shelter in her house left as ordered. Outside they were directed to a convoy of other Kosovo Albanians who had also been forced out of homes. The convoy comprised of thousands Kosovo Albanians who had been gathered together from different neighbourhoods around the city.[3171] MUP and VJ forces escorted the convoy to a main checkpoint in the centre of the city which was manned by men in black uniforms with eagle patches.[3172] All persons expelled from houses in town arrived at this main checkpoint and were then directed by Serbian MUP and VJ to the railway station.[3173] Nazlie Bala recalled police and army members pointing their weapons at the convoy, as the people walked to the railway station.[3174] Serb civilians also threw items at the convoy from their balconies while they walked by and shouted at the Serbian forces to "kill them all".[3175] On the way to the railway station, the convoy passed tents with the Yugoslav flag and flags with skull and crossbones.[3176] Kosovo Albanian men who were walking in the convoy were separated by the police and army and robbed of their money.[3177]

828. At the Dragodan hill railway station the convoy was surrounded by armed police wearing blue camouflaged uniforms. These were local policemen.[3178] The police were aided by Serb civilians. The Kosovo Albanians were then forced onto a passenger train that was under a guard of armed police, army and Serb civilians. The train was so crowded that people could not move.

[3169] Nazlie Bala, Exhibit P420, p 4; Nazlie Bala, T 2293-2294.
[3170] Nazlie Bala, Exhibit P420, p 4; Nazlie Bala, T 2293.
[3171] Nazlie Bala, T 2299-2294; Nazlie Bala, Exhibit P420, p 4.
[3172] The uniform described is consistent with that usually worn by the paramilitary unit known as Šešelj's White Eagles, *see supra,* para 215; Nazlie Bala, T 2299-2294, 2337; Nazlie Bala, Exhibit P420, p 4.
[3173] Nazlie Bala, T 2337, 2295.
[3174] Nazlie Bala, Exhibit D51, p 2.
[3175] Nazlie Bala, T 2295.
[3176] Nazlie Bala, Exhibit P420, p 4; Nazlie Bala, Exhibit D51, p 2.
[3177] Nazlie Bala, Exhibit P420, p 4.
[3178] Nazlie Bala, Exhibit P420, p 4; Nazlie Bala, T 2295

Children were placed in the luggage racks as there was no room for adults to hold their children.[3179] The train departed to Kosovo Polje/Fushë Kosovë. Just before arriving to Kosovo Polje/Fushë Kosovë, three or four bodies of people who had been burned could be seen on the streets. Serbian forces guarding the train shouted nationalistic insults at the Albanians.[3180] The train stopped at Kosovo Polje/Fushë Kosovë for about one hour during which time armed Serbian police, military and Serbian civilians surrounded the train and would not allow the windows of the train to be opened. They also shouted threats at the children to be quiet or they would be shot.[3181] The train then moved on and reached the border town of Đeneral Janković/Han-i-Elezit that same day.[3182] There the passengers were ordered to disembark and to walk down the train tracks towards the border by armed Serbian police and military forces.[3183] Men were separated from the column of refugees and forced to give valuables and identification documents to the police and military that were guarding them.[3184] While the Defence contends that there was no evidence that Nazali Bala was forced to hand over her identification documents,[3185] the witness explained that she and those with her did not have identification documents with them at the time they were forced to leave for the border.[3186] Moreover, given the large number of people being pushed over the border she further explained that it was impossible to check all identification cards. Only some people were selected from the convoy, with their families, and taken aside and their possessions, including identifications, were taken and they were beaten.[3187] The Chamber cannot attach significance, in these circumstances, to any failure by Serbian forces at the border to demand the identification documents of Nazlie Bala and those with her. In the Chamber's finding they were forced to cross the border to FYROM. Later that evening of 29 March 1999, the passengers arrived at large grain yard in a location identified as "Blace". This was neutral territory between the borders of Kosovo and FYROM. In Blace, refugees had been waiting for a week to cross the border to FYROM.[3188] The following day, Nazlie Bala, with many others, was taken on a bus across the border to FYROM.[3189]

[3179] Nazlie Bala, Exhibit P420, p 4; Nazlie Bala, T 2296.
[3180] Nazlie Bala, Exhibit P420, pp 4-5, Nazlie Bala, T 2296-2298, 2346.
[3181] Nazlie Bala, Exhibit P420, p 5; Nazlie Bala, Exhibit D51, p 3, Nazlie Bala, T 2298.
[3182] Nazlie Bala, T 2298-2299; Nazlie Bala, Exhibit P420, p 5.
[3183] Nazlie Bala, Exhibit P420, p 5; Nazlie Bala, Exhibit D51, p 3; Nazlie Bala, T 2299-2300.
[3184] Nazlie Bala, Exhibit P420, p 5.
[3185] Defence Final Brief, para 813.
[3186] Nazlie Bala, T 2344.
[3187] Nazlie Bala, T 2344-2345.
[3188] Nazlie Bala, Exhibit P420, p 8; Nazlie Bala, T 2300.
[3189] Nazlie Bala, Exhibit P420, p 8.

(e) Velania neighbourhood

829. In the morning of 31 March 1999, police and VJ forces began expelling Kosovo Albanian inhabitants from Velania, a neighbourhood located in the eastern part of Priština/Prishtinë.[3190] An Italian journalist, Antonio Russo, witnessed a shelling of the area which preceded the arrival in the neighbourhood of VJ and MUP forces on foot. The people were instructed to leave their homes. Accordingly, approximately 400 Kosovo Albanians did so. They were instructed to gather near the Park Hotel.[3191] Antonio Russo joined these people. He observed MUP forces wearing the same uniforms as the VJ but with a badge, "bearing 4-5 rocket propelled grenades on the back".[3192] Based on the description of the uniforms the Chamber accepts that these forces included members of the PJP.[3193] These forces were expelling inhabitants from nearby houses and instructing them to join the crowd of people that had gathered near the Park Hotel. A green jeep with Cyrillic "Militia" markings and an APC camouflaged vehicle with VJ troops in green camouflage uniforms were at the rear of the crowd which swelled to approximately 2000 people. These Serbian forces moved the crowds *en masse* down the main street from the Park Hotel, past the police station, to the railway station.[3194]

830. On the way to the railway station, all crossroads and road junctions had been blocked off; there were armed groups of police, military personnel and occasionally armed civilians guarding the route to keep the convoy of Albanian people on course to the railway station. At the junction with the road from Valjiana, another group of Kosovo Albanians was directed into the main road and merged with the convoy.[3195] During the march to the railway station, the police continued shouting "Raus" in German and "Mursh" in Serbian to keep the convoy moving. The convoy of people arrived at the railway station by 1500 hours on 31 March 1999. Many others had already been gathered there.[3196]

831. The crowd of Kosovo Albanians was forced to remain in the square adjacent to the railway station, without shelter, throughout the night. They were guarded by armed men described as "Serbian militia". From there, houses could be observed burning in the Dardania neighbourhood near the railway station. Throughout that night, explosions from NATO bombings could be seen. A van driven by militia men took women from the crowd. By the following morning, 1 April 1999,

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[3190] Ibrahim Rugova, Exhibit P285, p 9; Ibrahim Rugova, Exhibit P286 (*Milošević* transcript), T 4224; Adnan Merovci, Exhibit P417 (*Milutinović* transcript), T 8441; Antonio Russo, Exhibit P1213, p 5.
[3191] Antonio Russo, Exhibit P1213, p 5.
[3192] Antonio Russo, Exhibit P1213, p 6.
[3193] *See supra,* paras 64, 65, 162.
[3194] Antonio Russo, Exhibit P1213, p 6.
[3195] Antonio Russo, Exhibit P1213, p 6.
[3196] Antonio Russo, Exhibit P1213, p 7.

a train had arrived. There were by then approximately 7,600 refugees to board the train. Train company staff were paid money by refugees so that two additional carriages were added to the train to accommodate the number of people needing to get on board the train. Once loaded, the train travelled first to Kosovo Polje/Fushë Kosovë and later that day to Blace in FYROM, in the border zone between Serbia and FYROM, where it appears the people were unloaded from the train and then crossed over the border into FYROM.[3197]

5. Sexual Assault

832. The Chamber has heard evidence about two incidents of alleged sexual assault in Priština/Prishtinë. Sometime in April 1999, a witness described that she saw a Kosovo Albanian girl, who was travelling with other displaced persons in a convoy from Graštica/Grashticë in the Priština/Prishtinë municipality to the town of Priština/Prishtinë, taken off a tractor in Lukare/Llukar by two men.[3198] One of the men was carrying knives and was dressed in a black sleeveless shirt and green camouflage pants. He had a shaved head tied with a scarf and three earrings in one ear. The other man, identified as a policeman, wore a blue camouflage uniform with a blue ribbon on his sleeve.[3199] The man with the shaved head took the Kosovo Albanian girl into the woods, while the policeman stood guard. When the man with the shaved head came out, the policeman went into the woods.[3200] The girl was heard from the convoy to be screaming and crying.[3201] After about half an hour the girl was brought back to the convoy. She was flushed from crying. She was barefoot, wrapped in a blanket and appeared to be naked.[3202] She had been clothed when taken to the wood. There is no direct evidence as to the events in the wood, nor is there direct evidence concerning what happened to another woman who was also seen to be taken from this convoy.[3203] In the absence of further evidence, the Chamber is unable to make a finding in this instance that this woman was subjected to sexual assault.[3204]

833. The second alleged incident of sexual assault is related to events that began on 20 May 1999 in Kolevic-e-Re, a neighbourhood located in the outskirts of Priština/Prishtinë town. On this day, six Serbian men went to a house in the neighbourhood; some of the men wore the blue camouflage uniform of the police and each had a blue ribbon on the shoulder. The others wore green camouflage uniforms which is consistent with the uniforms of the PJP of the MUP or the VJ. Some

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[3197] Antonio Russo, Exhibit P1213, p 7.
[3198] K14, Exhibit P1326 (*Milošević* transcript), T 1426-1427.
[3199] K14, Exhibit P1325, pp 3-4; K14, Exhibit P1326 (*Milošević* transcript), T 1426; K14, T 8997-8998, 9024-9026.
[3200] K14, Exhibit P1325, p 4; K14, T 9024-9026.
[3201] K14, Exhibit P1325, p 3; K14, T 8997.
[3202] K14, Exhibit P1325, pp 3-4; K14, T 8997-8998.
[3203] K14, Exhibit P1325, p 4.
[3204] *See infra*, para 1792.

of these men had numbers on their uniforms above their left chests, and had camouflage caps on their shoulders under their epaulets.[3205] They gave the family in the house, green cards to fill out, and told them that they would come the next day to take them to Hotel Bozhur to get their papers stamped.[3206] The Defence contested the witness's ability to identify and distinguish between the different types of uniforms of the VJ and MUP.[3207] During this case the witness was unable to identify the same uniforms that had previously been identified in the *Milošević* case, however, when this inconsistency was suggested, the witness was able to confirm that both VJ and MUP were present and she described the police uniforms again.[3208] The Chamber is therefore satisfied with the witness's recollection of the uniforms and accepts as reliable the description given of the police uniforms. These divergences in the evidence are explainable, in the Chamber's view, in light of the traumatic nature of the events, the passage of ten years since the events and seven years since her testimony in the *Milošević* case.[3209]

834. On the morning of 21 May 1999, two of the men in blue police uniforms came back to the same house. One of them was referred to by the other as Novica.[3210] They were armed with automatic guns.[3211] This time, they brought a "Roma" with them who had been a road sweeper living nearby.[3212] On that day, the Roma was dressed in a police blue camouflage uniform.[3213] All three men spoke Serbian; the one called Novica and the Roma spoke a little Albanian.[3214] The men forcefully took two girls, sisters, to a red Ascona car with no registration plate, parked in front of the house. They threw one of the girls on the ground, and forced the other onto the back seat of the car with Novica on her right side.[3215] The girl was crying and Novica hit her hip with the butt of his gun, and slapped her face.[3216] Novica then grabbed her head, turned it towards him and bit and sucked on her neck.[3217] He also sprayed clear liquid resembling a perfume all over her face and

[3205] K14, Exhibit P1325, p 4; K14, Exhibit P1327 (*Milutinović* transcript), T 10983; K14, T 8998-8999, 9004, 9027-9028.
[3206] K14, Exhibit P1325, p 4; K14, Exhibit P1326 (*Milošević* transcript), T 1429; K14, T 9028-9029.
[3207] Defence Final Brief, para 815; K14, T 9004, 9005.
[3208] K14, T 9005.
[3209] The Chamber has taken into account the variations in the evidence of the witness concerning her relative in evaluating the credibility of the witness and is satisfied that it does not affect the reliability of her evidence in regards to the sexual assaults that took place in the convoy (Defence Final Brief, paras 817-818).
[3210] K14, Exhibit P1325, p 4; K14, Exhibit P1326 (*Milošević* transcript), T 1428; K14, T 9000.
[3211] K14, T 9031.
[3212] K14, Exhibit P1325, p 4; K14, Exhibit P1327 (*Milutinović* transcript), T 10994; K14, T 8999, 9029.
[3213] K14, Exhibit P1325, p 4; K14, Exhibit P1327 (*Milutinović* transcript), T 10983, 10994; K14, T 9030.
[3214] K14, Exhibit P1325, pp 4, 6; K14, Exhibit P1327 (*Milutinović* transcript), T 10984-10985, 10994; K14, T 9029, 9031, 9036.
[3215] K14, Exhibit P1325, p 5; K14, Exhibit P1326 (*Milošević* transcript), T 1429; K14, Exhibit P1327 (*Milutinović* transcript), T 10985-10986; K14, T 9000, 9032-9034.
[3216] K14, Exhibit P1325, p 5; K14, Exhibit P1326 (*Milošević* transcript), T 1429; K14, Exhibit P1327 (*Milutinović* transcript), T 10985-10986; K14, T 9001-9002, 9034.
[3217] K14, Exhibit P1325, p 5; K14, T 9034.

neck. The girl was very scared but the spray caused her to become more calm.[3218] The girl's sister was allowed to return to the house before the car left with the girl in the back seat.[3219]

835. The car arrived at the Bozhur Hotel where there were many Kosovo Albanians forming a queue. The girl was not allowed to join them, and was taken to a room on the second floor through the basement of the hotel. Novica went inside the room with her and he locked the door of the room. The Roma remained in the basement and the other policeman stayed outside the room.[3220] Novica ripped the girl's clothes off and made her lie naked on the bed. He then took his clothes off.[3221] He started touching and kissing her body and told her that she would not get pregnant. When the girl refused him, he slapped her. Novica put his penis inside the girl, and this lasted for a while. When he got off, the girl was bleeding and was in a great pain.[3222] When Novica opened the bedroom door, the other policeman tried to come in. The girl begged Novica not to let the other policeman do the same thing to her. Novica asked her if she would promise to come out with him on Monday and bring her sister for his friend. The girl agreed out of fear.[3223]

836. Apparently after the girl dressed, Novica took the witness by her arm and walked her out of the room, helped by the other policeman because she could not walk. The Roma was still in the basement and Novica gave him some money. The Roma told the girl to stop crying if she wanted to go home because other Kosovo Albanians would see her. He then put a pair of sunglasses on her to cover her eyes.[3224] In the car on the way back to the house, Novica continued to kiss the girl and kept reminding her of their promise.[3225] The whole incident lasted approximately two hours.[3226]

837. On the same day, the girl told a friend what had happened. Her friend started crying and told the girl that she had also been raped by four men in a civilian house where she had been detained for two days.[3227]

838. On 22 May 1999, the Roma came to tell the girl not to worry about becoming pregnant and that she could stay at his house if she was frightened. On 22 and 23 May 1999, policemen drove by the girl's house several times and honked.[3228] The girl was afraid that she and her sister would be raped, and told her uncle that it would not be safe for girls in the house to stay there. The girl and

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[3218] K14, Exhibit P1325, p 5; K14, T 9000, 9034-9035.
[3219] K14, Exhibit P1325, p 5.
[3220] K14, Exhibit P1325, p 5; K14, Exhibit P1326 (*Milošević* transcript), T 1429; K14, Exhibit P1327 (*Milutinović* transcript), T 10987-10988; K14, T 9000-9001.
[3221] K14, Exhibit P1325, p 5; K 14, Exhibit P1326 (*Milošević* transcript), T 1429; K14, T 9000-9001.
[3222] K14, Exhibit P1325, pp 5-6; K14, Exhibit P1326 (*Milošević* transcript), T 1429; K14, T 9001.
[3223] K14, Exhibit P1325, p 6; K14, Exhibit P1327 (*Milutinović* transcript), T 10989; K14, T 9001, 9036-9037.
[3224] K14, Exhibit P1325, p 6.
[3225] K14, Exhibit P1325, p 6; K14, Exhibit P1326 (*Milošević* transcript), T 1430.
[3226] K14, Exhibit P1326 (*Milošević* transcript), T 1429.
[3227] K14, Exhibit P1325, pp 6-7; *See inra,* para 1792.

her sister decided to flee to FYROM; they left in the early morning on 24 May 1999 and, with her aunt and her aunt's family, took the next train to FYROM.[3229] At Blace, on the border of FYROM, the witness saw a lot of Serbian police. Small groups of people were being allowed to cross into FYROM. They spent the night at the border and then continued walking on foot.[3230] When the witness and her family arrived to a refugee camp in FYROM she spoke with a representative from the ICTY. She also reported the rape to the FYROM authorities and she was given medical assistance.[3231] Authorities in Serbia were not ever notified of the rape.[3232] While the Chamber accepts that this girl was sexually assaulted, as will be discussed in more detail later in this Judgement, no finding in respects of the count of sexual assault as persecution could be established on the evidence.[3233]

6. Looting

839. During the NATO bombing campaign, in Priština/Prishtinë houses belonging to Kosovo Albanians were looted of valuables by the police.[3234] By contrast, Serb houses that had orthodox icons on the windows were left intact.[3235] Once Albanians homes were vacated by the residents who had been forced to leave, VJ and MUP would put up signs indicating that they were "MUP apartments". There were also cases in which Albanians, who had been forced to leave their homes, put up similar signs in order to prevent their homes from being looted in their absence.[3236]

840. In June 1999, when Serbian forces withdrew from Kosovo, VJ troops and police left Priština/Prishtinë in convoys to Serbia. The vehicles they used were laden with looted goods such as refrigerators and television sets.[3237]

7. Villages in Priština/Prishtinë municipality

841. It is alleged in the Indictment that from or about 24 March 1999, and continuing through until the end of May 1999, forces of the FRY and Serbia entered villages in Priština/Prishtinë municipality where they beat and killed Kosovo Albanians, robbed them of their money, looted their property and burned their homes. It is also alleged that many villagers were taken by truck to the town of Glogovac/Gllogoc in the municipaliy of Lipljan/Lipjan and from there by train across

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[3228] K14, Exhibit P1325, p 7.
[3229] K14, Exhibit P1325, p 7; K14, Exhibit P1326 (*Milošević* transcript), T 1430; K14, Exhibit P1327 (*Milutinović* transcript), T 10989-1991; K14, T 9002-9003, 9038-9039.
[3230] K14, Exhibit P1325, p 7; K14, Exhibit P1327 (*Milutinović* transcript), T 9003.
[3231] K14, T 9040-9043.
[3232] K14, T 9042.
[3233] *See infra,* paras 1791, 1796, 1797.
[3234] Veton Surroi, T 298.
[3235] Veton Surroi, T 298.
[3236] Adnan Merovci, T 2237-2238.

the FYROM border. It is alleged that other villagers made their way to the town of Uroševac/Ferizaj, and were then ordered to take a train to Đeneral Janković/Hani-i-Elezit, from where they crossed the FYROM border on foot.[3238] While the Chamber has heard evidence, which it has discussed above, concerning such events and Kosovo Albanians from various neighbourhoods of the city of Priština/Prishtinë, there has not been any evidence relevant to these allegations in the Indictment in respect to villages in the municipality of Priština/Prishtinë. For this reason, the Chamber finds, save for those neighbourhoods discussed above, the forcible displacement of Kosovo Albanians from other villages in the municipality of Priština/Prishtinë charged in the Indictment has not been established.

8. The evidence of Milutin Filipović

842. The Defence called Milutin Filipović, who was temporarily in command of the VJ Priština/Prishtinë garrison at the time of the NATO bombing, with regard to events in the municipality of Priština/Prishtinë during the Indictment period.

843. The Chamber finds that the evidence of Milutin Filipović was inconsistent in material respects and, when questioned about discrepancies in, or difficulties with, his evidence, he was unable to provide an adequate explanation. It was apparent that he did not take appropriate care and caution as to the truth when recounting events. All too often, during cross-examination, it became clear to the Chamber that the witness was concocting an explanation or applying some elements of fact to different sets of circumstances in an attempt to justify his use of it and his evidence. For example, Milutin Filipović testified that on the eve of the NATO bombing residents started to leave Priština/Prishtinë. It was his primary evidence that the movement of Albanians out of Priština/Prishtinë was at their own initiative. He suggested they were afraid initially of the imminent threat of NATO bombing, then of the threat of ongoing NATO bombing, and of KLA terrorists.[3239] They feared for themselves and their families.[3240] The movement was not because of any operations or actions of Serbian VJ or MUP forces.[3241] However, neither in his evidence in chief, nor in cross-examination, was Milutin Filipović consistent in this contention, nor could he

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[3237] Richard Ciagalinski, T 5293, 5378-5379.
[3238] Paragraph 72(g)(i) of the Indictment.
[3239] The Defence argued that KLA terrorist attacks continued after the NATO bombing started, including an attack killing a Serbian police officer on 27 March 1999 and injuring two other officers on 28 March 1999 (Exhibit P1100; Exhibit P1058; Defence Final Brief, para 804). There was also another incident on 28 March 1999 that involved an attack on a Russian journalist which resulted in the death of his driver (Exhibit P1058; Defence Final Brief, para 804). The Chamber accepts that KLA attacks may have continued however, in the Chamber's view, as further detailed above, this was not the reason why the Kosovo Albanians were leaving Priština/Prishtinë.
[3240] Milutin Filipović, Exhibit D712, (*Milutinović* transcript), T 19181, 19192; Milutin Filipović, T 11561.
[3241] Milutin Filipović, T 11567, 11579; Milutin Filipović, Exhibit D712, (*Milutinović* transcript), T 19203.

sustain it in the face of other evidence. In fact, in material respects, some of his evidence was quite contradictory of his primary proposition.

844. As an example, to explain how he was in a position to know why displaced Kosovo Albanians in columns were leaving Priština/Prishtinë, he offered the explanation that he would often leave his command post to talk to Albanians walking past in their columns. He said he would try to assure them there was no reason for them to leave and he would ask why they were leaving or where they were going. It is his evidence that their reply was to the effect that they were leaving because they were told to do so; they themselves were not really clear about the reasons why they had to leave.[3242]

845. While his evidence was not always logical or readily understandable, it was the case that Filipović also introduced differing explanations. He suggested, perhaps to support the view that the people did not really know why they were leaving, that what was happening was that a convoy of people would go back and forth one day and the next. The underlying idea of this seemed to be that there was not really a departure of refugees. At one point he seemed to advance the proposition that the refugee columns were staged to enable terrorists to present a false image of events to the international media. He also gave additional reasons. He stated that the columns were assisting the terrorists in an elaborate ruse. The displaced persons would have terrorists join the columns; those terrorists would have discarded their weapons and would have been dressed as civilians. In this way they could flee from the fighting and Serbs shooting at them. He thus described the convoys of refugees to the borders as "fake migration".[3243] However, when challenged in cross-examination about the pointlessness of terrorists fleeing the country in this way, he altered this account to say that the idea of terrorists joining refugee columns was not to leave the country, but to infiltrate Kosovo again to continue their terrorist activities.[3244]

846. On either of these views of the use of refugee columns by KLA terrorists, it was obvious that action by Filipović, as the VJ garrison Commander, would have been called for. Despite this, he did not suggest that he took direct action about the KLA activity in the columns. However, he then went on to suggest that he made reports of this KLA activity to his superiors, both oral and written reports. He had to agree that no action was taken by his superiors despite his alleged reports, nor had the witness been able to locate any of these reports in official records or in his own documents.[3245] When pressed about this in cross-examination, he offered yet another and different explanation for the Albanian refugee columns. He suggested that some people were moving out

[3242] Milutin Filipović, T 11564.
[3243] Milutin Filipović, Exhibit D712 (*Milutinović* transcript), T 19193-19194; Milutin Filipović, T 11564, 11592.
[3244] Milutin Filipović, T 11582-11585.

because the situation in the town was difficult; there were power cuts, no telephone lines, and they could not speak to their "nearest and dearest".[3246] Throughout his evidence, he was determined that the VJ and the MUP never exerted pressure on the Albanian people; they were never forced or told to leave their houses. On the contrary, he maintained that the police and the VJ were under orders to talk to residents to reassure them, and to behave properly to them, so they would not leave, clearly implying that such orders were of course obeyed.[3247]

847. He attempted to strengthen his primary argument by suggesting that the fear of the Kosovo Albanians residents was aggravated because of the use by NATO of Depleted Uranium Ammunition.[3248] He claimed to have lifted the remains of such ammunition with his own hands and brought it to the town where he put it on public display. He said he did this to allay public fear of Depleted Uranium Ammunition.[3249] He had no satisfactory explanation why he had not previously mentioned the use of Depleted Uranium, particularly in his evidence in the *Milutinović* trial, despite his detailed account in that trial of NATO bombing. Further, he constantly evaded answering when and how he had heard of the use of Depleted Uranium Ammunition by NATO or why if he had such knowledge he had handled it himself and why he had created such a supposed hazard by placing it on public display.[3250] The Trial Chamber was left with clear view that all Milutin Filipović had to say about the use of Depleted Uranium Ammunition was concocted.

848. Milutin Filipović's evidence about the Albanian refugee columns and related matters, characterised as it was by inconsistency, contradiction, recent concoction and a lack of conviction, was not in the Chamber's view credible or reliable. While it can be accepted that NATO bombing and fighting between Serbian forces and the KLA had some influence on the views of Albanian residents of Priština/Prishtinë city and elsewhere, the evidence of Filipović does not dissuade the Chamber from accepting the cogency and reliability of the large body of evidence which, in the Chamber's view, establishes that the dominant and prevailing factor was the actions of Serbian forces which, by direct intervention or induced fear, caused Kosovo Albanian residents to leave their homes and, in the majority of cases, to cross the border, whether to Albania or elsewhere.

849. In addition, much of the evidence of Milutin Filipović was focused on challenging the credibility of the Prosecution witness, Nazlie Bala, who described events in the municipality she

[3245] K73, Exhibit P330, para 35; Milutin Filipović, T 11585-11586.
[3246] Milutin Filipović, T 11591.
[3247] Milutin Filipović, T 11567, 11579; Milutin Filipović, Exhibit D712, (*Milutinović* transcript), T 19203.
[3248] Milutin Filipović, T 11559-11560.
[3249] Milutin Filipović, T 11598-11600.
[3250] Milutin Filipović, T 11593-11601.

said she had seen from her roof terrace.[3251] In this respect, also, Milutin Filipović's evidence proved not to be convincing. When cross-examined, it became clear that Milutin Filipović neither knew the exact location of Nazlie Bala's house nor had he any means of knowing what really could be seen from the roof of what is a multi-storeyed house.[3252] In the Chamber's view Milutin Filipović's assertions are not based on demonstrated knowledge. Although his remarks were made with apparent absolute confidence, his evidence was characterised by unsupported generalisations which did not stand up to scrutiny. With Milutin Filipović's reliability under deep suspicion, there was an absence of resonance in his determined attempt to discredit the Prosecution witness Nazlie Bala. The Trial Chamber accepts the soundness of the descriptions by Nazlie Bala of her sightings from her roof-terrace.

850. Milutin Filipović also asserted emphatically that there were no combat troops of the VJ in Priština/Prishtinë and no artillery or armoured forces at the relevant time.[3253] He contended that the 15th Armoured Brigade had left Priština/Prishtinë on the eve of the bombing.[3254] On the contrary, however, it is clear from an order of the Priština Corps Command of the VJ dated 1 April 1999, that the 15th Armoured Brigade was to deploy part of its force to the general area of Priština/Prishtinë.[3255] When confronted with this order in court, Milutin Filipović unconvincingly argued that, very strictly viewed, the 15th Armoured Brigade was deployed outside of Priština/Prishtinë. He sought to identify the locations over which the Brigade was specifically ordered to establish combat control and contended that technically these were just outside the city. That technicality was entirely unsatisfactory, particularly, as one of the areas so identified was a populated area which was for practical purposes clearly part of the city.[3256] Milutin Filipović also argued that the order of the Priština Corps Command dated 1 April 1999 did not specify that tanks were to be used by the 15th Armoured Brigade to execute the order. From this premise he sought to assert that tanks were not used.[3257] This is not credible. The Armoured Brigade was ordered to establish combat control. Tanks were a primary piece of equipment for the Brigade. In any event, the Armoured Brigade itself is a combat force. Further, on 27 March 1999, the 50th Military Territorial Detachment of the VJ was directly deployed to Priština/Prishtinë and was tasked to protect the Serbian population, to guard military installations, and, in coordination with the MUP, to

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[3251] Milutin Filipović, T 11574-11575, 11579, 11654-11656, 11671; Milutin Filipović, Exhibit D712, (*Milutinović* transcript), T 19180-19181, 19243, 19247-19249.
[3252] Milutin Filipović, T 11638-11652; Exhibit P1542 (Topographical Map of Priština/Prishtinë).
[3253] Milutin Filipović, Exhibit D712, (*Milutinović* transcript), T 19153, 19210-19211; Milutin Filipović, T 11524, 11537, 11569, 11574, 11619, 11666.
[3254] Milutin Filipović, Exhibit D712, (*Milutinović* transcript), T 19177, 191210-191211.
[3255] Exhibit P928.
[3256] Milutin Filipović, T 11621-11623, 11663-11664; *see,* Exhibit D722.
[3257] Milutin Filipović, T 11621-11623; Exhibit P928.

protect features of importance such as hospitals, post offices, television and radio stations.[3258] When confronted with this Milutin Filipović simply sought to reassert that there was not a single combat unit and not a single armoured combat vehicle at a distance from the city centre of Priština/Prishtinë.[3259] For these shortly stated reasons and the general conclusion of the Chamber in regards to the credibility of Milutin Filipović, the Chamber is not able to accept this argument.

851. It is the Trial Chamber's assessment that the evidence of Milutin Filipović is unreliable and that indeed some of it is dishonest fabrication. He did not display any appropriate care and caution when recounting events and, too often, it became clear when he was pressed in cross-examination that he had knowingly stated as absolute fact matters about which there was no certainty. At many points and over a number of issues, he was evasive and not prepared or able to deal with direct questions. The Chamber is not able to accept him as a reliable witness, or a witness of truth; indeed, he sought to mislead the Chamber about material matters.

H. Đakovica/Gjakovë municipality

852. The municipality of Đakovica/Gjakovë lies in the west of Kosovo, between Prizren municipality to the south and Dečani/Deçan municipality to the north, and shares a border with Albania.[3260] In early 1998, the municipality had a population of approximately 131,700, some 93 per cent of whom were Kosovo Albanian.[3261] The city of Đakovica/Gjakovë is the largest in the municipality and is located on the main road from Prizren to Peć/Peja, approximately in the centre of the municipality.[3262] At the time of events described below, the city had a population of approximately 100,000 people, of whom some 20,000 were displaced from other parts of Kosovo.[3263] The ethnic composition of the city of Đakovica/Gjakovë was approximately 90 per cent Kosovo Albanian.[3264] VJ military barracks (*Devet Jugovića*), were positioned next to the Catholic Church, near the outskirts or exit point of the city towards the village of Brekovac/Brekoc on the southern side, near the Tabaku bridge.[3265] The Priština Corps forward command post, established on 21 April 1998, for the purpose of commanding the forces of the Corps engaged in securing the state border and the border area,[3266] was located at the VJ barracks.[3267]

[3258] Exhibit P896.
[3259] Milutin Filipović, T 11622-11625, 11662.
[3260] Exhibit P823, pp 18, 9; Exhibit P1032.
[3261] Exhibit P756, p 211.
[3262] Exhibit P823, p 24.
[3263] K74, Exhibit P1095, p 7; Exhibit P756, p 212.
[3264] Exhibit P756, p 213.
[3265] Fuad Haxhibeqiri, Exhibit P1068, p 4; Fuad Haxhibeqiri, T 7019; Exhibit D689, p 1; Exhibit P295; Lizane Malaj, T 823; Nike Peraj, Exhibit P313, para 22; Lulzim Vejsa, T 6099.
[3266] Exhibit D340, p 2.
[3267] Exhibit D687, p 1.

853. Carragojs valley, an area also comprising the Trava and Erenik river valleys, lies to the west of Đakovica/Gjakovë city and extends for 10 to 15 kilometres to the Albanian border.[3268] The area is also referred to as "Reka".[3269] It encompasses a number of small towns and villages, including Mejë/Meja, Orize, Korenicë/Korenica, Babaj Boks/Babaj-i-Bokës, Guska/Guskë and Ramoc.[3270] These lie mainly to the west and south of Đakovica/Gjakovë city.

854. The KLA was active in the villages of the municipality in 1998 and 1999[3271] and the border region was used to smuggle arms and supplies.[3272] The KLA operational zone covering Đakovica/Gjakovë was commanded by Ramush and Daut Haradinaj in 1998.[3273]

855. While there had been VJ and MUP forces deployed in the Đakovica/Gjakovë region[3274] since at least the autumn of 1998, this presence increased significantly from the beginning of the NATO bombing in March 1999.[3275]

856. NATO bombing in the vicinity of the city of Đakovica/Gjakovë commenced on the night of 24 March 1999.[3276] The VJ barracks were hit on 26 and 28 March 1999.[3277] NATO bombing continued in the municipality of Đakovica/Gjakovë in April 1999. On 14 April 1999, NATO bombs were reported to have hit a civilian column crossing a bridge on the Đakovica/Gjakovë-Prizren road.[3278] A VJ report also indicates that NATO bombs struck a refugee camp in Đakovica/Gjakovë in April 1999, resulting in the killing of civilians.[3279]

857. The evidence indicates that KLA units were located in villages in the area around Đakovica/Gjakovë city immediately prior to the NATO bombing, rather than in the city itself.[3280] Although MUP reports covering security events in the period 24 March 1999 to early April 1999 record one "terrorist attack" in this time frame in Đakovica/Gjakovë city, resulting in serious injury

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[3268] Momir Stojanović, T 11900-11901; Momir Stojanović, Exhibit D723 (*Milutinović* transcript), T 19713-19714.
[3269] Miloš Đošan, T 11473; Momir Stojanović, Exhibit D723 (*Milutinović* transcript), T 19713-19714 (referring to "Reka e Keqe/Losa Reka").
[3270] *See* Exhibits P314, P315 and P317.
[3271] Bislim Zyrapi, Exhibit P428, (*Milutinović* transcript), T 5932, 5967.
[3272] Exhibit P756, p 211. *See* also K73, T 1561; K73, Exhibit P330, para 26; K73, P332 (*Milutinović* transcript), T 3350-3351; John Crosland, Exhibit P1401 (*Milutinović* transcript), T 10008.
[3273] Bislim Zyrapi, Exhibit P427, para 16. *See* also Exhibit P430 (map showing KLA operational zones in Kosovo).
[3274] Lizane Malaj, T 806-807.
[3275] Merita Dedaj, Exhibit P1030, p 2; Merita Dedaj, Exhibit P1031 (*Milutinović* transcript), T 1428.
[3276] Shyhrete Dula, Exhibit P1268, p 2; Shyhrete Dula, T 8333, 8360; Fuad Haxhibeqiri, Exhibit P1068, p 5; Exhibit P903, p 2; Lulzim Vejsa, T 6099.
[3277] Exhibit D922, p 2; Exhibit P696, p 2; Exhibit D37, p 3; Exhibit P958, p 5.
[3278] Exhibit D696.
[3279] Exhibit D407, p 1. *See* also Exhibits D702, D304.
[3280] Bislim Zyrapi, Exhibit P428 (*Milutinović* transcript), T 6264-6265. *See* also Exhibit P718, p 2.

to one policeman,[3281] and record the apprehension by the police of a small number of suspected KLA fighters,[3282] the evidence demonstrates that actual fighting between KLA and Serbian forces in Đakovica/Gjakovë city began only on 7 May 1999 in the Kodra e Cabrati neighbourhood.[3283]

858. On 3 April 1999, a large-scale operation by Serbian forces, both VJ and MUP, in Đakovica/Gjakovë municipality was ordered by the VJ commander of the military police unit in the 2nd Battalion of the 549th Motorised Brigade Colonel Vlatko Vuković.[3284] This was in anticipation of a predicted attack by KLA forces, in concert with NATO, from Albania.[3285] A KLA ground attack from Albania, though not with active NATO involvement, did begin on 9 April 1999 along the Košare/Koshare-Morina/Morinë axis as part of the *Strela/Shigjeta*[3286] 1 (*Strela Jedan*) operation.[3287] The operation had the objective of opening up corridors for the KLA to procure weapons.[3288] Other VJ and MUP reports indicate that the KLA continued to launch attacks in Đakovica/Gjakovë municipality during the period of the NATO bombing.[3289] According to Bislim Zyrapi, Chief of the General Staff of the KLA, the KLA operated in Đakovica/Gjakovë municipality until mid-May.[3290]

859. Consistent with the above, combat reports and war diary entries for the Serbian VJ forces during this period indicate that during April 1999, VJ forces were concentrated around the Košare/Koshara border post and the village of Junik situated a few kilometres from the Albanian border where most of the KLA activity appeared to be occurring. The war diary entry of the Howitzer Battalion of the 125th Motorised Brigade recorded that on 27 April 1999, the activities of the "enemy" took place in and around the Košare/Koshare border post.[3291] A regular combat report of the 125th Motorised Brigade commanded by Colonel Dragan Živanović to the Priština Corps Command and Đakovica/Gjakovë forward command post dated 29 April 1999 noted that there were around 200 to 250 "terrorists" in the Rasa e Kosares, Mala Glava and Glava sectors. On 28 April, the "ŠTŠ"[3292] had fired on the positions of the 2nd company of the 2nd Motorised Battalion, resulting

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[3281] Exhibit D295, pp 3-4. The details of this "terrorist attack" are unclear from the report. The information given is that on "25 March 1999, at around 1955 hours, in the park in front of *Paštrik* Hotel in Đakovica, during a NATO air strike, there was a terrorist attack againt members of the crime police of the Đakovica SUP."
[3282] Exhibit D294, p 4.
[3283] Fuad Haxhibeqiri, T 6945, 7007-7008, 7009.
[3284] Exhibit D356.
[3285] Exhibit D356.
[3286] "*Strela/Shigjeta*" is translated as "Arrow".
[3287] Exhibit D630, p 2; Exhibit P919; Bislim Zyrapi, Exhibit P428 (*Milutinović* transcript), T 6238-6239; Exhibit P948; Exhibit P1397, p 13.
[3288] Bislim Zyrapi, Exhibit P428 (*Milutinović* transcript), T 6231.
[3289] Exhibit P931; Exhibit P1544; Exhibit P1397.
[3290] Bislim Zyrapi, Exhibit P428 (*Milutinović* transcript), T 6231, 6238-6239.
[3291] Exhibit P1397, p 25.
[3292] "ŠTŠ" is a reference to Kosovo Albanian terrorist groups.

in nine dead (four volunteers and five soldiers) and five wounded (including two volunteers).[3293] It was also reported that NATO aircraft circled and attacked Brigade units.[3294] The focus of the Brigade's work was reported to be on "operations aimed at destroying the ŠTŠ at Rasa e Kosares".[3295] The report noted that the Commander and Chief of Staff of the Priština Corps, *i.e.* General Vladimir Lazarević and Zivković, visited the Brigade from 0900 to 1200 hours on 29 April 1999.[3296]

860. However, on 27-28 April 1999, the area of the Carrogojs valley comprising the villages of Korenica/Korenicë and Meja/Mejë, to the west of Đakovica/Gjakovë city, was surrounded and secured by the VJ, making it difficult for KLA fighters to be present or active in that area at that time.[3297] Witnesses from the villages in the area gave evidence that the KLA were not known to be present in that period,[3298] due to the large number of VJ in the area.[3299] Save for one incident in the night of 27 April 1999 in the village of Ramoc, discussed below, in which a short unplanned firefight took place between three of four KLA fighters and members of the anti-terrorist unit of the VJ 52nd Military Police Battalion, resulting in the killing of one VJ soldier and one KLA member, the evidence indicates that there was no KLA activity and minimal KLA presence in the valley at the relevant time.[3300]

1. The city of Đakovica/Gjakovë

861. In the days immediately before 24 March 1999, the commencement of bombing by NATO, Serbian forces patrolled the streets of Đakovica/Gjakovë, especially at night.[3301] Albanian men did not venture to go outside during this time; they stayed inside. Women who went out for shopping were often stopped by Serbs, including the police and men, apparently reservists, and questioned about their husbands and sons.[3302] In this time prominent Albanians in Đakovica/Gjakovë city were targeted and killed or imprisoned.[3303]

862. There were two distinct main operations by Serbian forces in the city of Đakovica/Gjakovë: one that began on 24 March 1999 and one that began on 7 May 1999, each lasting a week. There was also a specific operation in the Ćerim/Qerim neighbourhood on 1-2 April 1999.

[3293] Exhibit P921, p 1.
[3294] Exhibit P921, p 1.
[3295] Exhibit P921, p 2.
[3296] Exhibit P921, p 2.
[3297] K90, Exhibit P321, para 63. *See* also K90, Exhibit P321, para 62; K90, Exhibit P322 (*Milutinović* transcript), T 9450-9451.
[3298] Lizane Malaj, T 840; Merita Dedaj, Exhibit P1030, p 4.
[3299] Martin Pnishi, Exhibit P1034, p 1508.
[3300] *See infra*, para 975.
[3301] K74, T 7435-7436; K74, Exhibit P1095, p 4.

(a) Operation on 24-28 March 1999

863. Late in the night of 24 March 1999, Serbian forces entered houses in various neighbourhoods of Đakovica/Gjakovë, and either ordered the residents to leave or caused them to leave. On 24 March 1999, Shyhrete Dula and her family were at their home in Đakovica/Gjakovë, located in Mahala-e-Hadumit, the historic quarter encompassing the shopping bazaar and the 16th century Hadum Mosque (formally called Xhamia et Hadumit or the Mosque of Hadum Suleiman Aga) and its adjoining Islamic Library (formally called Library of Hadum Suleiman Efendi).[3304] Around midnight, she heard a commotion and many voices in the street outside the family compound.[3305] She became aware of the sound of burning wood outside in the bazaar.[3306] About an hour and half later, the gate of the family compound flew open having been forced open by a police jeep.[3307] Men could be heard entering the compound, speaking and cursing in Serbian and presently Shyhrete Dula saw them coming up the steps of the balcony near the entrance door of her house, which was made of transparent glass.[3308] The men who entered the yard wore blue camouflage uniforms of the Serbian police.[3309] The Chamber accepts that the men were police. Shryhete Dula, her three children and her husband fled from the house through a window on the ground floor at the rear of the house. They scaled the wall of their compound, dropped into a neighbour's garden and ran from yard to yard away from the bazaar.[3310]

864. The family found refuge in the yard of a house of an elderly woman, who was not known to them, in the Ruga e-Mullirit area.[3311] From the upper floor of this house, Shryhete Dula could see that her own home and other surrounding buildings were on fire.[3312] She did not return to her house until it became light on 25 March 1999.[3313] When she returned, she observed extensive destruction in her neighbourhood. In the bazaar, some of the shops were still on fire, while others were entirely burned.[3314] The minaret of the Hadum mosque had been "snapped", the top was lying on the ground and the external walls of the mosque were damaged.[3315] Her own house and the small

[3302] K74, Exhibit P1095, p 2; K74, Exhibit P1096, (*Milutinović* transcript), T 7508; K74, T 7475.
[3303] Exhibit P756, pp 211-212; Frederick Abrahams, T 3974; Fuad Haxhibeqiri, Exhibit P1068, p 7.
[3304] Shyhrete Dula, Exhibit P1268, p 2; Shyhrete Dula, T 8333, 8336, 8360; Exhibit P1098, pp 53 and 56.
[3305] Shyhrete Dula, Exhibit P1268, p 2.
[3306] Shyhrete Dula, Exhibit P1268, pp 2-3.
[3307] Shyhrete Dula, Exhibit P1268, p 3.
[3308] Shyhrete Dula, T 8363-8364.
[3309] Shyhrete Dula, Exhibit P1268, p 3; Shyhrete Dula, T 8365.
[3310] Shyhrete Dula, Exhibit P1268, p 3; Shyhrete Dula, T 8334-8335.
[3311] Shyhrete Dula, Exhibit P1268, p 3; Shyhrete Dula, T 8370.
[3312] Shyhrete Dula, Exhibit P1268, p 3; Shyhrete Dula, T 8336, 8372-8373.
[3313] Shyhrete Dula, Exhibit P1268, p 3.
[3314] Shyhrete Dula, Exhibit P1268 pp 3-4; Shyhrete Dula, T 8336-8337, 8379; Exhibits P1105 and P1269.
[3315] Shyhrete Dula, Exhibit P1268, pp 3-4; Shyhrete Dula, T 8336-8337; Exhibit P1104. Another witness, Fuad Haxhibeqiri testified that on 5 April, he saw that the 400 years old mosque in Hadum/Carshia-e-Vjeter was damaged on the inside and that the auxiliary buildings of the mosque were burnt down. Fuad Haxhibeqiri, T 6942, 6948; 7005-7006; Exhibit P1069.

summer house had both been burnt. The adjacent house of her brother-in-law was damaged inside by bullet holes that covered the walls.[3316] That same night, shops of the city's historic centre were also burnt.[3317]

865. The Defence submits that the burning of the old city of Đakovica/Gjakovë was the result of NATO bombing.[3318] Miloš Đošan, commander of the 52nd Artillery Rocket Brigade of the Air Defence of the VJ in Đakovica/Gjakovë and of the Đakovica/Gjakovë garrison,[3319] stated that in his opinion the fires in the old town were caused by NATO bombing.[3320] Đošan admitted, however, that this was an assumption on his part and that he did not have any direct knowledge of what caused the fire.[3321] He claimed to have heard three explosions on the night of 24 March 1999, the first at 2000 hours, while he was in the VJ shelter on Čabrat hill, which overlooks the old historic quarter.[3322] After he left the shelter, he observed a fire on Katolička Street, on which Hadum Mosque is located.[3323] In his evidence before this Chamber, Đošan stated that he was told by his subordinate, Major Zlatko Odak, who was stationed at the *Devet Jugovića* barracks, that he had seen a NATO missile hit the old part of town and that this caused the fire.[3324] In prior proceedings, however, Đošan gave evidence that he was given information that the centre of town was hit from the operations duty officer who received a report from an MUP unit.[3325] Because of this significant inconsistency in his evidence as well as reasons related to his general credibility explained elsewhere, the Chamber is unable to rely on the evidence of Đošan.

866. The Defence's submission that the damage to the Hadum Mosque and it adjoining Islamic Library was the result of NATO bombing is supported by a MUP Staff report covering security related events for 25-26 March 1999 that stated that during the night of 24 March and early morning of 25 March 1999, NATO aircraft fired missiles which hit the old part of town and that the resulting explosions caused destruction and a fire in which 220 rental facilities and residential buildings were destroyed, and three civilians were killed.[3326] The contrast of this report with other evidence, described below, however, leaves the Chamber unable to accept this report as reliable.

[3316] Shyhrete Dula, T 8342-8344, 8379-8382; Exhibits P1270; D354.
[3317] Lulzim Vejsa, Exhibit P978, p 2.
[3318] Defence Final Brief, para 825.
[3319] Miloš Došan, Exhibit D684 (*Milošević* transcript), T 45337, 45339; Miloš Došan, T 11338.
[3320] Miloš Đošan, T 11355.
[3321] Miloš Đošan, T 11354; Exhibit D687, p 2.
[3322] Miloš Đošan, T 11353; Exhibit D687, p 2; Exhibit D685, (*Milošević* transcript) T 45392.
[3323] Miloš Đošan, T 11353; Exhibit D687, p 2.
[3324] Miloš Đošan, T 11354.
[3325] Miloš Đošan, Exhibit D685, (*Milošević* transcript) T 45392-45393, 45474.
[3326] Exhibit D295, p 3. The report also states that in the evening of 25 March 1999, NATO aircraft bombed the barracks in Đakovica/Gjakovë, hitting a police accommodation facility and causing a fire which completely destroyed the facility.

867. Firstly, the Chamber notes that the war diaries of the relevant VJ units present in the city of Đakovica/Gjakovë do not record any such bombing of the old town. The war diary of the VJ 2nd Motorised Battalion of the 549th Motorised Brigade records that on 24 March 1999, NATO forces hit "military targets" in a number of locations in Serbia and Kosovo, including Đakovica/Gjakovë.[3327] The war diary of the VJ 52nd Artillery Rocket Brigade records that on 24 March 1999 at 1935 hours reports were received of four planes flying overhead of Đakovica/Gjakovë, at 2000 hours "Air strikes against ground targets [were] carried out" and at 2115 hours VJ artillery fire was opened on "targets" from Čabrat into the airspace.[3328] The war diary does not specify what "ground targets" were hit. However, neither VJ Brigade make any reference in their war diaries to NATO airstrikes to the old historical centre of Đakovica/Gjakovë on 24 March 1999.

868. Secondly, none of witnesses on the ground in the relevant areas at the relevant time testified that NATO bombed the old town or other civilian areas in Đakovica/Gjakovë city.[3329] As noted, the VJ war diaries record that the ammunition depot of the VJ *Devet Jugovića* barracks was hit on 26 March 1999 sometime after 2000 hours[3330] and again on 28 March 1999 at about 2205 hours.[3331] Like the war diaries, the MUP documents report that the VJ barracks were hit on 26 March 1999, but the MUP report also states that this caused damage to "many Serbian and Montenegrin houses".[3332] The VJ barracks are not in the historic old town. Although Miloš Đošan suggested in his evidence that the VJ barracks were "very close by", practically in the continuation of the same street as where the Hadum Mosque was situated,[3333] the consistent evidence of other witnesses, which the Chamber accepts, places the *Devet Jugovića* barracks near the outskirts or exit point of the city towards the village of Brekovac/Brekoc on the southern side, near the Ura e Tabaku or Tabaku bridge,[3334] some one and a half to two kilometres from the centre of the city.[3335] The MUP report further states that the Novi Blok neighbourhood was hit the same day by NATO airstrikes, causing fires in about 40 houses and killing four persons.[3336] Again, this is not in the old town. Further, the Chamber is highly doubtful of the reliability of the MUP report in this respect, which stands alone as the only evidence of NATO bombing of civilian areas in Đakovica/Gjakovë city, a proposition that was consistently denied by witnesses on the ground at the relevant time.

[3327] Exhibit D37, p 2. The specific location hit in Đakovica/Gjakovë is not specified.
[3328] Exhibit P958, p 4.
[3329] Lulzim Vejsa, Exhibit P979 p 4087; Fuad Haxhibeqiri, Exhibit P1068, p 5.
[3330] Exhibit D37, p 3; Exhibit P958, p 5.
[3331] Exhibit P958, pp 5-6.
[3332] Exhibit D922, p 2; Exhibit P696, p 2.
[3333] Miloš Đošan, T 11353.
[3334] Fuad Haxhibeqiri, Exhibit P1068, p 4; Fuad Haxhibeqiri, T 7019; Exhibit D689, p 1; Exhibit P295; Lizane Malaj, T 823; Nike Peraj, Exhibit P313, para 22; Lulzim Vejsa, T 6099.
[3335] Lulzim Vejsa, T 6093.
[3336] Exhibit D922, p 2; Exhibit P696, p 2.

869. Thirdly, the Chamber takes into account the evidence given by Frederick Abrahams, a Human Rights Watch researcher who visited the city in July 1999, and who closely examined the destruction he found in the old town of Đakovica/Gjakovë to homes and other civilian objects.[3337] To Abrahams, it appeared the buildings had been set on fire from the inside. The walls were still standing but the wooden roofs had been burned.[3338] This description is consistent with the evidence of András Riedlmayer, who visited the site in October 1999,[3339] that there was extensive damage to the historical city centre; nearly all the shops were burned out in a wide area covering several city blocks surrounding the Hadum Mosque, covering the entirety of the historic bazaar area designated for protection, with the exception of a row of shops near the bridge.[3340] His report states that the building interiors were burned out to rooflines.[3341] In Riedlmayer's analysis, there were no signs of the blast damage that would have been expected if the bazaar had really been hit by air strikes.[3342] In particular, he noted that over a widespread area, all the shops fronting the street were burned out and the roofs had collapsed, but the dividing walls between shops were mostly intact; in many cases the original roof tiles were still lined up along tops of walls, undisturbed and the houses just behind the shops are untouched, which would not be expected in the case of the widespread damage of an air strike.[3343] There is also an aerial or satellite photograph from the US Department of Defense website which depicts the mosque intact but the bazaar burning.[3344] This photograph was posted on the website in response to claims by the Yugoslav government that on the first night of the NATO airstrikes the Hadum Mosque had been hit and the surrounding bazaar destroyed. The photograph reveals that the Mosque remained intact while the bazaar was burning,[3345] which in the Chamber's finding is not consistent with the claim that it was bombing that caused the destruction which included the mosque.

870. On the basis of the above, the Chamber rejects the submission that NATO airstrikes were responsible for the extensive damage and destruction of the historical centre of Đakovica/Gjakovë, encompassing the Hadum Mosque, the adjoining Islamic Library, and the bazaar. It is satisfied that on 24-25 March 1999 this area was deliberately set on fire.

871. The Chamber now turns to the question of the identity of the perpetrators. Shryhete Dula did not see who set fire to the buildings she saw burning, including her own house. However, as she left, she saw policemen wearing camouflage blue uniforms approaching her house. When she

[3337] Frederick Abrahams, T 3973.
[3338] Frederick Abrahams, T 3973.
[3339] András Riedlmayer, T 7513.
[3340] Exhibit P 1098, p 6; Exhibit 1137, p 173; Exhibit 1105, p 1.
[3341] Exhibit P 1098, p 50; Exhibit 1105, p 1.
[3342] András Riedlmayer, 7512-7513; Exhibit P 1106.
[3343] András Riedlmayer, T 7509- 7511.
[3344] Exhibit P1106.

returned the following morning her house was completely burned.[3346] The Chamber is satisfied that the policemen who entered Dula's house were responsible for setting fire to it. Fuad Haxhibeqiri saw the old town burning in the early hours of 25 March 1999,[3347] but did not see who was responsible.[3348] He was informed over the phone by his brothers who were in their house in the Hadum/Carshia e Vjeter neighbourhood, as well as by a number of other residents from this neighbourhood, that at 0115 hours on 25 March, police and paramilitaries, working together, arrived in the neighbourhood[3349] which is in the historic centre of the city, and set fire to houses and shops owned by Kosovo Albanians.[3350] The accounts given to Haxhibeqiri are consistent with the statements of informants set out in András Riedlmayer's report, who witnessed Serbian police, civilians and military set fire to the Hadum Mosque and its adjoining Islamic Library. These together with the surrounding old bazaar area burned for several days.[3351] The *New York Times* in an article dated 11 July 1999, also reported that residents saw about 50 "Serbs in military dress", each carrying a five-litre gasoline can, walk toward the historical centre and that at 0115 hours, flames appeared from the rooftops of the old town.[3352]

872. The combination of these matters satisfies the Chamber that it was Serbian forces, in the form of Serbian police, that were responsible for setting fire to the historical centre on the first night of the NATO bombing campaign. The extensive burning of the old town, including the destruction of the Hadum Mosque and the adjoining Islamic Library were the result of a deliberate attack by Serbian forces on the night of 24-25 March 1999.[3353] The falsification of the MUP Staff report, which laid the blame for the fire in the historical centre of Đakovica/Gjakovë city on NATO bombing, provides further confirmation of the involvement of MUP forces in the destruction of the Mosque, the attached Library and the adjacent historical bazaar.

873. Police (mainly) threatened and killed Albanian residents early on 25 March 1999 in the Carshia-e-Madhe neighbourhood. Late that day, around 2300 hours, this conduct resumed in the Ćerim/Qerim neighbourhood where a number of Kosovo Albanian people were killed and houses were burnt.[3354]

[3345] András Riedlmayer, T 7512-7513.
[3346] Shyhrete Dula, T 8363-8365; Shyhrete Dula, Exhibit P1268 p 4; Shyhrete Dula, T 8341-8342.
[3347] Fuad Haxhibeqiri, Exhibit P1068, p 6; Fuad Haxhibeqiri, T 6991-6992. *See* Exhibit P1069 (map of Đakovica/Gjakovë, marked by Haxhibeqiri, indicating the position of the Hadum mosque, his home and the street in which shops and houses were burnt).
[3348] Fuad Haxhibeqiri, Exhibit P1068, p 6; Fuad Haxhibeqiri, T 6991-6992.
[3349] Fuad Haxhibeqiri, Exhibit P1068, p 2.
[3350] Fuad Haxhibeqiri, T 6941-6944; Fuad Haxhibeqiri, Exhibit P1068, p 6.
[3351] Exhibit P1098, pp 51, 54.
[3352] Exhibit P1098, p 55; Exhibit P1108, p 3.
[3353] *See infra*, para 1830.
[3354] Fuad Haxhibeqiri, Exhibit P1068, p 7.

874. Because of these disturbances and events in Đakovica/Gjakovë, on or around 27 March 1999, Hani Hoxha, his wife Shahindere and their 15 year old daughter Flaka, together with the families of two of his neighbours, altogether 15 persons, sheltered in their basement.[3355] As Hani Hoxha went out into the courtyard, he heard shots being fired and saw three of his neighbours' houses burning.[3356] Two cars were also on fire.[3357] An attempt was made to break through the Hoxha's gate with a vehicle, but this was unsuccessful. Following this there was a successful attempt to break through the gate of Hoxha's neighbour, Shefqet Pruthi.[3358]

875. There was a tall wall between Hoxha's compound and Shefqet Pruthi's compound, so that Hani Hoxha had no direct view of the events occurring in the Pruthis' courtyard, but his account of what he heard is confirmed and given more detail by Arta Pruthi, an eye witness.[3359] The Chamber accepts the evidence of Hani Hoxha of these events to be generally reliable. A group of 20-30 people entered the neighbours' courtyard. As soon as they had entered, they set fire to the old house.[3360] Shefqet Pruthi went outside while his wife, Feti, and daughter, Arta, went onto the second floor of the new house also in the courtyard.[3361] Shefqet Pruthi started to run away but was pursued by the attackers and killed.[3362] Hani Hoxha heard gunshots and shouting in Serbian, including, swearing and insults on ethnic basis.[3363] Following the killing of her father, Arta Pruthi was taken away by the attackers who said to her, "We're going to have some fun with you."[3364] When Arta said that she was only 15 years old, one of the attackers kicked or slapped her and told her to go home.[3365] At approximately 0300 hours, Arta telephoned Hani Hoxha's daughter, Flaka, and told her that her father had been killed.[3366] The Chamber accepts that Shefqet Pruthi was killed by the intruders that night in the circumstances described because he was Kosovo Albanian. Shefqet Pruthi was a civilian taking no active part in hostilities at the time he was killed.

876. The attackers then went to the adjoining house of Avni Ferizi, the other neighbour of Hani Hoxha, and again broke through the gate with a vehicle.[3367] Avni Ferizi, his wife, Vjollca, and their three children were sheltering in the basement of their house. The attackers brought out the

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[3355] Hani Hoxha, Exhibit P879, p 2.
[3356] Hani Hoxha, Exhibit P880 (*Milošević* transcript), T 7359; Hani Hoxha, Exhibit P879, p 2.
[3357] Hani Hoxha, Exhibit P880 (*Milošević* transcript), T 7359.
[3358] Hani Hoxha, Exhibit P879, p 2.
[3359] Hani Hoxha, Exhibit P880 (*Milošević* transcript), T 7362; Hani Hoxha, T 5630.
[3360] Hani Hoxha, Exhibit P880 (*Milošević* transcript), T 7362, 7365; Hani Hoxha, Exhibit P879, p 2.
[3361] Hani Hoxha, Exhibit P879, p 2.
[3362] Hani Hoxha, Exhibit P880 (*Milošević* transcript), T 7360, 7363; Hani Hoxha, Exhibit P879, p 2.
[3363] Hani Hoxha, Exhibit P879, p 2.
[3364] Hani Hoxha, Exhibit P879, p 2.
[3365] Hani Hoxha, Exhibit P880 (*Milošević* transcript), T 7360; Hani Hoxha, Exhibit P879, p 2.
[3366] Hani Hoxha, Exhibit P881 (*Milutinović* transcript), T 1538; Hani Hoxha, Exhibit P880 (*Milošević* transcript), T 7363; Hani Hoxha, Exhibit P879, p 2.
[3367] Hani Hoxha, Exhibit P879, p 2.

family.[3368] Hani Hoxha heard gun shots and swearing in Serbo-Croatian.[3369] He was told by Vjollca Ferizi that Avni Ferizi had been killed in this incident.[3370] He had been hit by five bullets.[3371] Later that day Hani Hoxha helped place Avni Ferizi's body into a coffin.[3372] The Chamber accepts that Avni Ferizi was shot dead by the intruders that night in the circumstances described because he was Kosovo Albanian. Avni Ferizi was a civilian taking no active part in hostilities at the time of his death.

877. Hani Hoxha recounted that on or about 28 March 1999, the wives of Shefqet Pruthi and Avni Ferizi – Feti Pruthi and Vjollca Ferizi – went to the local police and asked them to investigate the attacks.[3373] The police told them, "Go and complain to NATO."[3374] Later, however, regular police officers with flak jackets came to the houses and had a quick look inside, but did not carry out any investigative actions.[3375] On the same day, a government hearse came to collect the bodies of Shefqet Pruthi and Avni Ferizi and took them to the graveyard, where they were buried.[3376]

878. At approximately 1800 hours on 28 March 1999, Hani Hoxha, Shahindere Hoxha and Flaka Hoxha moved to the compound of Hani Hoxha's other daughter, Tringa Vejsa, and son-in-law Lulzim Vejsa, situated on Miloš Gilić/Millosh Giliq Street in the Ćerim/Qerim neighbourhood.[3377] As they went to the compound, Hani Hoxha saw no civilians on the streets, only VJ and police in vehicles.[3378] On or around 30 March 1999, Shahindere Hoxha went to the Hoxhas' home and on her way back to Lulzim Vejsa's compound she was stopped by four police officers.[3379] One of the police officers was a former student of Shahindere Hoxha and told the others to leave her alone as she came from a good family.[3380] She was allowed to continue to Lulzim Vejsa's compound.

879. The evidence of large scale killings and burning of civilian property in the city of Đakovica/Gjakovë in March 1999 discussed above is confirmed by reports in the OSCE-KVM Bluebook.[3381] Other evidence discloses examples of this. For instance, an autopsy report of the United States Department of Defense, Armed Forces Institute of Pathology, indicates that on

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[3368] Hani Hoxha, Exhibit P879, p 2.
[3369] Hani Hoxha, Exhibit P880 (*Milošević* transcript), T 7367.
[3370] Hani Hoxha, Exhibit P879, p 3.
[3371] Hani Hoxha, Exhibit P879, p 3.
[3372] Hani Hoxha, Exhibit P879, p 3.
[3373] Hani Hoxha, Exhibit P879, p 3.
[3374] Hani Hoxha, Exhibit P880 (*Milošević* transcript), T 7368; Hani Hoxha, Exhibit P879, p 3. Hani Hoxha, Exhibit P881 (*Milutinović* transcript), T 1554, 1560.
[3375] Hani Hoxha, Exhibit P881 (*Milutinović* transcript), T 1555; Hani Hoxha, Exhibit P879, p 3.
[3376] Hani Hoxha, Exhibit P880 (*Milošević* transcript), T 7357, 7367, 7369; Hani Hoxha, Exhibit P879, p 3.
[3377] Hani Hoxha, Exhibit P879, p 3; Hani Hoxha, Exhibit P881 (*Milutinović* transcript), T 1539; Hani Hoxha, Exhibit P880 (*Milošević* transcript), T 7384.
[3378] Hani Hoxha, Exhibit P879, p 3.
[3379] Hani Hoxha, Exhibit P879, p 3.
[3380] Hani Hoxha, Exhibit P879, p 3.
[3381] Exhibit P1029, pp 133, 135, 40, 142, 151, 153.

26 March 1999, six male adult Kosovo Albanians were killed by gunshot wounds to the head by Serbian forces at Yemer Grezda Street in Đakovica/Gjakovë city.[3382]

880. The Chamber is satisfied, on the basis of the findings above, that beginning the night of 24 March 1999, Serbian forces forcibly and violently expelled Kosovo Albanian civilians from their homes in the city of Đakovica/Gjakovë, killing some occupants, and set fire to the Mosque, Library, houses and shops in the historic part of the city.

(b) Operation in the Ćerim/Qerim neighbourhood 1-2 April 1999

881. An operation by the Serbian police took place on Miloš Gilić/Millosh Giliq Street in the Ćerim/Qerim neighbourhood of Đakovica/Gjakovë on 1-2 April 1999, located in the north-eastern part of the city, in the vicinity of the bus station, to the right of the road leading to Deçan/Decane and north of the road leading to Klina/Kline.[3383] On 1 April, Novak Pitolić, the chief of the Đakovica/Gjakovë police went to every Albanian house in the Ćerim/Qerim district and told the occupants not to leave the houses and that they were safe.[3384]

882. At approximately 2200 hours on 1 April 1999, large spotlights were cast on the Albanian houses in Đakovica/Gjakovë.[3385] Just over two hours later, on 2 April 1999 between 0005-0025 hours, Serbian police started knocking on the doors of the houses in Miloš Gilić/Millosh Giliq Street, and then torching the houses.[3386] Attacks began close to K74's house, located at 76 Miloš Gilić/Millosh Giliq Street.[3387] K74 was, at that time, in the basement of the house of his neighbour, Gezim Nagafci. He later went to his courtyard where he stayed until 0600.[3388] He heard and saw the Serbian forces shooting at the locks on the gates of houses, including the lock to Lulzim Vejsa's house.[3389] He also heard noises of vehicles, which he interpreted as the sound of vehicles breaking through the gates of houses to gain entry into the courtyards.[3390]

883. That same night, members of five Kosovo Albanian families (Čaka family, Hoxha family, Vejsa family, Haxhiavdija family and Nuci family) had gathered for protection in the basement of Lulzim Vejsa's pool hall located at 157 Miloš Gilić/Millosh Giliq Street.[3391] In the preceding days Serbian police from the neighbourhood, in uniform, regularly stood about and drank in front of

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[3382] Exhibit P1161, ERN K0166424.
[3383] Exhibit P823, p 24; K74, T 7445-7453.
[3384] Lulzim Vejsa, Exhibit P978, p 2.
[3385] K74, Exhibit P1095, p 3; K74, Exhibit P1096 (*Milutinović* transcript), T 7528; K74, T 7435-7436, 7478.
[3386] Exhibit P903, p 2; Sami Parashumti, T 5993; Lulzim Vejsa, Exhibit P979 (*Milutinović* transcript), T 4089-4090).
[3387] K74, Exhibit P1095, p 2; K74, Exhibit P1096 (*Milutinović* transcript), T 7508, 7521.
[3388] K74, Exhibit P1095, p 3; K74, Exhibit P1096 (*Milutinović* transcript), T 7521, 7535-7537.
[3389] K74, Exhibit P1095, p 5; K74, Exhibit P1096 (*Milutinović* transcript), T 7534.
[3390] K74, Exhibit P1096 (*Milutinović* transcript), T 7534.
[3391] Hani Hoxha, Exhibit 879, p 8; Hani Hoxha, T 5627-5629.

Lulzim Vejsa's pool hall.[3392] The pool hall and the house of Lulzim Vejsa were in the same compound.[3393] Only a few steps separated them.[3394] Since 28 March 1999, Dren Čaka (10 years old at the time of the events) and his family, consisting of his grandfather, Xhemil Čaka, his grandmother Nakije Čaka, his uncle Nehat Čaka, his father Ali Čaka, his mother Valbona Čaka and his three sisters Dalina, Delvina and Diona, who were 14, six and two years old, respectively, at the time of the events,[3395] had been sheltering in the basement of the pool hall, which was only two houses from their home.[3396]

884. In the night of 1 April 1999, the entrance to the compound at 157 Miloš Gilić/Millosh Giliq Street had been blocked by a car parked in front of the gate.[3397] At about 0015 hours on 2 April 1999, Hani Hoxha saw that the gate to the compound was moving. A vehicle was being driven against it in an apparent effort to break through.[3398] Then Serbian police knocked on the door.[3399] In total, some 24 or 25 Kosovo Albanian people had taken refuge at the pool hall, 21 of whom were in the basement (comprising women and children and one 50 year old man with a mental impairment[3400]), while three men Lulzim Vejsa, Behar Haxhiavdija (Lulzim Vejsa's brother-in-law) and Hani Hoxha were outside by the pool hall, keeping guard.[3401] Lulzim Vejsa heard police shouting for them.[3402] Previously it had been decided that should anything happen, the men would leave while the women and children would stay. It was thought that only the men were at risk.[3403] Having heard the shouts of the Serbian forces, Lulzim Vejsa and Behar Haxhiavdija left

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[3392] K74, Exhibit P1096, (*Milutinović* transcript), T 7530-7534; K74, Exhibit P1095, p 3.

[3393] Dren Čaka, Exhibit P1296 (*Milutinović* transcript), T 2632-2634; Dren Čaka, T 8637-8639; Hani Hoxha, Exhibit P879, p 3; *see* also Exhibits P1297, P1298, P981 and P882 showing aerial photographs of the compound and surrounding houses.

[3394] Dren Čaka, Exhibit P1296 (*Milutinović* transcript), T 2632; Dren Čaka, T 8692; Exhibit P981.

[3395] Dren Čaka, Exhibit P1296 (*Milutinović* transcript), T 2630-2631.

[3396] Dren Čaka, Exhibit P1296 (*Milutinović* transcript), T 2631-2632, 2634-2635; Dren Čaka, T 8633. Ali Čaka was Lulzim Vejsa's cousin.

[3397] Lulzim Vejsa, Exhibit P978, p 2.

[3398] Hani Hoxha, Exhibit P881 (*Milutinović* transcript), T 1540; Hani Hoxha, Exhibit P879, p 3. *See* also K74, Exhibit P1096 (*Milutinović* transcript), T 7534.

[3399] Lulzim Vejsa, Exhibit P978, p 2; Lulzim Vejsa, T 6088-6089. The Chamber notes that the witness also stated that paramilitaries knocked on the door of the compound. However, since the witness gave no specific evidence that would support the idea that paramilitaries were also present and as he later describes the same forces as "soldiers" and "police", the Chamber is unable to conclude that paramilitary were among the forces at the house. The Chamber also notes that paramilitaries are not mentioned by other eye witnesses, Dren Čaka and Hani Hoxha.

[3400] Dren Čaka, Exhibit P1296 (*Milutinović* transcript), T 2634-2635; Dren Čaka, T 8632-8634; Hani Hoxha, T 5628-5629.

[3401] Dren Čaka, Exhibit P1296 (*Milutinović* transcript), T 2635-2636; Dren Čaka, T 8634; Lulzim Vejsa, Exhibit P978, p 2; Hani Hoxha, Exhibit P879, p 3; Hani Hoxha, T 5623-5624. The evidence is not entirely clear as to how many men there were in the pool hall. Dren Čaka said that his father, Ali Čaka, was also taking guard, but he is not included in the testimony of Lulzim Vejsa, who said there were only 24 people in total at the pool hall that night. Hani Hoxha said there were 24-25 people at the compound and also mentions Gani Hoxha among the men staying in the pool hall, but not on the night of 1 April. Hani Hoxha mentions speaking to Ali Čaka the morning of 2 April, but not being there the previous night during their escape.

[3402] Lulzim Vejsa, Exhibit P979, (*Milutinović* transcript), T 4090.

[3403] Hani Hoxha, Exhibit P879, p 3; Lulzim Vejsa, Exhibit P978, p 3.

the house from a small window located behind the building.[3404] Hani Hoxha told the other two that he wanted to see if anyone entered the courtyard and that he would join them in a few minutes.[3405] Behar and Lulzim jumped the wall that divided their courtyard from their neighbours. After waiting for Hani for a time,[3406] they started to pass from one courtyard to the next, waiting a couple of minutes for him in each, but Hani did not join them.[3407] About 30-45 minutes later, they saw that Lulzim Vejsa's house was in flames.[3408]

885. Hani Hoxha stayed for some minutes but left once the attackers had broken into the courtyard.[3409] Eight to 10 men broke into the compound.[3410] Hoxha saw that some of the men wore regular police uniforms while some wore camouflage uniforms; three or four of them wore masks.[3411] Hani Hoxha climbed over two walls and found shelter under some wooden boards, where he stayed for seven or eight hours, until dawn.[3412] During that time he could hear gun shots and people's voices. He heard someone say, "Spare me, don't kill me" in Albanian.[3413]

886. In the basement of Lulzim Vejsa's pool hall at about 0200 hours on 2 April 1999 Dren Čaka was woken up by his mother. She told him there were police officers in the building. They heard a loud noise. Then the door of the room opened and six men dressed in the uniform of Serbian police entered the room.[3414] They told the occupants to get out. They said they were searching for KLA fighters.[3415] The men wore blue and blackish patterned police uniforms,[3416] *i.e.* in the Chamber's finding the standard police camouflage uniforms, and were heavily armed with machine guns, AK-47s, and normal hand-guns.[3417] The policemen forced the group in a single-file line to go to the house of Lulzim Vejsa. The entrance door of the house was shut. One of Lulzim's daughters went ahead to open the door but a police officer fired and shot the door down.[3418] Inside the house, most of the group sat down in the living room, but some three or four stayed in the hallway. Two

[3404] Lulzim Vejsa, Exhibit P978, p 3.
[3405] Lulzim Vejsa, Exhibit P978, p 3.
[3406] Lulzim Vejsa, Exhibit P978, p 3.
[3407] Lulzim Vejsa, Exhibit P978, p 3.
[3408] Lulzim Vejsa, Exhibit P978, p 3.
[3409] Hani Hoxha, Exhibit P879, p 3.
[3410] Hani Hoxha, Exhibit P880 (*Milošević* transcript),T 7379; Hani Hoxha, Exhibit P879, p 4.
[3411] Hani Hoxha, Exhibit P879, p 3; Hani Hoxha, Exhibit P880 (*Milošević* transcript),T 7374-7375.
[3412] Hani Hoxha, Exhibit P881 (*Milutinović* transcript), T 1540; Hani Hoxha, Exhibit P880 (*Milošević* transcript),T 7376; Hani Hoxha, Exhibit P879, p 4.
[3413] Hani Hoxha, Exhibit P881 (*Milutinović* transcript), T 1541; Hani Hoxha, Exhibit P879, p 4.
[3414] Dren Čaka, Exhibit P1296 (*Milutinović* transcript), T 2636; Dren Čaka, T 8635.
[3415] Dren Čaka, Exhibit P1296 (*Milutinović* transcript), T 2637-2638, 2664; Dren Čaka, T 8635.
[3416] Dren Čaka, T 8646-8647; T 8666-8667; Exhibits P1301 and D360.
[3417] Dren Čaka, Exhibit P1296 (*Milutinović* transcript), T 2638-2639; Dren Čaka, T 8636.
[3418] Dren Čaka, Exhibit P1296 (*Milutinović* transcript), T 2638, 2641; Dren Čaka, T 8635.

policemen were in the living room. There was another policeman outside.[3419] There was only candle light.[3420]

887. While sitting in the living room, Flaka Hoxha went to make some tea but was pushed by one of the policemen. A policeman by the door fired at her. There were also some shots fired through the window.[3421] Flaka fell to the ground. She appeared to be dead. Her mother, Shahindere Hoxha, started screaming and ran out. She was also shot.[3422] Lulzim Vejsa's baby daughter, Rita Vejsa, was then shot as she lay in the arms of Lulzim's wife, Tringa Vejsa. She dropped the baby and was also shot. Dren Čaka's mother, Valbona Čaka was then shot in the back and fell over Dren's baby sister, Diona Čaka.[3423] The policemen started to shoot everywhere.[3424] Dren Čaka was shot in the arm. Then the police fired at a closet which started to burn and set the house on fire.[3425] One of his sisters gave Dren Čaka a glove to press on his mouth in order to be able to breathe through the smoke.[3426] The policemen left. Dren Čaka got up. Arlind Vejsa (five years old) was still breathing although he had been shot many times. Dren Čaka tried to help him but as soon as he spoke a word the breathing stopped. Dren's baby sister had not been shot but was lying under the dead body of their mother. He could hear the baby crying but could not do anything to help her as his right arm was shot and the body of his mother was too heavy.[3427] He left. As he was escaping from the house, he saw that the three police officers who had been inside the house were smoking outside.[3428]

888. The Chamber is convinced that the account of the events just described, as given by Dren Čaka, who was 10 years old at the time of the events, was given honestly and reliably and accepts the veracity of the main facts he described. It rejects the Defence submission that due to his young age Čaka would not be able to distinguish between forces,[3429] noting that he was able to identify the police uniform in his evidence from a booklet with photographs of various uniforms[3430] as well as

[3419] Dren Čaka, Exhibit P1296 (*Milutinović* transcript), T 2642-2643.
[3420] Dren Čaka, Exhibit P1296 (*Milutinović* transcript), T 2650; K74, Exhibit P1096, (*Milutinović* transcript), T 7521, 7535.
[3421] Dren Čaka, Exhibit P1296 (*Milutinović* transcript), T 2644, 2647.
[3422] Dren Čaka, Exhibit P1296 (*Milutinović* transcript), T 2644; Dren Čaka, T 8635.
[3423] Dren Čaka, Exhibit P1296 (*Milutinović* transcript), T 2644; Dren Čaka, T 8643-8644.
[3424] Dren Čaka, T 8635.
[3425] Dren Čaka, Exhibit P1296 (*Milutinović* transcript), T 2644; Dren Čaka, T 8640, 8644.
[3426] Dren Čaka, Exhibit P1296 (*Milutinović* transcript), T 2644-2645.
[3427] Dren Čaka, Exhibit P1296 (*Milutinović* transcript), T 2645; Dren Čaka, T 8644.
[3428] Dren Čaka, Exhibit P1296 (*Milutinović* transcript), T 2642-2643, 2647-2650; Dren Čaka, T 8642-8646; Exhibit P1300.
[3429] Defence Final Brief, para 841.
[3430] Dren Čaka, T 8646-8647; Exhibit P1301.

the pattern of the uniform.[3431] Dren Čaka also had personal acquaintance with a policeman living in his neighbourhood who wore the same blue camouflage uniform.[3432]

889. The Chamber finds it established that 20 people were killed in the night of 1 April 1999 and early morning of 2 April 1999 at 157 Miloš Gilić/Millosh Giliq Street, as set out in Schedule G of the Indictment, of whom 12 were children, seven were women, and one was a 50 year old male (Hysen Gashi) who was mentally impaired.[3433] All were civilians taking no active part in hostilities. The Chamber is satisfied that they were killed because they were Kosovo Albanian. These individuals were:

Tringa Vejsa, Dorina Vejsa, Marigona Vejsa, Shihana Vejsa, Rita Vejsa, Arlind Vejsa, Fetije Vejsa, Hysen Gashi, Shahindere Hoxha, Flaka Hoxha, Valbona Čaka, Dalina Čaka, Delvina Čaka, Diona Čaka, Valbona Haxhiavdia, Doruntina Haxhiavdia, Egzon Haxhiavdia, Rina Haxhiavdia, Shirine Nuci, and Manushe Nuci.

890. The account of events given by Dren Čaka is further confirmed by Sami Parashumti, who lived across the street at 82 Miloš Gilić/Millosh Giliq Street.[3434] Parashumti testified that in the early hours of 2 April, he heard gunshots coming from the direction of the Vejsa family home, across the street from where he was standing.[3435] When the shooting stopped, he heard children screaming from the yard of the Vejsa family home "[t]hey are going to kill us". About 15 minutes later, when Sami Parashumti had returned to his house, he heard a second burst of fire coming from the Vejsa family home.[3436] From the roof of his house, Sami Parashumti observed a police van with its lights switched off; he saw approximately 12 men leave this van and enter his yard.[3437] Three of these men wore cowboy hats, green camouflage uniforms, and had painted faces.[3438] In the Chamber's finding this description is consistent with the uniform worn by the PJP of the MUP. The remaining nine men were wearing blue camouflage uniforms.[3439] He observed seven or eight other policemen, also wearing blue police camouflage uniforms, climb over the wall to the Cana family

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[3431] Dren Čaka, T 8666-8667; Exhibit D360.
[3432] Dren Čaka, T 8637.
[3433] Hani Hoxha, T 5623-5626.
[3434] Sami Parashumti, Exhibit P903, p 1.
[3435] Sami Parashumti, Exhibit P903, p 2; Sami Parashumti, T 5969; Exhibit P904.
[3436] Sami Parashumti, Exhibit P903, p 2.
[3437] Sami Parashumti, Exhibit P903, p 2; Sami Parashumti, T 5971-5972; *see* also Sami Parashumti, T 6002, 6003; Exhibit D220.
[3438] Sami Parashumti, Exhibit P903, p 2; Sami Parashumti, T 5972-5974; Exhibit P906, upper right photograph depicting uniform of these three individuals. The photo shows uniform material with a green, brown and yellow camouflage pattern.
[3439] Sami Parashumti, Exhibit P903, p 2; Sami Parashumti, T 5972-5974; Exhibit P906, upper left photograph indicating the uniform worn by the nine other individuals. The photo shows uniform material with two shades of blue camouflage pattern; *see* also Sami Parashumti, T 6012; Exhibit D222, uniform marked with number "1". This is the standard police camouflage uniform.

home.[3440] Sami Parashumti saw approximately another 50 policemen along the street wearing the same dark blue police camouflage uniforms.[3441]

891. From the position on the roof of his house, Sami Parashumti observed a number of these men approach the Cana home, located next door at 80 Miloš Gilić/Millosh Giliq Street.[3442] Some entered the house and a few remained outside. At about 0145 hours, he heard Januz Cana's wife Ganimete scream to him, "[o]ur son is gone", and a few seconds later, he heard five distinct gun-shots.[3443] About five minutes after this, he saw four policemen come out of the Cana home with Januz's daughter Shpresa, 43 years old, who was in pyjamas.[3444] One of the policemen ripped Shpresa's top open and pulled her hair. The witness heard Shpresa yell at this policeman, "[y]ou killed my father".[3445] The policemen then took Shpresa along the pathway towards the new house of the Cana family to a tunnel by the main road.[3446] One of these policemen had a knife. Shortly after they had gone inside the tunnel, he heard Shpresa scream.[3447] This was followed by a dreadful sound like an animal being slaughtered. Because of what he had seen and heard he imagined the worst for Shpresa Cana.[3448] These events related to the killings, in the Chamber's finding, of four members of the Cana family.[3449]

892. Dr. William C. Rodriguez III of the U.S. Department of Defense, Armed Forces Institute of Pathology, examined bodily remains found at 80 Miloš Gilić/Millosh Giliq Street on 25 June 1999, and concluded that they represented four family members, whose bodies were dispersed throughout the house, consisting of an elderly male and female, and a male and female estimated to be in their late 30s to early 40s at death.[3450] The Chamber notes that this confirms the evidence given by Parashumti related to the killings of the four Cana family members. It is satisfied that Januz Cana, Ganimete Cana, Shpresa Cana, and Fatmir Cana were killed on 1 April 1999 by MUP forces because they were Kosovo Albanian. All these individuals were civilians taking no active part in hostilities.

[3440] Sami Parashumti, Exhibit P903, p 3; Sami Parashumti, T 6006; Exhibit D220, wall dividing witness's parents' house and Cana house is between marking 9 and 11.
[3441] Sami Parashumti, Exhibit P903, p 3; Sami Parashumti,T 5974; Exhibit P906, upper left uniform pattern.
[3442] Sami Parashumti, Exhibit P903, p 3; Sami Parashumti, T 5975; Exhibit P904 (aerial photograph of the street, marked by Parashumti in court showing the location of his house, the Vejsa compound and the Cana house).
[3443] Sami Parashumti, Exhibit P903, p 3.
[3444] Sami Parashumti, Exhibit P903, p 3; Sami Parashumti, T 6005.
[3445] Sami Parashumti, Exhibit P903, p 3; Sami Parashumti, T 6005.
[3446] Sami Parashumti, Exhibit P903, p 3; Sami Parashumti, T 6005; Exhibit D220, tunnel indicated by marking "12".
[3447] Sami Parashumti, Exhibit P903, p 3; Sami Parashumti, T 6005.
[3448] Sami Parashumti, Exhibit P903, p 3.
[3449] The Chamber notes that a hearsay account given by K74 (*see* K74, Exhibit P1095, p 3) differs from this account based on an eye witness evidence which the Chamber accepts. *See* also Exhibit P756, p 217.
[3450] Exhibit P1161, pp 13-15.

893. While on the roof of his house from where he observed the events around him, Sami Parashumti realized that his own house was on fire.[3451] He jumped from the roof into his backyard and fled to the house of Afrim Berisha, about 35 metres behind his house and separated from his house by an empty space and a wall.[3452] Because there was a lot of smoke coming from his home, he and his family whom he had left there earlier had to leave Afrim Berisha's house. They went to the house of Sadik Krasniqi, directly behind Afrim's house. This house was unfinished, and there were many civilians hiding in it.[3453]

894. Many Albanian houses along the street were burnt that night.[3454] First, the house of Bardhyl Riza, which had been vacated, was set on fire.[3455] Then, the house of Fehmi Lleshi was burnt; Fehmi Lleshi and his wife Kimete Lleshi were taken away by the attackers and were never seen again. Their two children escaped through a hole in the wall.[3456] The house of Besim Bokshi was also burnt, as was the house of Esat Mullatahiri. The fifth house in this row of houses was not burned; it belonged to a Serb, Lubiša Raicević, a police reservist. The sixth house was connected to the Serb's house, and although it was not burnt,[3457] the attackers killed the inhabitants, including Hysen Deda (75 years old), Caje Deda (65 years old), Aferdita Deda Demjaha (38 years old) and Argjend Ylber Demjaha (5 years old).[3458] Mentor Deda (35 years old) survived. The houses of Ali Lapi, Gezim Nagafci, Jonuz Cana, Njazi Parashuti, Rezak Parashuti, Xhevdet Muhaxhiri, Agron Nagafci, Ragip Ballata, Shkelzen Vogli and Lulzim Vejsa were all burnt.[3459] The house of K74 was burnt and every room of his house had been machine-gunned.[3460]

895. When Lulzim Veja and Behar Haxhiavdija walked back to the Vejsa family home on the morning of 2 April at about 0700, after having spent the night in an abandoned house,[3461] they saw that Albanian homes in the Ćerim/Qerim district had been burnt while Serb houses and Kosovo Albanian homes adjacent to Serb homes had been left untouched.[3462] The Vejsa family home had

[3451] Sami Parashumti, Exhibit P903, p 3.
[3452] Sami Parashumti, Exhibit P903, p 3; Sami Parashumti, T 5986.
[3453] Sami Parashumti, Exhibit P903, p 3.
[3454] K74, Exhibit P1095, pp 2-5; K74, Exhibit P1096 (*Milutinović* transcript), T 7534-7536; K74, T 7429.
[3455] K74, Exhibit P1095, p 2.
[3456] K74, Exhibit P1095, p 2.
[3457] K74, Exhibit P1095, p 2.
[3458] K74 heard about the death of Argjend Ylber Demjaha from Mentor Deda. *See* K74, Exhibit P1095, p 2; K74, Exhibit P1096, (*Milutinović* transcript), T 7511-7514.
[3459] K74, Exhibit P1095, pp 3-5; K74, Exhibit P1096 (*Milutinović* transcript), T 7509.
[3460] K74 did not personally witness the burning or shooting of his house, but concluded that that was what had happened after seeing bullet holes in the walls of his house when the attack was over. K74, Exhibit P1095, pp 3, 5-6; K74, T 7426-7427; K74, Exhibit P1096 (*Milutinović* transcript), T 7515.
[3461] Lulzim Vejsa, Exhibit P978, p 3. Lulzim Vejsa explained that as they thought that Serbian policemen only killed men and let women and children go, they thought their families were safe.
[3462] Lulzim Vejsa, Exhibit P978, p 3.

been burnt down and was being guarded by three policemen in blue reservist police uniforms.[3463] Lulzim Vejsa knew the three police reservists, who had all been mobilised in 1998-1999.[3464] Two of whom, Lubiša Raicević and Nenad Raicević, were brothers who lived 20 metres from his house, and the third, Novica Nedeljković, lived in another house also about 20 metres away.[3465] Lulzim Vejsa and his family had had good relations with the men and their families prior to the incident.[3466] As Lulzim Vejsa went past the reservist policemen, Lubiša Raicević said to him, "You see, Lulzim, what NATO did to us?"[3467] Lulzim Vejsa saw syringes and bottles in front of his pool hall.[3468]

896. At approximately 0730 hours, Hani Hoxha made his way back to Lulzim Vejsa's compound. The compound had been burnt to the ground and there was smoke coming out of the basement where the women and children had been sheltering.[3469] Hani Hoxha did not see his wife and daughters again.[3470] He saw the burnt body of Lulzim Vejsa's uncle, Hysen Gashi.[3471] Hani Hoxha went to a neighbour's house where he met Dren Čaka.[3472] Dren Čaka told him that the attackers had said that they were going to execute all of them because they had asked for NATO and that the people in the basement were shot at a distance of 1 metre.[3473]

897. Lulzim Vejsa and Behar Haxhiavdija went to Lulzim's paternal aunt's house a further three houses away, and found his aunt, her husband and Hani Hoxha there. Lulzim's cousin's son Dren Čaka was also there; his right arm had been injured.[3474] Lulzim's aunt explained that all the people who had stayed in the basement were dead except for Dren.[3475] Hani Hoxha and Behar Haxhiavdija went to Lulzim Vejsa's house and saw that it was completely burnt down and that the basement was still in flame and smoke.[3476] They could not find any dead bodies, only pieces of human flesh.[3477] Dren Čaka was taken to the hospital by his aunt and grandfather.[3478]

[3463] Lulzim Vejsa, Exhibit P978, p 3; Lulzim Vejsa, Exhibit P979 (*Milutinović* transcript), T 4080-4081; Lulzim Vejsa, T 6102.
[3464] Lulzim Vejsa, Exhibit P979 (*Milutinović* transcript), T 4087.
[3465] Lulzim Vejsa, Exhibit P979 (*Milutinović* transcript), T 4083-4084; Lulzim Vejsa, T 6090-6091. *See* also K74, P1095, pp 4-5.
[3466] Lulzim Vejsa, Exhibit P979 (*Milutinović* transcript), T 4086-4087; Lulzim Vejsa, T 6103.
[3467] Lulzim Vejsa, Exhibit P979 (*Milutinović* transcript), T 4091.
[3468] Lulzim Vejsa, Exhibit P979 (*Milutinović* transcript), T 4092.
[3469] Hani Hoxha, Exhibit P881 (*Milutinović* transcript), T 1544; Hani Hoxha, Exhibit P880 (*Milošević* transcript),T 7377; Hani Hoxha, Exhibit P879, p 4.
[3470] Hani Hoxha, Exhibit P881 (*Milutinović* transcript), T 1545.
[3471] Hani Hoxha, Exhibit P880 (*Milošević* transcript), T 7377; Hani Hoxha, Exhibit P879, p 4.
[3472] Hani Hoxha, Exhibit P879, p 4.
[3473] Hani Hoxha, Exhibit P880 (*Milošević* transcript), T 7378.
[3474] Lulzim Vejsa, Exhibit P978, p 3.
[3475] Lulzim Vejsa, Exhibit P978, p 3.
[3476] Lulzim Vejsa, Exhibit P978, p 3.
[3477] Lulzim Vejsa, Exhibit P978, p 3.
[3478] Lulzim Vejsa, Exhibit P978, p 3; Dren Čaka, Exhibit P1296 (*Milutinović* transcript), T 2654; 2665.

898. It was the evidence of Frederick Abrahams, a researcher with Human Rights Watch that, shortly after the events described above, Faton Polloshka, a member of the Đakovica/Gjakovë city public works, entered Lulzim Vejsa's house and retrieved the 20 bodies, which had been burned beyond recognition.[3479] He told Abrahams that, in addition to those bodies at the Vejsa compound, he had retrieved 30 other bodies of people killed on 1 and 2 April 1999.[3480] Forensic evidence received by the Chamber and discussed in more detail later in this Judgement, confirms that some of the bodies from Lulzim Vejsa's house were moved to the Đakovica/Gjakovë public cemetery some time between 2 April 1999 and 25 May 1999. Dr. William C. Rodriguez III of the U.S. Department of Defence, Armed Forces Institute of Pathology examined remains found both at 157 Miloš Gilić/Millosh Giliq Street and at the Đakovica/Gjakovë public cemetery.[3481] He concluded that an exact number of victims could not be ascertained due to the burnt and fragmented condition of the remains. Nonetheless, the remains of at least 20 individuals were represented including one adult male, several adult females and many children.[3482]

899. Evidence indicates that a number of Kosovo Albanian men were killed at the Đakovica/Gjakovë bus station, located some 300 metres from Miloš Gilić/Millosh Giliq Street on or around 1 April 1999.[3483] Aleksandar Vasiljević, the then Assistant Head of the VJ Security Administration, received a report from Captain Sergei Perović that Đakovica/Gjakovë SUP chief, Milovan Kovačević, had his own Operational Pursuit Group (OPG) called Legija which was involved in the killing of 20 male Kosovo Albanians in April 1999 whose corpses were found at the Đakovica/Gjakovë bus station and left there for some days until some Roma people loaded these bodies onto vehicles, in Perović's view, on the orders of the police.[3484] This evidence is partially corroborated by the examination made by Dr. Rodriguez of the U.S. Department of Defense, Armed Forces Institute of Pathology on 28 June 1999 of burnt and calcined skeletal remains found at the Đakovica/Gjakovë bus station.[3485] The remains belonged to at least six adult males. On the remains of one body, there was clear evidence of a gunshot wound to the right scapula.[3486] The Report indicates that the men were killed on 1 April 1999.[3487]

900. As discussed earlier in this Judgement, on the basis of information from interviews of Kosovo Albanians conducted by the Council for the Defence of Human Rights and Freedoms (CDHRF), the CDHRF Chairman Fuad Haxhibeqiri concluded that Serbian forces killed about 60

[3479] Frederick Abrahams, T 3975; Exhibit P756, p 220.
[3480] Exhibit P756, p 220.
[3481] Exhibit P1161, pp 2-10.
[3482] Exhibit P1161, p 9.
[3483] Lulzim Vejsa, T 6099; K74, T 7452; Exhibit P823, p 24.
[3484] Aleksandar Vasiljević, T 5735-5736.
[3485] Exhibit P1161, pp 11-13.
[3486] Exhibit P1161, p 12.

Kosovo Albanians in Miloš Gilić/Millosh Giliq Street that night.[3488] This is consistent with the evidence heard by the Chamber as to the systematic and large-scale killings in Miloš Gilić/Millosh Giliq Street and the surrounding neighbourhood on 1-2 April 1999.

901. The Chamber notes the evidence of Defence witness Miloš Đošan, at the relevant time stationed at the VJ Vinarski Podrum facility in the Ljug Bunar neighbourhood, some 500 metres from the Ćerim/Qerim neighbourhood, who stated that he heard and saw nothing of an operation the night of 1 April 1999.[3489] He also testified that had killings taken place, he would have been informed of them, but that no such information was given to him.[3490] The Chamber seriously doubts the credibility and reliability of Đošan's evidence. In previous proceedings, Đošan suggested that he had driven through the Ćerim/Qerim neighbourhood the night of 1 April 1999 after having assisted in pulling two wounded VJ soldiers from the P-15 radar installation which had been hit by NATO bombs earlier that evening, and had neither seen nor heard any signs of an operation.[3491] However, other evidence reveals that the P-15 radar installation was in fact hit the night of 31 March 1999;[3492] a fact confirmed by Đošan in his evidence in this trial.[3493] There is therefore no evidence that VJ units were present in the Ćerim/Qerim neighbourhood the night of the operation on 1 April 1999. Neither is the Chamber convinced by the assertion that the killings could not have taken place since Đošan was not informed about them. As discussed further below, the crimes were not reported by MUP forces as required by the law and there was a deliberate effort on the part of the MUP to avoid any proper investigation. It is therefore quite possible that Đošan may not have been informed about the killings.

902. The whole of the evidence above satisfies the Chamber that there was a planned deliberate offensive operation in the Ćerim/Qerim neighbourhood on 1-2 April 1999 by Serbian police, including members of the PJP and local and reserve police, in a systematic fashion, which involved the killing of unarmed Kosovo Albanian civilians, even women and children, and the destruction of the houses and property of Kosovo Albanian civilians. The operation was a direct response to the commencement of the NATO bombing campaign.

[3487] Exhibit P1161, p 11.
[3488] Fuad Haxhibeqiri, Exhibit P1068, p 8.
[3489] Miloš Đošan, Exhibit D684 (*Milošević* transcript), T 45408.
[3490] Miloš Đošan, T 11467; Miloš Đošan, Exhibit D684 (*Milošević* transcript), T 45406.
[3491] Miloš Đošan, Exhibit D684 (*Milošević* transcript), T 45408.
[3492] Exhibit D689, p 1; Exhibit D958, p 8.
[3493] Miloš Đošan, T 11465.

(c) Expulsion from Đakovica/Gjakovë to Albania

903. Large numbers of Kosovo Albanians began leaving Kosovo and crossing the border to Albania from 24 March 1999.[3494] The closest border crossing to the city of Đakovica/Gjakovë is the Ćafa Prušit/Qafa-e-Prushit border crossing. The war diary of the 2nd Motorised Brigade of the 549th Motorised Battalion recorded that on 28 March 1999, some 2,000 people "passed by in the direction of the Ćafa Prušit border crossing"; on 29 March, about 1,000 people went towards the border crossing; on 30 March 1999, some 2,000 people crossed the Ćafa Prušit/Qafa-e-Prushit into Albania.[3495] The war diary entry stated that transport for the elderly and children was organised by the VJ.[3496] It also noted that "the Đakovica-Prizren road is jammed by refugee columns" and that VJ soldiers gave biscuits and juice to children in the groups.[3497] Entries for the following days record that about 1,000 people passed in the direction of the Ćafa Prušit/Qafa-e-Prushit border crossing on 31 March, leaving behind about 70 tractors in Žub/Zhub village, located on the road just before the border crossing;[3498] another 2,000 people "passed by" heading in the direction of the border crossing on 1 April.[3499] The MUP staff report covering security related events from 1-2 April 1999 states that during the course of 1 April 1999, around 1,500 Kosovo Albanians "set off from Klina and the outlying villages and from Đakovica towards the Ćafa Prušit border crossing".[3500]

904. The evidence reveals there was a mass movement of Kosovo Albanian residents from the city of Đakovica/Gjakovë on 2 April 1999, and the days following, to Albania. The MUP Staff report covering security related events from 2-3 April 1999 states that early on 2 April 1999, 70,000 Kosovo Albanians "fled" to Albania via the Ćafa Prušit/Qafa-e-Prushit and Vrbnica/Vërbnicë border crossings.[3501] The report of 4 April 1999 states that in the period between 24 March 1999 to 4 April 1999, 38,180 "persons" crossed the Ćafa Prušit/Qafa-e-Prushit border crossing.[3502] The war diary of the 2nd Motorised Brigade of the 549th Motorised Battalion recorded that on 4 April 1999, some 4,000 "civilians went towards the Ćafa Prušit border crossing" and that transport was

[3494] Exhibit P1058, p 6 (The MUP Staff report covering security related events from 27-28 March 1999 noted that on 27 March 1999, around 11,000 members of the "Šiptar ethnic minority" left Kosovo via the Vrbnica/Vërbnicë border crossing and while around 150 left via the Đeneral Janković/Han-i-Elezit border crossing to FYROM, and on 28 March 1999, around 5,000 members of the "Šiptar ethnic minority" left via the Vrbnica/Vërbnicë border crossing to the territory of the Republic of Albania).
[3495] Exhibit D37, pp 4-5.
[3496] Exhibit D37, p 5.
[3497] Exhibit D37, p 5.
[3498] Exhibit D37, p 5. The war diary notes that an inventory was made of the vehicles and technical goods.
[3499] Exhibit D37, p 6.
[3500] Exhibit P718, p 5.
[3501] Exhibit P697, p 6.
[3502] Exhibit P719, p 6.

organised for the elderly and children.[3503] While the places of origin of these refugees is not mentioned in the reports or the war diary, the Chamber notes that the evidence of Kosovo Albanians going to Albania through the Ćafa Prušit/Qafa-e-Prushit border crossing is consistent with the oral evidence of persons who were expelled from Đakovica/Gjakovë city in the same time period, discussed below, who crossed the border to Albania through the Ćafa Prušit/Qafa-e-Prushit border crossing.

905. At around 0700 hours on 2 April 1999, about 300 people who gathered in the Krasniqi home, left for Albania.[3504] On 1 or 2 April 1999, Shyhrete Dula saw a convoy of many people escorted by Serbian police and VJ soldiers walking past the temple known locally as "The Big Temple", in which she had taken refuge for eight days with about 100 other people.[3505] The Chamber notes the Defence submission that Dula and her family had fled to the Temple because of the fear they felt after having seen the "suspicious behaviour" of Kosovo Albanian men (possibly KLA members) climbing perimeter walls of the garden and running from yard to yard.[3506] In fact, as Dula made clear in her evidence, and the Chamber accepts, the fear that led her and her family to seek refuge in the Temple was not the Kosovo Albanian men's behaviour, but was rather the concern that she and her family should also avoid the threat that was causing the Kosovo Albanian men to flee.[3507] The people in the convoy were walking from the direction of the Ćerim/Qerim district of the city.[3508] She and her family joined the convoy.[3509] At two checkpoints along the road Shyhrete Dula and her family were asked by police, dressed in blue camouflage uniforms, to hand over their identity documents.[3510] Shyhrete Dula and the rest of the convoy were escorted to the Albanian border at Ćafa Prušit/Qafa-e-Prushit, where their identification papers were again demanded by the police there before the convoy was allowed to cross into Albania.[3511] The convoy was escorted to the crossing by VJ forces.[3512]

906. At around 0900 – 0930 hours on 2 April, Lulzim Vejsa saw about 7,000 or 8,000 Kosovo Albanians from his neighbourhood moving down the street outside his house in cars, tractors or on foot.[3513] These displaced persons formed a column about three kilometres long.[3514] Hani Hoxha, Behar Haxhiavdija, Lulzim Vejsa and his aunt's sons joined the column which eventually crossed

[3503] Exhibit D37, p 7.
[3504] Exhibit P903, p 3; Sami Parashumti, T 5977.
[3505] Shyhrete Dula, Exhibit P1268, p 4.
[3506] Defence Final Brief, para 830.
[3507] Shyhrete Dula, Exhibit P1268, p 4.
[3508] Shyhrete Dula, Exhibit P1268, p 4; Shyhrete Dula, T 8329, 8393.
[3509] Shyhrete Dula, Exhibit P1268, p 4; Shyhrete Dula, T 8391-8392.
[3510] Shyhrete Dula, Exhibit P1268, p 4; Shyhrete Dula, T 8347, 8393-8395.
[3511] Shyhrete Dula, Exhibit P1268, p 4; Shyhrete Dula, T 8349, 8395.
[3512] Shyhrete Dula, Exhibit P1268, p 4.
[3513] Lulzim Vejsa, Exhibit P978, p 3. *See* also K74, T 7440.
[3514] Hani Hoxha, Exhibit P879, p 5.

the border into Albania.[3515] There were many Kosovo Albanians from the immediate neighbourhood in the column.[3516] Lulzim Vejsa gave evidence that all the people in the column knew what had happened to his family and were afraid that the same thing would happen to them.[3517] On their way to the border, friends from his neighbourhood told Lulzim Vejsa how other Kosovo Albanians had been killed, all of them men.[3518] Lulzim Vejsa saw burnt houses in the city and in the villages they passed through.[3519] K74 was also part of this convoy.[3520] As the column proceeded through Đakovica/Gjakovë, there were police and VJ on every street corner.[3521] The Chamber notes in this regard a report of the Đakovica/Gjakovë SUP signed by the SUP chief, Milovan Kovačević, dated 27 March 1999, which recorded that between 0000 and 2400 hours on 27 March 1999, "route security" was provided on the main roads leading out of Đakovica/Gjakovë, and that "no events or incidents of security interest" occurred during this time.[3522]

907. At 1000 hours on 2 April 1999, two policemen in a blue vehicle came to Doctor Gani Efendiu's house in the Blloku-i-Ri neighbourhood of the city. Fuad Haxhibeqiri had taken shelter there after the CDRHF office had been searched by police and some of his colleagues had been arrested on 23 March 1999.[3523] At the time the police came to the door Fuad Haxhibeqiri hid in the house.[3524] He heard the police tell the doctor to leave within five minutes and to board a bus that was waiting near the church. The doctor tried to take his own car, but the police made him walk and told him to leave the garage door open and leave his car keys.[3525] Eight people then staying in Gani Efendiu's house (the doctor, the doctor's wife, their two sons and some neighbours) then left the house except for Fuad Haxhibeqiri, who was afraid that the police were looking for him because of his work at the CDHRF.[3526] When the police left, Fuad Haxhibeqiri went into the garden and hid in a water pump hole for some four days and nights until he considered it was safer for him to move.[3527]

908. As this convoy of people leaving Đakovica/Gjakovë reached the outskirts of the city, police ordered them to deposit their identification documents on the ground,[3528] or in a box,[3529] after which

[3515] Lulzim Vejsa, T 6092-6093; Lulzim Vejsa, Exhibit P978, p 3.
[3516] Lulzim Vejsa, T 6093.
[3517] Lulzim Vejsa, Exhibit P978, p 3.
[3518] Lulzim Vejsa, Exhibit P978, p 4.
[3519] Lulzim Vejsa, Exhibit P978, p 4.
[3520] K74, T 7438, 7453-7454; K74, Exhibit P1095, p 6.
[3521] Hani Hoxha, Exhibit P879, p 5.
[3522] Exhibit D922, p 3.
[3523] Fuad Haxhibeqiri, Exhibit P1068, p 6; Fuad Haxhibeqiri,T 6994.
[3524] Fuad Haxhibeqiri, T 6996, 6988-6989, 6999-7000.
[3525] Fuad Haxhibeqiri, Exhibit P1068, p 6; Fuad Haxhibeqiri, T 6937, 6939, 6994-6996.
[3526] Fuad Haxhibeqiri, Exhibit P1068, p 7; Fuad Haxhibeqiri, T 6935-6936, 6937, 6990-6991, 6994-6995, 7002-7003.
[3527] Fuad Haxhibeqiri, Exhibit P1068, p 7; Fuad Haxhibeqiri, T 6937-6938, 7000.
[3528] Sami Parashumti, T 5978, 6014-6015.

they were allowed to proceed. The route of the convoy was from Đakovica/Gjacovë to Brekovac/Brekoc, on to Vogovo/Vogovë, and then to Žub/Zhub, where another group of about 250 displaced persons joined the convoy. Convoys of Kosovo Albanian displaced persons came from all directions.[3530] At about the same time K89 saw columns, mainly women, children, elderly and the infirm, pass by Žub/Zhub, from the direction of Đakovica/Gjakovë or its surrounding villages, and moving to Deva/Devë at the Albanian border where they crossed into Albania.[3531] The columns were escorted by members of the VJ infantry.[3532] As the columns of displaced persons were passing through Žub/Zhub, K89 saw identification documents of the people being torn up by members of the VJ.[3533] The main road to the customs office of Albania had been mined, so VJ members directed the column of displaced persons to another road by which they reached the border.[3534] The weak and elderly were helped by the VJ onto trucks which transported them to the border.[3535]

909. The convoy of displaced persons of which Lulzim Vejsa, Hani Hoxha and K74 were part, walked about nine to ten kilometres before reaching the Albanian border at Ćafa Prušit/Qafa-e-Prushit at 1230 hours the same day, 2 April 1999.[3536] At the border, there was another checkpoint, manned by the VJ army. VJ soldiers in green camouflage uniforms held the displaced persons about three hours before letting them continue across the border into Albania.[3537] Again identification and other documents were required to be handed to the VJ.[3538] There were VJ tanks in the hills near the border.[3539] After the column reached the border, the VJ left them and went back without saying anything.[3540] It was estimated that there were between 10,000 and 15,000 people in the refugee column that day.[3541] As the column crossed the border into Albania a guard told the refugees to walk for two kilometres to a school, where they stayed until about 0300 hours the next morning when some trucks came and took them to the village of Krume.[3542]

[3529] Lulzim Vejsa, Exhibit P978, p 3; Lulzim Vejsa, Exhibit P979 (*Milutinović* transcript), T 4081-4082; Lulzim Vejsa, T 6093-6094; Hani Hoxha, Exhibit P881 (*Milutinović* transcript), T 1549; Hani Hoxha, Exhibit P880 (*Milošević* transcript),T 7381; Hani Hoxha, Exhibit P879, p 5.
[3530] Sami Parashumti, T 5978-5979. *See* also K74, T 7439, 7463.
[3531] K89, Exhibit P1274 (*Milutinović* transcript), T 9154, 9184.
[3532] K89, Exhibit P1274 (*Milutinović* transcript), T 9186.
[3533] K89, Exhibit P1274 (*Milutinović* transcript), T 9154-9155, 9186.
[3534] Sami Parashumti, T 5979. On the location of the mines near the border area, *see* also K89, Exhibit P1274, (*Milutinović* transcript), T 9186, 9228.
[3535] Sami Parashumti, T 5979; Hani Hoxha, Exhibit P879, p 5. Lulzim Vejsa and Hani Hoxha were also put on tractors. Lulzim Vejsa, Exhibit P978, p 4; K89, Exhibit P1274 (*Milutinović* transcript), T 9154-9155, 9186.
[3536] Lulzim Vejsa, Exhibit P978, p 3; Hani Hoxha, Exhibit P879, p 5; K74, Exhibit P1095, p 6.
[3537] Lulzim Vejsa, Exhibit P978, p 4; Lulzim Vejsa, Exhibit P979 (*Milutinović* transcript), T 4082; Hani Hoxha, Exhibit P879, p 5.
[3538] K74, Exhibit P1095, p 6; K74, T 7440-7441.
[3539] Hani Hoxha, Exhibit P879, p 5.
[3540] Lulzim Vejsa, Exhibit P978, p 4.
[3541] Hani Hoxha, Exhibit P881 (*Milutinović* transcript), T 1564.
[3542] Lulzim Vejsa, Exhibit P978, p 4.

910. Having hidden in a water pump hole for some four days, Fuad Haxhibeqiri left the Blloku-i-Ri neighbourhood in Đakovica/Gjakovë. He noticed that the neighbourhood was deserted.[3543] As he returned to his home he noticed that many houses and shops had been burnt down.[3544] From his home Fuad Haxhibeqiri saw in another neighbourhood a daily average of two or more houses being burnt. He saw paramilitaries set these houses on fire by throwing into the houses small plastic containers, containing petrol and shooting at these.[3545] Although Haxhibeqiri did not give a description of the persons he refers to as paramilitaries, the Chamber is satisfied that the witness was able to distinguish between police, military and paramilitaries since he had completed his military service in 1983-1984,[3546] and as Chairman of the CDHRF, he interviewed hundreds of Kosovo Albanians about human rights violations they had suffered during the course of 1998 and 1999, including asking them to identify (and distinguish between) the perpetrators.[3547] He also described the uniform worn by individuals he described as paramilitaries in a context discussed below, as being a camouflage uniform with armbands and bandannas,[3548] which the Chamber finds is consistent with what was worn by some paramilitaries at the time. Haxhibeqiri also saw police setting houses and shops on fire.[3549] While there were no residents to be seen, police and paramilitaries passed by his gate in Hadum/Carshia-e-Vjeter neighbourhood which is located in the old city.[3550]

911. Dren Čaka and his family members left Đakovica/Gjakovë sometime between 4 and 8 April 1999, some by car and some by truck. It took them three or four days to reach the border of Albania.[3551] Having crossed the border, Dren Čaka was taken to a field hospital in Kukës,[3552] and from there he was later taken by a helicopter to Tirana.[3553] In evidence is a video film taken of Dren Čaka in the field hospital in Kukës about half an hour after he crossed the border. It showed him lying on a camp bed in a tent set up for medical treatment.[3554]

[3543] Fuad Haxhibeqiri, T 6940.
[3544] Fuad Haxhibeqiri, T 6941; Exhibit P1069.
[3545] Fuad Haxhibeqiri, Exhibit P1068, p 7; Fuad Haxhibeqiri,T 6940, 7012.
[3546] Fuad Haxhibeqiri, Exhibit P1068, p 7; Fuad Haxhibeqiri,T 6940, 7012.
[3546] Fuad Haxhibeqiri, Exhibit P1068, p 2.
[3547] Fuad Haxhibeqiri, Exhibit P1068, p 7; Fuad Haxhibeqiri, T 6952-6955, 6959, 6962, 6981.
[3548] Fuad Haxhibeqiri, T 7013-7014.
[3549] Fuad Haxhibeqiri, T 6994.
[3550] Fuad Haxhibeqiri, T 6940-6941, 7013-7014; Exhibit P1069.
[3551] Dren Čaka, Exhibit P1296 (*Milutinović* transcript), T 2654-2655; Dren Čaka, T 8648-8649.
[3552] Dren Čaka, Exhibit P1296 (*Milutinović* transcript), T 2656; Dren Čaka, T 8664.
[3553] Dren Čaka, Exhibit P1296 (*Milutinović* transcript), T 2660.
[3554] Dren Čaka, T 8657-8658; Exhibit P1302.

912. The direct evidence relied on by the Chamber has some further confirmation from accounts of the Refugee Task Force, as recorded in the OSCE publication "Human Rights Bi-Weekly" dated 1-15 April 1999.[3555]

913. The Defence argues that "the mixture of fear and chaos in Đakovica from the continuous bombing formed the reason why the population sought to leave, many going to the local train station to take a train directly to nearby Macedonia".[3556] The Chamber finds no support for this submission in the evidence. Witnesses who testified about leaving the city of Đakovica/Gjakovë and joining the convoys on or around 2 April 1999 said they left because their houses, or the houses of other Kosovo Albanians, had been burnt[3557] or because they feared for their lives because of the actions of the Serbian forces.[3558] The Chamber accepts this evidence.

914. An order of VJ Commander Vuković dated 3 April 1999 states that the city of Đakovica/Gjakovë and the Peć/Pejë-Đakovica/Gjakovë-Prizren road will be controlled by MUP forces.[3559] Minutes of a meeting of senior police officials in Kosovo dated 4 April 1999 record that the Đakovica/Gjakovë SUP chief, Milovan Kovačević, was able to report that "all the assigned tasks had been successfully completed". While the "assigned tasks" were not specified in the Minutes, Obrad Stevanović is reported to have said that the "first stage of anti-terrorist activities must be completed today and control over territory must be established…", a sentiment then echoed by the Deputy Prime Minister of the Federal Government, Nikola Šainović.[3560] The circumstances indicate that the "assigned tasks" were related to this first stage of anti-terrorist activities, and the establishment of control over territory. In the case of Đakovica/Gjakovë this involved the forced expulsion of Kosovo Albanians from the city of Đakovica/Gjakovë. The Chamber finds that there was little evidence of KLA activity or presence in the city of Đakovica/Gjakovë from 24 March 1999 to early May 1999 and that the actions of the Serbian forces, if purported to be of an anti-terrorist nature, were blatantly disproportionate to any KLA threat that may have existed.

915. The Chamber is satisfied that thousands of Kosovo Albanians were deported from the town of Đakovica/Gjakovë in the first days of April 1999.

[3555] Exhibit P874, pp 1-2. The report states that on 3 April 1999, the police were telling citizens to leave, and that one refugee buried 10 men, who had been executed by Serbian police because they were suspected to be KLA sympathisers. Another refugee had seen 30-40 bodies on the street of Đakovica/Gjakovë, including men, women and children. *See* Joseph Maisonneuve, T 5482-5483; Joseph Maisonneuve, Exhibit P853 (*Milutinović* transcript), T 11082.

[3556] Defence Final Brief, para 843.

[3557] Sami Parashumti, T 5977, 5980-5981; Exhibit P907, house "1" belonged to an elderly Serb woman, house "2" belonged to a Montenegrin family, and house "3" belonged to Xhemil Caka, who lived next door to the elderly Serb woman.

[3558] Hani Hoxha, Exhibit P879, p 5; Lulzim Vejsa, Exhibit P978, pp 3-4.

[3559] Exhibit D188, p 2.

[3560] Exhibit P764, p 4.

(d) Operation from 7-11 May 1999

916. There was a second operation by Serbian forces in the Cabrat neighbourhood of Đakovica/Gjakovë from 7-11 May 1999. Unlike the operation at the end of March and beginning of April 1999, there was intense fighting between KLA and government forces during the May operation.[3561] According to Nike Peraj, a member of the VJ, the military operation in May 1999 in Muhalla-e-Isufi and Cabrat Hill was led by VJ Colonel Milan Kotur, MUP Colonel Kovačević, and Reservists Commander Major Nikola Mičunović. These three attended twice-daily briefings in the same barracks where Peraj was stationed. Many civilians were killed during this operation.[3562] However, due to the lack of evidence as to the precise circumstances surrounding the deaths of these civilians and because they were killed during a period of active hostilities, the evidence does not allow the Chamber to make findings as to the commission of any crimes in this regard.

917. On or around 7 May 1999, the Hadum Mosque was subjected to further damage. Fuad Haxhibeqiri, who lived at a short distance from the mosque,[3563] heard an explosion and was able to see that the minaret was in two parts.[3564] He did not see who had caused this damage. This evidence is partially confirmed in the report of András Riedlmayer, which contains a statement from a named informant that the mosque's minaret was "decapitated" with a shoulder-launched missile on 8 May 1999,[3565] and the rear of the adjoining Islamic Library was sheared off.[3566] The damage to the mosque and library on this occasion occurred while there was fighting on Cabrat Hill (on the west side of the city) between the KLA and Serbian forces.[3567] The mosque is located about 300 metres away from Cabrat Hill.[3568] In these circumstances and without direct eye witness evidence of how the damage occurred, the Chamber cannot rule out the possibility that the damage to the mosque and library on this occasion was an indirect result of combat activities taking place nearby. It recalls its earlier finding, however, that the initial burning of the Hadum Mosque and its adjoining Islamic Library in the early hours of 25 March 1999 was a deliberate attack by Serbian forces.

918. Around 8-10 May 1999 the office of the CDHRF was burnt; Mr Haxhibeqiri saw it being set alight by means of a match being applied to the curtains.[3569] He observed this from his rooftop

[3561] Exhibit P756, p 222; Fuad Haxhibeqiri, T 6945, 7009. *See* also Exhibit P958, p 4.
[3562] Nike Peraj, Exhibit P313, para 103. *See* also Fuad Haxhibeqiri, T 6945-6946.
[3563] Fuad Haxhibeqiri, T 6948-6949; Exhibit P1069.
[3564] Fuad Haxhibeqiri, T 6945, 7007-7008, 7009.
[3565] Exhibit P1098, p 54; Exhibit P1108, p 2; András Riedlmayer, T 7517.
[3566] András Riedlmayer, T 7517.
[3567] Fuad Haxhibeqiri, T 6945, 7009.
[3568] Fuad Haxhibeqiri, T 6945, 7006.
[3569] Fuad Haxhibeqiri, T 7012, 7018, 7031.

where he sat with his brother around 80-120 metres away.[3570] The man who set the curtain on fire wore a camouflage uniform and armbands; some others present wore bandannas. They were paramilitary soldiers.[3571] Although there is no more specific evidence which could support this, as noted earlier, the Chamber accepts that Haxhibeqiri was able to distinguish between forces, and therefore is satisfied that the men who set fire to the office of the CDHRF were paramilitary members. He also saw a group of up to 50 police and paramilitary forces burning shops in the Hadum neighbourhood on approximately 9 or 10 May 1999, at a distance of about 100 metres from his house.[3572] The Chamber finds that from 7-11 May 1999, police and paramilitaries set fire to a number of shops and businesses in the Hadum neighbourhood, including the office of the CDHRF.

(e) Investigations into events in Đakovica/Gjakovë city

919. There is no evidence that the Serbian authorities undertook any investigations into any of the crimes alleged in the Indictment as having been committed in Đakovica/Gjakovë city. By way of contrast, a report of the Đakovica/Gjakovë SUP signed by the SUP chief, Milovan Kovačević, dated 27 March 1999, does deal with aerial attacks by NATO on the *9 Jugovića* Barracks on 26 March 1999, which caused damage to "Serbian and Montenegrin houses" and injuries to two members of the VJ.[3573] An investigation was conducted by an investigating judge of the Đakovica/Gjakovë District Court at the scene of the attacks.[3574] This confirms that investigations could have been conducted during the relevant period. The MUP staff reports during the relevant period are also silent as to investigations into crimes alleged in the Indictment. The report concerning the events of 24 March 1999 noted only that members of the Đakovica/Gjakovë SUP apprehended five "persons of *Šiptar* ethnicity" and gave custody of them to the RDB, and that one suspected KLA member from Ramoc village was put into detention.[3575] Similarly, the only serious crime in Đakovica/Gjakovë city listed in the MUP staff report covering security related events on 27-28 March 1999 was that on 27 March 1999, police of the Đakovica/Gjakovë SUP caught seven persons in the act of aggravated theft from shops.[3576] Furthermore, there is no mention of any serious crimes occurring in Đakovica/Gjakovë city on 1-2 April 1999 in the MUP staff reports covering security related events.[3577] The only event in Đakovica/Gjakovë city on

[3570] Fuad Haxhibeqiri, T 7012-7014, 7018.
[3571] Fuad Haxhibeqiri, T 7013-7014.
[3572] Fuad Haxhibeqiri, T 7013, 7031-7032.
[3573] Exhibit D922, p 2; Exhibit P1059, p 2.
[3574] Exhibit D922, p 2.
[3575] Exhibit D294, p 4.
[3576] Exhibit P1058, p 5; Exhibit P696, p 5.
[3577] Exhibit P697; Exhibit P718.

1 April 1999 reported is that a policeman shot himself in the foot in the courtyard of the Municipal Court.[3578]

920. Minutes of a meeting of senior police officials in Kosovo dated 4 April 1999 record that the Đakovica/Gjakovë SUP chief, Milovan Kovačević, reported that all the "assigned tasks" had been successfully completed and that 38 persons had been arrested for perpetrating crimes.[3579] However, there is no evidence which connects any of the crimes he referred to with crimes alleged in the Indictment.

921. It is submitted by the Defence that there was no investigation into the killings on Miloš Gilić/Millosh Giliq Street because the witnesses of the Miloš Gilić/Millosh Giliq Street killings did not report them to the SUP, so that the event "remained unknown to those who could have taken measures to investigate and prosecute".[3580] The Chamber is not persuaded by this argument and finds that police were directly involved in the planning and execution of the many killings in the Ćerim/Qerim neighbourhood on 1-2 April 1999. This is the reason for the non-investigation and not any failure of the witnesses to make a formal report. These killings immediately followed the visit, in the Chamber's finding, by Novak Pitolić, the chief of the Đakovica/Gjakovë police to every Kosovo Albanian house in the Ćerim/Qerim district, when Pitolić told the occupants not to leave the houses and that they were safe.[3581] This in the Chamber's finding indicates the knowledge and complicity of the head of the local police in the planned operation that night. It is also noteworthy that the evidence of eye witnesses is consistent as to the involvement of coordinated groups of police in forced entry of homes, killings of occupants, men, women and children in large numbers, the deliberate burning of the homes, often including the bodies of the dead, and the forced evacuation of large numbers of Kosovo Albanians, including coordination of transport and travel routes of the evacuees. Moreover, the extent of the killings and material damage to the entire neighbourhood was such that the events could not have failed to come to the attention of the police, including the police commander, even in the absence of reports to the police.

922. Further, the Chamber notes that bodily remains of the victims of the killings at 157 Miloš Gilić/Millosh Giliq Street were found both at the initial crime site and at the Đakovica/Gjakovë public cemetery.[3582] While the remains at 157 Miloš Gilić/Millosh Giliq Street consisted only of burnt and fragmented skeletal elements, those found at the cemetery were badly burnt and

[3578] Exhibit P718, p 5.
[3579] Exhibit P764, p 2.
[3580] Defence Final Brief, para 842.
[3581] Lulzim Vejsa, Exhibit P978, p 2.
[3582] Eric Baccard, T 7660-7661; Exhibit P1139, pp 37-39; Exhibit P1161, pp 2-10.

decomposed remains,[3583] indicating that the bodies were moved from the house to the cemetery, thereby preventing normal investigative and judicial processes. In the view of the Chamber, this is indicative of a deliberate cover-up by police.

(f) Perpetrators

923. As discussed above evidence of eyewitnesses indicates that the operation in Đakovica/Gjakovë city on 24 to 28 March 1999 was carried out by police forces wearing blue camouflage uniforms of the Serbian police and by VJ and paramilitary forces, that the operation in the Ćerim/Qerim neighbourhood on 1-2 April 1999 was carried out by police forces wearing the standard police blue camouflage uniforms; that policemen in blue camouflage uniforms were involved in directing the movement of convoys of evacuees and were at checkpoints between Đakovica/Gjakovë and the border crossing points. The uniforms worn are consistent with the uniforms of the regular and reserve police at the time.[3584] Further accepted documentary evidence establishes that six companies of the 23rd PJP detachment of the MUP were deployed to Đakovica/Gjakovë on 22 March 1999 in relation to "the carrying out of separate security assignments."[3585] Other evidence indicated that there were also around 30 members of the JSO unit the "Frenkis" who were based in a building between Vllamzini Stadium and the Gymnasium School in the city of Đakovica/Gjakovë.[3586] In light of all this evidence the Chamber is satisfied that MUP forces, including PJP, present in Đakovica/Gjakovë and at checkpoints between Đakovica/Gjakovë and the Albanian border at the time of the events established above, participated in the operations in which Kosovo Albanians were forced to leave their houses and to travel to the border and cross into Albania, and in some cases those forces were involved in the killing of Kosovo Albanians and the burning and destruction of buildings.

924. The evidence of eyewitnesses regarding the involvement of VJ forces in the operation in Đakovica/Gjakovë on 24 to 28 March 1999 and the expulsion of civilians from the city in early April 1999 is consistent with documentary evidence in the case. An order issued by the command of the Priština Military District on 27 March 1999, *inter alia*, tasks the VJ 113th Military Territorial Detachment in coordination with the VJ 52nd Anti-Aircraft Defence to protect the Serbian population in Đakovica/Gjakovë and to establish combat control over the territory on the axes of

[3583] Exhibit P1161, pp 2-10.
[3584] Exhibit P831, upper left photograph.
[3585] Exhibit P711, p 1 (Dispatch No 587 issued on 21 March 1999 by the Accused deploying PJP detachments to several SUPs in Kosovo, including Đakovica); Exhibits P1195, P1196, P1198, and P1199 are reports indicating that four companies of the 23rd PJP detachment were sent to Kosovo to carry out the tasks. Exhibit P1353 contains lists of members of the 123rd Intervention Brigade, 4th Company, 3rd Platoon of the Đakovica SUP PJP and the Đakovica SUP PJP OPG for payment of per diems for the period 15 March to 31 March 1999.
[3586] Nike Peraj, T 1324.

Đakovica/Gjakovë-Skivjane, Đakovica/Gjakovë-Zrze/Xërxë, and Đakovica/Gjakovë-Bec.[3587] On 31 March 1999, the Priština Corps Command ordered the Military Territorial Detachment, *inter alia*, to engage part of the Detachment in MUP and VJ actitivies aimed at "breaking up *Šiptar*, [*i.e.* Kosovo Albanian] terrorists focusing on the blockade and control of the territory".[3588] The involvement of the VJ 52nd Artillery Rocket Battalion in operations in Đakovica/Gjakovë is confirmed by its war diary.[3589] In addition, the VJ 2nd Motorised Battalion of the 549th Motorised Brigade was operational at the VJ barracks in Đakovica/Gjakovë city as well as in the surrounding area and along the road leading from Đakovica/Gjakovë city to the border crossing at the relevant time.[3590] The Chamber is satisfied on the evidence, therefore that VJ forces present at these locations took part in joint operations with MUP forces in which Kosovo Albanians were expelled from Kosovo.

925. There was consistent evidence of Serbian paramilitary forces involved in the crimes committed in Đakovica/Gjakovë city during the Indictment period. In February or March 1999 Šešelj's and Arkan's paramilitary units arrived in the Đakovica/Gjakovë municipality, some in an organised fashion and others individually.[3591] One witness estimated that there were some 200 paramilitaries in the area of Đakovica/Gjakovë by the time the NATO bombing commenced. Most were members of either Arkan's Tigers or Šešelj's White Eagles.[3592]

926. Furthermore, documentary evidence demonstrates that the Headquarters and MUP Staff were well aware of the use of paramilitary forces and problems associated with them in early 1999 and at the relevant time. Vlastimir Đorđević sent a dispatch on 18 February 1999 to all the SUPs in Serbia and to the RDB, requesting them to "... establish complete control over volunteer and paramilitary units and their members."[3593] Minister Stojiljković sent a further dispatch on 24 March 1999 to the Accused as chief of the RJB, the headquarters of the RJB organisational units, all the SUPs, MUP Staff in Priština/Prishtinë and all the traffic police stations, expressly referring back to the 18 February dispatch of the Accused, and tasking them to "...register all volunteers and paramilitary units and their members and keep them under control in case that you might need to engage them".[3594] The Minutes of a meeting of senior police officials in Kosovo dated 4 April 1999

[3587] Exhibit P896, p 4. *See* also Exhibit D356.
[3588] Exhibit P900.
[3589] Exhibit P958, pp 4-11.
[3590] Exhibit P37, pp 2-6.
[3591] Nike Peraj, Exhibit P313, para 38; Nike Peraj, T 1266.
[3592] Nike Peraj, T 1324.
[3593] Exhibit P356, p 3; Ljubinko Cvetić, T 6676, 6853.
[3594] Exhibit P702.

record General Sreten Lukić, the head of the MUP Staff, as noting the need to take "rigorous measures towards paramilitary units".[3595]

2. Carragojs, Erenik and Trava Valleys

(a) 24 March 1999 – 26 April 1999

927. On 25 March 1999, VJ reserve forces led by Nikola Mičunović aka "Dragan", Commander of the Đakovica/Gjakovë Military Territorial Detachment,[3596] went to the villages of Deva/Devë and Babaj Boks/Babaj-i-Bokës where they executed eight civilian men.[3597] Witness Merita Dedaj was told by her uncles, Pjeter Deda and Gjon Deda, that Nikola Mičunović came to their house on or about 26 March 1999 and ordered the two men to help bury some bodies.[3598] They buried eight men in the village of Deva/Devë in a mass grave.[3599]

928. On the basis of information provided by Kosovo Albanians interviewed by the CDHRF, it was estimated by the Chairman Fuad Haxhibeqiri that throughout the villages of the municipality of Đakovica/Gjakovë 50 Albanian people were killed on 25 March 1999.[3600] While the Chamber is unable to establish the precise number of killings on the evidence before it, it accepts that Albanian people in the villages of the municipality were killed by Serbian forces on this day.

929. Towards the end of March 1999, Nikola Mičunović ordered Gjon Prelaj, a 15 year old civilian boy, to separate the men in the village of Korenica/Korenicë from the women and to tell these men to leave for the mountains.[3601] The women were ordered to remain in their houses until such time as they were to be directed to different locations by buses and other vehicles.[3602] On the same day, however, the men were ordered to return to their homes and the women stayed in the village.[3603]

930. On 27 March 1999, at 1430 hours, VJ forces led by Nikola Mičunović came to Merita Dedaj's house in the village of Guska/Guskë and gave her and her relatives in the house one hour to leave.[3604] All the inhabitants of the village were expelled that day.[3605] At first, they were told by the VJ forces to go to Albania, but later they were sent by the same forces in the direction of

[3595] Exhibit P764, p 3.
[3596] Lizane Malaj, T 809; Exhibit P900. *See* Exhibit P900; Nike Peraj, Exhibit P313, paras 21, 59.
[3597] Merita Dedaj, Exhibit P1030, p 2; Nike Peraj, Exhibit P313, para 51.
[3598] Merita Dedaj, Exhibit P1030, p 2; Merita Dedaj, Exhibit P1031 (*Milutinović* transcript), T 1415.
[3599] Merita Dedaj, Exhibit P1030, p 2.
[3600] Fuad Haxhibeqiri, Exhibit P1068, p 7.
[3601] Lizane Malaj, T 808-809.
[3602] Lizane Malaj, T 809.
[3603] Lizane Malaj, T 809.
[3604] Merita Dedaj, Exhibit P1030, p 2.
[3605] Merita Dedaj, T 6537.

Korenica/Koreničë.[3606] Korenica/Koreničë is a village in which there were about 70 houses at that time.[3607] Merita Dedaj and her family and the other villagers left Guska/Guskë for Korenica/Koreničë in a convoy of tractors and cars escorted by a group of VJ soldiers and two police cars.[3608] When they arrived in Korenica/Koreničë, the VJ and police ordered the women and children to stay in a meadow, while elderly and ill people were taken to one of the houses in Korenica/Koreničë.[3609] The villagers from Guska/Guskë stayed in Korenica/Koreničë for one week, after which they were ordered to leave.[3610] They joined a convoy of about 1,000 people, all Kosovo Albanians,[3611] who had been expelled from other neighbouring villages.[3612] The VJ stopped the convoy in Meja/Mejë and ordered the people to go back and stay in Korenica/Koreničë.[3613] However, Merita Dedaj and her family were able to stay at Prend Markaj's house in Meja/Mejë for the next three weeks, during which VJ soldiers and MUP patrolled the village.[3614] VJ soldiers ordered people to remain in the houses. The village was surrounded on all sides.[3615] The Chamber is satisfied that the offence of forcible transfer is established with respect to the people of the village of Guska/Guskë and approximately 1,000 people from neighbouring villages on 27 March and the following days.

931. On or around 28 March 1999, the 16th century mosque (the Mosque of Kel Hasan Aga or Xhamia e Hasan Ages)[3616] in Rogovo/Rogovë, a village located in the south eastern part of Đakovica/Gjakovë municipality, about one kilometre from the villages of Crkva/Bellacërkë and Celina/Celinë in Orahovac/Rahovec municipality, was blown up.[3617] As found earlier in this Judgement,[3618] on this day at around 1500 hours, Sabri Popaj saw that police wearing blue camouflage uniforms arrived at the mosque in Celina/Celinë in an APC and remained inside for about an hour.[3619] Shortly afterwards, Sabri Popaj was standing together with another villager Nazim Rexhepi in his field on the hilly side of the mountain from where he could see Bela Crkva/Bellacërkë, Celina/Celinë and Rogovo/Rogovë.[3620] He heard an explosion in the direction of

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[3606] Merita Dedaj, Exhibit P1031 (*Milutinović* transcript), T 1400.
[3607] Lizane Malaj, T 805.
[3608] Merita Dedaj, Exhibit P1030, p 2; Merita Dedaj, T 6537-6538, 6542.
[3609] Merita Dedaj, Exhibit P1030, p 2.
[3610] Merita Dedaj, T 6539; Merita Dedaj, Exhibit P1030, p 2.
[3611] Merita Dedaj, T 6539.
[3612] Merita Dedaj, T 6539; Merita Dedaj, Exhibit P1030, p 3.
[3613] Merita Dedaj, Exhibit P1030, p 3; Merita Dedaj, Exhibit P1031 (*Milutinović* transcript), T 1426.
[3614] Merita Dedaj, Exhibit P1030, p 3.
[3615] Merita Dedaj, Exhibit P1030, p 3.
[3616] Exhibit P1098, p 59.
[3617] Sabri Popaj, T 7417; Exhibit P1082, p 15; Sabri Popaj, Exhibit P1083 (*Milutinović* transcript), T 5679; Exhibit P1090 (photograph depicting the destroyed mosque in Rogovo/Rogovë, with markings made by Sabri Popaj during his testimony in the *Milutinović* trial indicating where the minaret used to be prior to the explosion).
[3618] *See supra*, paras 477.
[3619] Sabri Popaj, Exhibit P1082, p 15; Exhibit P1083 (*Milutinović* transcript), T 5681.
[3620] Celina/Celinë was located a kilometre and a half from Bela Crkva/Bellacërkë and Rogovo/Rogovë was 800 metres further from the Belaja River. In the field Sabri Popaj testified that he was standing on the side of the mountain

Bela Crkva/Bellacërkë and when he looked the mosque was no longer standing.[3621] He then heard and saw the mosque in Rogovo/Rogovë explode,[3622] and said, "Well, the mosque in Rogovo is not there anymore".[3623] The Chamber accepts his evidence that the Celina/Celinë mosque was blown up first, followed by the mosque in Bela Crkva/Bellacërkë and then the mosque in Rogovo/Rogovë, all within a matter of minutes.[3624] Agim Jemini also heard an explosion while he was hiding in the periphery of Celina/Celinë village about one kilometre away and later the same day found the mosque there destroyed.[3625]

932. The destruction of the mosque in Rogovo/Rogovë was documented by András Riedlmayer in his report, which concluded that the minaret had been blown up with charges placed under the stairs, causing its complete destruction, and that the falling minaret had damaged the main dome of the mosque and smashed a large section of the portico roof.[3626] The exterior walls and dome were cracked in several places but remained standing.[3627] The Chamber notes that this evidence is consistent with evidence that police laid explosives inside the three mosques before leaving and detonating the devices, causing their destruction. The Chamber considered the discrepancy in the date of the attack on the mosque in Rogovo/Rogovë given by Riedlmayer, quoting his informant,[3628] on the one hand, *i.e.* 3 April 1999, and that given by Sabri Popaj, *i.e.* 28 March 1999, on the other, and was of the view that this was not a matter of any consequence.

933. The Chamber recalls its previous findings that the mosques in Celina/Celinë and Crkva/Bellacërkë were destroyed on or around 28 March 1999 by explosives detonated by members of the MUP[3629] and finds that the only reasonable inference from the evidence, that establishes that the mosques in each of the three towns which are located within a kilometre or so of each other were blown up consecutively in a matter of minutes, is that the mosque in Rogovo/Rogovë was destroyed in the same operation by the same forces.

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that allowed him to see Bela Crkva/Bellacërkë, Celina/Celinë and Rogovo/Rogovë. In cross-examination in *Milutinović* one of the Defence counsel raised the issue of whether Sabri Popaj was standing in the field or on the side of the mountain. The witness explained that the mountain was part of his field and that is where he was standing. Sabri Popaj, Exhibit P1082, p 11; Sabri Popaj, Exhibit P1083 (*Milutinović* transcript), T 5650, 5678-5679, 5729-5730.

3621 Sabri Popaj, Exhibit P1083 (*Milutinović* transcript), T 5679, 5729-5730, 5650.
3622 Sabri Popaj, Exhibit P1083 (*Milutinović* transcript), T 5650.
3623 Sabri Popaj, Exhibit P1083 (*Milutinović* transcript), T 5679.
3624 Sabri Popaj, Exhibit P1083 (*Milutinović* transcript), T 5650.
3625 Agim Jemini, Exhibit P637 (*Milutinović* transcript), T 4241-4242.
3626 Exhibit P1098, p 59; Exhibit P1090.
3627 Exhibit P1098, p 59; Exhibit P1090.
3628 Exhibit P1098, pp 59-60.
3629 *See supra*, paras 477, 528.

934. On 4 April 1999 (Easter Monday), sometime in the afternoon,[3630] Milutin Prašcević,[3631] the senior officer in the State Security police unit in Đakovica/Gjakovë, went to the village of Korenica/Korenicë. Milutin Prašcević was wearing a blue police uniform and was armed with an automatic rifle and a pistol. With another policeman, also armed and wearing a blue uniform, Milutin Prašcević ordered Lizane Malaj and her family to leave their house and to leave their cars behind and to take only the tractors.[3632] They were ordered to go to Albania, taking the road from Korenica/Korenicë-Đakovica/Gjakovë which passes through Orize, Suvi Do/Suhadoll, Meja/Mejë and Barkoc.[3633] At the house of the Dedaj family,[3634] Milutin Prašcević, with other police, ordered those in the house to leave the village and go to Albania within three hours.[3635] This conduct was repeated by police throughout the village. Villagers left their houses immediately and a convoy was formed.[3636] The convoy set off as ordered but, at Suvi Do/Suhadoll, about one kilometre away,[3637] a local policeman, Aca Mičunović,[3638] together with another policeman,[3639] told them to go back to Korenica/Korenicë.[3640] They returned to their houses.[3641] The Chamber is satisfied that the offence of forcible transfer has been established with respect to the displacement of Kosovo Albanians from Korenica/Korenicë on 4 April 1999.

935. In early April 1999 a military police unit in the 2nd Battalion of the 549th Motorised Brigade of the VJ, commanded by Major Vuković,[3642] ordered Kosovo Albanians in several villages to leave their homes. This was pursuant to an oral order given either directly by the commander or via another officer.[3643] VJ evidence is that the people should be directed to Đakovica/Gjakovë, not to Albania.[3644] The first village in which the order was implemented was Žub/Zhub, which is south of Đakovica/Gjakovë. The unit went through the entire village, door to door, telling the villagers that they had to leave within two hours.[3645] They spoke to the villagers in Serbian.[3646] The villagers were expelled accordingly. The unit was involved in the expulsion of about nine or ten villages at this time.[3647] The villagers complied so that the villages were empty when the unit left.[3648] After

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3630 Lizane Malaj, T 812.
3631 Lizane Malaj, T 810, 858-859.
3632 Lizane Malaj, T 810. *See* Exhibit P294.
3633 Lizane Malaj, T 859-860.
3634 Lizane Malaj, T 809.
3635 Lizane Malaj, T 810-811.
3636 Lizane Malaj, T 811.
3637 Lizane Malaj, T 811.
3638 Aca was Nikola Mičunović's brother. Lizane Malaj, T 838-839.
3639 Lizane Malaj, T 860.
3640 Lizane Malaj, T 811-812.
3641 Lizane Malaj, T 812.
3642 K90, Exhibit P322 (*Milutinović* transcript), T 9401-9402; K90, T 1340-1341.
3643 K90, Exhibit P321, para 41.
3644 K90, Exhibit P322 (*Milutinović* transcript), T 9273; K90, T 1434.
3645 K90, Exhibit P321, para 43.
3646 K90, Exhibit P322 (*Milutinović* transcript), T 9302.
3647 K90, Exhibit P321, para 44.

the population of a village left, individual soldiers looted from the deserted homes.[3649] The Chamber is satisfied that the offence of forcible transfer has been established with respect to these acts.

936. NATO bombers were active at this time in the skies above Đakovica/Gjakovë. A MUP daily review of current events and occurrences recorded that on 21 April 1999 at 0300 hours, NATO forces hit the "*Maja* refugee colony" in Đakovica/Gjakovë, using six to eight projectiles, and resulting in four civilian deaths and 20 injured people.[3650]

937. Later the same day, Milutin Prašcević, and four other policemen from the Đakovica/Gjakovë SUP were killed on the road leading from Madanaj towards the village of Meja/Mejë,[3651] which is located a few kilometres west of the city of Đakovica/Gjakovë,[3652] apparently in an ambush by "terrorist" forces.[3653] Their car was attacked at Shyt Hassanaj meadow[3654] in the middle of the village on the road that goes to Đakovica/Gjakovë, Meja/Mejë and Junik.[3655] One witness heard two detonations and then multiple shots from machine guns when he was in his courtyard and was later told about the killings by other villagers.[3656] Following the killings, the Serbian police started shooting at the houses in Meja/Mejë using sniper weapons.[3657] Bullets hit the windows of the house of witness Martin Pnishi's brother Gjelosh. At this time, Martin Pnishi, his brother and 40 local villagers were in Gjelosh Pnishi's house, together with some displaced persons from Morina/Morinë who had been expelled from their homes by Serbian forces.[3658] The neighbours stayed in the houses of Martin Pnishi and his brother during the night and then returned to their homes. No more police or military patrols came by the village for four or five days.[3659]

(b) 27-28 April 1999 Operation Reka

(i) Objectives and command

[3648] K90, T 1485.
[3649] K90, Exhibit P321, paras 44, 45; K90, Exhibit P322 (*Milutinović* transcript), T 9299, 9303-9304; Exhibit P328 (indicating the villages the inhabitants of which were relocated); K90, T 1366-1367.
[3650] Exhibit D407, p 1.
[3651] Nike Peraj, Exhibit P313, para 58; Miloš Došan, Exhibit D684 (*Milošević* transcript), T 45592; Miloš Došan, T 11475. *See* also Martin Pnishi, Exhibit P1033, p 2; Martin Pnishi, T 6562. Although the latter witness testified that this event occurred on 22 April, it notes that this date was challenged by the Defence and in view of other consistent evidence on the point, accepts that the incident more likely occurred on or around 20 April 1999.
[3652] Martin Pnishi, T 6556-6557; Exhibit P1544.
[3653] Exhibit P1544, p 2; Exhibit D407, p 1.
[3654] Martin Pnishi, Exhibit P1033, p 2; Exhibit P1544.
[3655] Martin Pnishi, T 6563.
[3656] Martin Pnishi, Exhibit P1033, p 2.
[3657] Martin Pnishi, Exhibit P1033, p 2.
[3658] Martin Pnishi, Exhibit P1033, p 2.
[3659] Martin Pnishi, T 6570.

938. A joint operation of the VJ and the MUP with the code name "Reka" was carried out in the Carragojs, Erenik and Trava valleys mainly on 27 and 28 April 1999.[3660] Several units of the VJ participated in the action, including the 2nd Battalion of the 549th Motorised Brigade led by Colonel Vlatko Vukovic,[3661] the 52nd Armoured Brigade, the 52nd Battalion of the Military Police, the 63rd Parachute Brigade[3662] and the 125th Motorised Brigade led by Colonel Dragan Zivanović.[3663] From the MUP, some 400 persons from Belgrade were sent to take part in the operation.[3664] They comprised PJP and included members of paramilitary groups,[3665] and they arrived in around 10 buses and some civilian vehicles shortly before 27 April 1999.[3666]

939. The Chamber received conflicting accounts of the objective of the operation as well as its command structure.

940. Nike Peraj, a Kosovo Albanian from Ramoc[3667] and a Captain in the 52nd Rocket Artillery Brigade of the VJ, attended an informal meeting of MUP and VJ officials held shortly after the killings of Prašcević and other policemen from the Đakovica/Gjakovë SUP who had been killed in an ambush apparently by terrorist forces on 21 April 1999.[3668] Present at the meeting were Colonel Momir Stojanović (Military Security commander of the Priština Corps),[3669] Sreto Čamović (head of the State Security department, RDB, of the MUP in Đakovica/Gjakovë), Nikola Mičunović,[3670] Commander of the Reserve Units of the Territorial Defence (113th Military Territorial Detachment), MUP Colonel Kovačević (commander of the local MUP in Đakovica/Gjakovë),[3671] Captain Sergej Perović (Chief of Security of the 52nd Artillery Rocket Brigade),[3672] and a few others. According to Peraj, during this meeting Stojanović ordered Mičunović and Kovačević to carry out an operation in the Carragojs valley, which would involve the elimination of at least 100 "heads" and the burning of houses in retribution for the murder of Prašcević.[3673] Kovačević suggested that approval should be sought before any such action and Stojanović said he would make the necessary arrangements. Soon after the meeting Captain Perović told Nike Peraj that his family would not come to harm

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[3660] Miloš Đošan, T 11390-11391; Miloš Đošan, Exhibit D684 (*Milošević* transcript), T 45397-45399; *see* also Exhibits P958, pp 33-34; P950, pp 2-3.
[3661] Miloš Đošan, T 11479.
[3662] Nike Peraj, Exhibit 313, para 65.
[3663] Exhibits P950, p 2; Exhibit P920, p 2; Miloš Đošan, T 11479-11480.
[3664] Nike Peraj, Exhibit P313, para 65; K90, Exhibit P321, para 47.
[3665] K90, Exhibit P321, para 47.
[3666] K90, Exhibit P321, para 47; K90, T 1343.
[3667] Nike Peraj, T 1181.
[3668] Nike Peraj, Exhibit P313, para 59. *See supra*, para 937.
[3669] Nike Peraj, Exhibit P313, para 46; Milan Đošan, Exhibit D684 (*Milošević* transcript), T 45440.
[3670] Nikola Mičunović was the godson of Milutin Prašcević. Nike Peraj, Exhibit P313, para 58.
[3671] Nike Peraj, Exhibit P313, paras 35, 59.
[3672] Nike Peraj, Exhibit P313, para 59.
[3673] Nike Peraj, Exhibit P313, para 59. Momir Stojanović's wife was the first cousin of Milutin Prašcević. *See* Nike Peraj, T 1300.

during the operation.[3674] Colonel Stojanović assured Mičunović and Kovačević that he would provide protection from any repercussions, mentioning his close friendship with General Pavković.[3675] Nike Peraj was told by Nikola Mičunović that the valley of Carragojs was going to pay a high price.[3676]

941. The evidence of Nike Peraj was contested by two Defence witnesses, Miloš Došan, commander of the 52nd Artillery Rocket Brigade of the Air Defence of the VJ in Đakovica/Gjakovë and of the Đakovica/Gjakovë garrison,[3677] and Momir Stojanović, the Military Security commander of the Priština Corps.[3678] Both Miloš Došan and Momir Stojanović offered the opinion that the evidence of Nike Peraj about the meeting could not be true. In the evidence of Miloš Došan, Stojanović, although a senior VJ officer, could not have given any order to Mičunović or Kovačević.[3679] Došan's opinion relied on the normal established chains of command in the VJ and the MUP and had no regard to the apparent joint activities of the two forces and of the VJ Reserve which was also involved. The Chamber does not accept the validity of the assumptions upon which Đošan appears to have based his opinion, namely that the VJ and the MUP were entirely distinct in their chains of command, that this distinction was preserved and observed in this time of unique defence emergency, and that in a situation such as that described by Nike Peraj it was not possible for a senior army officer to exercise effective command over VJ and police officers in a joint or cooperative operation.

942. Momir Stojanović testified that the role of the Security Section of the Priština Corps was limited to gathering information on terrorist activities (counter-intelligence) and prosecuting VJ members involved in criminality.[3680] He claimed that he did not have command over any unit and, therefore, he could not have been ordered to carry out a combat operation.[3681] This claim is contradicted by other evidence. K73 gave evidence about a joint operation involving an anti-terrorist squad of the 52nd Battalion of the Military Police and the 72nd Special Brigade in late January/early February 1999 under the command of Stojanović.[3682] In addition, the war diary of the 52nd Military Police Battalion recorded that on 13 April 1999, a special unit of this Battalion was "tasked" by the Chief of the Priština Corps Security Department, *i.e.* Stojanović, to capture a border post in Kamenica (Albania).[3683] In the context of the complex security situation that prevailed in

[3674] Nike Peraj, Exhibit P313, para 60.
[3675] Nike Peraj, Exhibit P313, para 61.
[3676] Nike Peraj, Exhibit P313, para 58; Nike Peraj, T 1191.
[3677] Miloš Došan, Exhibit D684 (*Milošević* transcript), T 45337, 45339; Miloš Došan, T 11338.
[3678] Momir Stojanović, Exhibit D723 (*Milutinović* transcript), T 196-83-19684; Momir Stojanović, T 11825-11826.
[3679] Miloš Došan, Exhibit D684 (*Milošević* transcript), T 45591-45592.
[3680] Momir Stojanović, T 11686, 11860.
[3681] Momir Stojanović, T 11816.
[3682] K73, Exhibit P330, para 33; Exhibit P332 (*Milutinović* transcript), T 3314, 3317.
[3683] Exhibit P338, p 6.

Kosovo in 1999 and in light of documentary and oral evidence showing the involvement of military police battalions, in particular, from the 72nd Special Brigade and the 63rd Parachute Brigade, in combat operations,[3684] the Chamber finds Stojanović's evidence that he did not have any capacity to command units to be unreliable and lacking credibility.

943. Momir Stojanović further denied that he attended an informal meeting with Peraj, Kovačević, Čamović, Mičunović and Perović some days after the killing of his relative, Prašcević,[3685] and that the operation was ordered against civilians in the Carragojs valley as reprisal action.[3686] It was his evidence that the operation had been planned by the VJ prior to the killings of the MUP officers and that its objective was the neutralising of terrorist elements in that area, where the VJ and MUP had sustained many losses.[3687] Although Milan Đošan testified that the basic goal of the operation was to neutralise the area, *i.e.* clear the area of terrorist elements,[3688] he added that, contrary to the evidence of Stojanović, another specific goal was "to catch the killers of those policemen".[3689] He did maintain, however, that the killing and expulsion of civilians from the area was not an objective of the operation,[3690] and that he did not learn of crimes having been committed during the "Reka" action until late 2001 when he read the book "As Seen as Told".[3691] The Chamber also noted the emphasis of Miloš Đošan in his evidence that he was not actually involved in the "Reka" operation; he merely inspected the positions of his unit at the time,[3692] and that his unit was led in the operation by his subordinate Major Zlatko Odak.[3693] The Chamber was left with the clear impression that the evidence of both Miloš Đošan and Momir Stojanović, at least in part, was influenced by self interest to minimise their own roles in Operation Reka and to present it as solely an operation directed against KLA fighters. Therefore, the Chamber approaches their evidence with great caution and is persuaded that it should accept the evidence of Nike Peraj about the material events.

944. The Carragojs Valley was an area of strategic and security concern for the VJ and MUP and NATO had been actively bombing in this region during April 1999. A combat report of the 125th Motorised Brigade to the Priština Corps, dated 25 April 1999, stated that around 200 persons taking part in combat activities against the forces of the Army of Yugoslavia were posing as displaced

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[3684] Exhibit P1381. *See* K82, Exhibit P1314, para 5, Exhibit P1320 (*Milutinović* transcript), T 11744, 11746, 11800-11801; K82, T 8856-8857, 8883-8884, 8886; Ibrahim Rugova, Exhibit P285, p 9; Exhibit P286 (*Milošević* transcript), T 4224-4225; Bislim Zyrapi, T 2449.
[3685] Momir Stojanović, Exhibit D723 (*Milutinović* transcript), T 19787-19788.
[3686] Momir Stojanović, T 11912.
[3687] Momir Stojanović, T 11912-11914.
[3688] Miloš Đošan, T 11475.
[3689] Miloš Đošan, T 11478.
[3690] Miloš Đošan, T 11499.
[3691] Miloš Đošan, T 11499; Exhibit D703, p 2.
[3692] Miloš Đošan, T 11485.
[3693] Miloš Đošan, T 11492-11493.

persons in villages in this area.[3694] This indicates that VJ units were told that KLA members were living among the civilian population in the villages. Consistent with this is evidence of K73 that the soldiers participating in the operation had been told by Major Kopanja that KLA fighters had discarded their weapons and uniforms and were dressed in civilian clothing among the civilian population, as a result therefore, the MUP had lists with the names of the KLA soldiers and, in the operation, the population was to be directed to Korenica/Korenicë, where the MUP was, so that once in Korenica/Korenicë the MUP could arrest the KLA soldiers and then send the civilians back to their homes.[3695] Of course this confirms, and the Chamber therefore accepts, that one of the objectives of Operation Reka was to capture KLA fighters in the valley.

945. However, in view of the mainly consistent accounts of the Reka operation by VJ members K90, K73 and Nike Peraj, as well as of villagers Merita Dedaj, Lizane Malaj and Martin Pnishi, which the Chamber accepts, and the planned and coordinated nature of the operation by VJ and MUP forces, and in particular the way it was conducted, as discussed below, the Chamber is satisfied that the Reka operation also had major objectives which were much more sinister than Stojanović claimed - namely expelling (not merely to Korenica/Korenicë, but to Albania) Kosovo Albanian villagers from their homes en masse, and the killing of Kosovo Albanian men – regardless of KLA association – found in the area. The existence of yet a further motive is also confirmed, in the Chamber's finding, by the killings, the destruction of property, and the expulsions, and is also supported by the evidence of Nike Peraj of the informal meeting days before the operation. This further motive was to punish the Kosovo Albanians in the area for their support of those responsible for killing MUP officer Milutin Prascević and his colleagues. Prascević was a relative of Momir Stojanović and godfather to Nikola Mičunović.

946. No written order or decision for the conduct of Operation Reka was available to be tendered in evidence, which suggests that the order was given orally or that any written order has been destroyed or made inaccessible. The combat reports of the 125th Motorised Brigade commanded by Colonel Dragan Živanović, of 27 and 28 April 1999 to the Priština Corps Command and Đakovica/Gjakovë Forward Command Post, signed by Živanović, state that some forces were engaged in "mopping up the terrain from ŠTŠ in the general area of Reka, in keeping with your decision" and clearing "the terrain of ŠTŠ in the general Reka sector, as per your decision".[3696] The references to "your decision" in these two combat reports strongly indicate that the decision to conduct operation Reka came from the Priština Corps Command. This indicates that General Vladimir Lazarević was the overall commander of the operation. While the Chamber accepts that

[3694] Exhibit P949, p 2.
[3695] K73, T 1523.
[3696] Exhibits P950, pp 1-2; P920, p 2.

the operation on the VJ side was led on the ground by Milan Kotur,[3697] and Priština Corps Chief of Staff Colonel Veroljub Zivković[3698] at the forward command post of the Priština Corps, the evidence on the role of General Lazarević is contested.

947. It was the evidence of Nike Peraj that the operation was coordinated from Đakovica/Gjakovë city by General Vladimir Lazarević and Lieutenant-Colonel Goran Jeftović the staff officer for operations in the Priština Corps.[3699] In Peraj's evidence, on 28 March 1999, he saw in the office of Lazarević at the VJ headquarters in Đakovica/Gjakovë a wall-sized map covered in clear talc which Jeftović was marking with details of the Reka operation.[3700]

948. The reports of Zivanović reveal that, for purposes of the VJ units, it is clear that the Priština Corps Command under General Lazarević, and its forward command post in Đakovica/Gjakovë, were directly concerned in the conduct of Operation Reka and were issuing orders, at least to participating army units, and receiving reports from these units. It would not be surprising that there were army officers below Lazarević with responsibility from him for the detailed conduct of the operation on the ground, as suggested by some evidence,[3701] but the Chamber does not accept other evidence[3702] that Lazarević had no involvement in Operation Reka, or that he could not have had ultimate command of the Operation. The absence of documentary or other evidence leaves the Chamber unable to reach conclusions as to the complete command structure for the Operation, including the role, if any, of Lazarević with respect to the police forces involved. It would be in accordance with other general evidence for the Joint Command in Priština/Prishtinë to have authorised this Operation and for orders for it to have emanated from General Lazarević. Whatever may be the full position, the Chamber accepts that, at least in relation to the VJ units involved, General Lazarević was in a position of command with officers under his direction exercising more detailed day to day control of Operation Reka.

[3697] Miloš Đošan, T 11475; Nike Peraj, Exhibit P313, para 63.
[3698] Momir Stojanović, T 11812.
[3699] Nike Peraj, Exhibit P313, para 65.
[3700] Nike Peraj, Exhibit P313, para 96.
[3701] Exhibits P950, p 2; P920, p 2; Nike Peraj, Exhibit P313, para 96.
[3702] Miloš Đošan claimed that it would have been "physically impossible" for Lazarević to have commanded the operation since he was in Priština/Prishtinë on 27 April for a Priština Corps awards ceremony from approximately 1100 hours until at least 1300 hours. *See* Miloš Đošan, T 11414, 11486, 11509, 11535. Similarly, Momir Stojanović denied that Lazarević was in charge of the Reka operation since he was not in Đakovica/Gjakovë at the time. *See* Momir Stojanović, T 11812 . There is, however, evidence that Lazarević was in the relevant area at the time of the operation. Đošan testified that Lazarević visited his unit on 28 April 1999. *See* Miloš Đošan, T 11535. The war diary entry of the Howitzer Battalion of the 125th Motorised Brigade, stationed at the Košare/Koshare border post, recorded that the Commander and Chief of Staff of the Priština Corps, *i.e.* General Vladimir Lazarević and Zivković, visited the Brigade from 0900 to 1200 hours on 29 April 1999. Exhibit P921, p 2.

949. Based on the findings above, the Chamber is satisfied that Operation Reka was planned and ordered by the Priština Corps Command in conjunction with senior leaders of the MUP in Priština/Prishtinë and Belgrade.

(ii) Operation Reka as it unfolded

950. The Reka operation began at 0600 hours on 27 April 1999[3703] and ended at 1700 or 1800 hours on 28 April 1999.[3704] There was a VJ command post in the Catholic Church northwest of Ošek or Qafe e Osekuk[3705] which provided a clear view of the Carragojs valley and also a MUP command post in the Dervish prayer house in Dužnje/Duzhnjë village.[3706]

951. On 26 April 1999, the anti-terrorist platoon of the 52nd Battalion of the VJ Military Police, stationed in Junik, received an order from Major Stevo Kopanja to "clean the area from Albanians" and send Albanian civilians towards Korenica/Korenicë where the MUP had lists of names of "terrorists".[3707] "Clean villages" were villages without members of the Kosovo Albanian community.[3708]

952. Two platoons of the VJ 52nd Military Police Battalion took part in the operation.[3709] The platoons were subordinated to the VJ 125th Motorised Brigade.[3710] VJ units had been stationed in static positions to the west of the Carragojs valley as a defence against KLA coming from Albania.[3711] Brigade-sized groups, including the VJ 63rd Parachute Brigade of the 52nd Military Police Battalion (together, approximately 500 men) and a PJP Brigade of the MUP (approximately 400 men), pushed down the valley burning houses and displacing civilians towards the paramilitary groups near Meja/Mejë.[3712] The first village "sealed" by the 52nd Military Police Battalion was Dobroš/Dobrosh and the "cleansing" started from there until the village of Korenica/Korenicë was reached.[3713] By the conclusion of the operation K73's unit dealt with several villages, and covered

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[3703] Miloš Đošan, T 11509; Exhibit P1540.
[3704] K73, Exhibit 330, para 41.
[3705] Nike Peraj, Exhibit P313, para 63, Nike Peraj, T 1205; Exhibit P314.
[3706] Nike Peraj, Exhibit P313, para 63; Exhibit P314.
[3707] K73, Exhibit P330, para 40; K73, T 1524; K73, Exhibit P332 (*Milutinović* transcript), T 3326, 3380.
[3708] K73, Exhibit P332 (*Milutinović* transcript), T 3323-3324.
[3709] Momir Stojanović, T 11900-11901, 11904-11905; Momir Stojanović, Exhibit D723 (*Milutinović* transcript), T 19713-19714.
[3710] Momir Stojanović, T 11900-11901.
[3711] Nike Peraj, Exhibit P313, para 65; Exhibit P314.
[3712] Nike Peraj, Exhibit P313, para 65; Nike Peraj, T 1203; K73, Exhibit P330, para 41; K73, Exhibit P332 (*Milutinović* transcript), T 3327-3328.
[3713] K73, Exhibit P330, para 41; *see* Exhibit P337 showing the location of K73's unit and the line of action of the 52nd Military Police Battalion, the 63rd Parachute Brigade and the PJP during the military operation described in the following paragraphs. K73's unit was in the middle and the 63rd Parachute Brigade and the PJP were on the unit's right and left flank respectively (K73, T 1533-1534). The line of action marked indicates the direction going from Dobroš/Dobrosh to Racaj, then Ramoc, and finally Korenica/Korenicë (K73, T 1534).

around eight kilometres.[3714] The Kosovo Albanian inhabitants in that area were predominantly Catholic.[3715] The VJ was also deployed in fixed positions along the Đakovica/Gjakovë-Dečani/Deçan road. This included some anti-aircraft batteries from the 52nd Armoured Brigade.[3716]

953. The Chamber accepts that paramilitary groups, the Tigers and the White Eagles, participated in the operation,[3717] notwithstanding evidence which denied any involvement in Kosovo of Serbian paramilitary forces.[3718] This issue is discussed further elsewhere in this Judgement.[3719] Armed groups affiliated with the MUP, which followed the 63rd Parachute Brigade and the MUP, burned the houses, using incendiary materials.[3720]

954. On 27 April 1999, units of the VJ, including the military police unit in the 2nd Battalion of the 549th Motorized Brigade, received an order to secure the area around the villages of Korenica/Korenicë and Meja/Mejë.[3721] The assignment was to carry out a blockade on the road between the intersection of Korenica/Korenicë and a part of the creek that goes towards Meja/Mejë.[3722] The task of the unit was to prevent KLA fighters withdrawing from the area. There were some 60 to 70 VJ soldiers engaged.[3723] Once the area was secured, a large number of police were deployed in the area.[3724] Some police were already in the area and others arrived in about 10 buses at about 0700-0730 hours. One group of the buses was from Đakovica/Gjakovë.[3725] The police entered villages in the area and randomly fired into houses. This caused most of the Kosovo Albanian population to leave the villages.[3726] The police also fired with a machine-gun mounted on an all-terrain vehicle.[3727] There was no resistance from the villages and no outgoing fire.[3728] K90 heard the sound of shooting in Korenica/Korenicë and saw that houses were burning.[3729] From the VJ command post, which was only 100 to 150 metres away from burning houses, K90 was able to see a large number of police in the area.[3730] Large columns of Albanian civilians from

[3714] K73, T 1523; K73, Exhibit P330, para 41.
[3715] K73, Exhibit P330, para 41.
[3716] Nike Peraj, T 1204; Exhibit P314.
[3717] Nike Peraj, T 1273; Nike Peraj, P313, para 44; K90, Exhibit P321, para 47.
[3718] Miloš Došan, Exhibit D684 (*Milošević* transcript), T 45418, 45419, 45427, 45431, 45658, 45660; Miloš Došan, T 11415, 11512; Momir Stojanović, T 11810.
[3719] *See supra*, paras 208-215.
[3720] Nike Peraj, T 1202.
[3721] K90, Exhibit P321, para 48.
[3722] K90, T 1451, 1453.
[3723] K90, T 1465.
[3724] K90, Exhibit P321, para 48.
[3725] K90, T 1343-1344.
[3726] K90, Exhibit P321, para 48.
[3727] K90, T 1344-1345.
[3728] K90, Exhibit P322 (*Milutinović* transcript), T 9315; T 1345
[3729] K90, Exhibit P321, para 53; K90, T 1345.
[3730] K90, Exhibit P321, para 53; K90, T 1345; Exhibit P323, a map with marking "VJ" indicates the location of the VJ command post; "1" the village of Korenica/Korenicë, with a line and the letter "P" the location where K90's squad of military police were; arrows marked with "2" the buses with the police that arrived around 0700 hours; Exhibit D36 (a map marked by the witness): "KM" indicates the location of the command post; arrow with "1", the

Korenica/Korenicë had been formed along the road to Đakovica/Gjakovë and moved off in that direction. The houses in the village of Korenica/Korenicë were then set on fire.[3731] There was another large column of villagers, some 500, from the villages of Meja/Mejë and Deva/Devë.[3732]

955. On 27 April 1999, at 0500 hours, a mixed Serbian force, including soldiers, paramilitaries and police, surrounded the village of Korenica/Korenicë.[3733] At around 0730 hours about 35 men of this force surrounded Lizane Malaj's courtyard.[3734] Some of the men wore masks, others had their faces painted,[3735] and they were armed with automatic rifles. They arrived in armoured vehicles (Lizane Malaj did not distinguish true tanks from other armoured vehicles) of which some were green and some blue. There were Pinzgauers and some men on foot.[3736] The armoured vehicles were marked with the flag of the former Yugoslavia.[3737] Lizane Malaj's 15 year old son, Blerim Malaj was outside the house when they arrived. He was made to lie on the ground.[3738] When Lizane Malaj's husband, Vat Malaj, came out of the house, he was ordered to call on all of the family to come outside, he did so and they all came outside.[3739] Blerim Malaj lay on the ground being held at gunpoint by a policeman wearing a blue camouflage uniform.[3740] In the meantime, another policeman, also wearing a blue camouflage uniform, went to the house of a brother of Lizane Malaj, Nikoll Kabashi. This policeman broke down the door, forced Kabashi and his family outside and demanded their personal documents, which were produced by Nikoll and 18 year old Andrush Kabahsi.[3741] They too were then forced to lie on the ground together with Vat Malaj and a nephew, Arben Kabashi.[3742] Members of the Serbian forces then asked for the keys to the three cars standing nearby.[3743] As the keys could not be produced, Vat Malaj and Arben Kabashi were forced to demonstrate how to use wires to start the cars.[3744]

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line of the blockade of K90's unit; "2" the police checkpoint; "3" the house next to the checkpoint; "K" the location of the houses; "L" location where soldier Letić was; K90, T 1454-1455; 1459. The command post was about 120 metres from the checkpoint, K90, T 1459.

3731 K90, Exhibit P321, para 48; K90, T 1344.

3732 K90, Exhibit P321, para 52; K90, Exhibit P322 (*Milutinović* transcript), T 9322; 9365; Exhibit P323, arrow and "B" the direction in which the 500 people were walking and "C", the Orize village to where the column was moving.

3733 Lizane Malaj, T 813-814, 865.

3734 Lizane Malaj, T 813.

3735 Lizane Malaj, T 814.

3736 Lizane Malaj, T 814.

3737 Lizane Malaj, T 815.

3738 Lizane Malaj, T 815.

3739 Lizane Malaj, T 815.

3740 Lizane Malaj, T 815.

3741 Lizane Malaj, T 816-817.

3742 Lizane Malaj, T 815-816.

3743 Lizane Malaj, T 816.

3744 Lizane Malaj, T 816.

956. The 17 members of the Malaj and Kabashi families in the courtyard were of Albanian ethnicity. None had weapons.[3745] Those who were not lying on the ground were ordered to leave and to walk to Albania.[3746] Those who were lying on the ground were: Blerim Malaj, Vat Malaj, Nikoll Kabashi, Andrush Kabashi and Arben Kabashi. When Lizane Malaj had walked about 50 metres, she heard gunshots and screams coming from the courtyard she had just left and could identify her son's voice.[3747] She wanted to go back but a policeman in a blue uniform, who was sitting on an armoured vehicle pointed his gun at her and told her it would be better for her to continue on her way rather than go back and be executed.[3748] When she looked back, she could see that her house and houses in the village were on fire.[3749] Members of other families from the neighbourhood had also left their homes.[3750] The women and children were on the road walking while the men had been held in their courtyards.[3751] Lizane Malaj and members of her family were on the main road by around 0800 hours.[3752] Forensic evidence, discussed later in this Judgement, reveals that the bodies of the five males of Lizane Malaj's family, last seen by her in the courtyard of her home, were exhumed from a mass grave at the Batajnica SAJ Centre, near Belgrade, over two years later. She identified the bodies herself.[3753] All the bodies were collected in Orahovac/Rahovec, to where they had been transported by the ICRC[3754] and were re-buried in Meja/Mejë.[3755]

957. Also in evidence are forensic reports identifying the bodily remains of the individuals named above and, where possible, establishing the causes of death, which were gunshot wounds to the head.[3756] Lizane Malaj's evidence, which the Chamber accepts, was that there were no KLA members in her family.[3757] The Chamber is satisfied that all the the victims were unarmed civilians taking no active part in hostilities at the time they were killed. It further accepts that they were killed because they were Kosovo Albanian. The Chamber finds it established that Blerim Malaj, Vat Malaj, Nikoll Kabashi, Andrush Kabashi and Arben Kabashi were killed by Serbian forces on 27 April 1999 in Lizane Malaj's courtyard in the village of Korenica/Korenicë, as set out in Schedule H of the Indictment.

[3745] Lizane Malaj, T 817-818.
[3746] Lizane Malaj, T 818.
[3747] Lizane Malaj, T 818-819.
[3748] Lizane Malaj, T 819.
[3749] Lizane Malaj, T 820.
[3750] Lizane Malaj, T 820.
[3751] Lizane Malaj, T 820.
[3752] Lizane Malaj, T 829.
[3753] Lizane Malaj, T 830.
[3754] Lizane Malaj, T 830.
[3755] Lizane Malaj, T 832.
[3756] Exhibits P99, pp 59-64, 75-81; P100, pp 18-24; P818, p 35, 39; P456, pp 37-39; P473, pp 21-22, 416, 452.
[3757] Lizane Malaj, T 840.

958. At 0630 hours on 27 April 1999, approximately nine men came to Prend Markaj's house in Meja/Mejë, where Merita Dedaj and her family were staying, and forced them to leave.[3758] The men wore uniforms similar to those worn by the army, and Merita Dedaj described them as VJ soldiers. However, they also wore scarves, bandannas, brown army hats and black masks to hide their faces.[3759] They spoke Serbian.[3760] They were yelling, pushing their guns against the people and shooting in the air.[3761] They robbed the men of their valuables and beat Bekim Markaj and Pashk Deda.[3762] They took the women and children out of the house and forced them to yell "Serbia" as loud as they could, and to raise three fingers in a "Chetnik" sign.[3763] While she was led away by these soldiers with the other women and children, Merita Dedaj turned around and saw that the men - Mark Deda, Pashk Deda, Linton Deda, Prend Markaj, Pashk Markaj, Mark Markaj, Bekim Markaj, Petrit Markaj and Skender Pjetri – had been forced to line up in the courtyard.[3764] None of the village men were armed and there were no weapons in the house.[3765] She then heard shots coming from the courtyard, looked back and saw the village men lying on the ground. She could not see whether they were alive or dead.[3766] The soldiers were about three metres away from the men.[3767] Merita Dedaj never saw these village men alive again. Her family later learned that their bodies had been found in mass graves at the Batajnica SAJ Centre, near Belgrade. Some of the bodies were later returned by Serbia.[3768] The body of Mark Deda, having been found at Batajnica, was later reburied in Guska/Guskë.[3769]

959. As other forensic evidence which is discussed later in this Judgement establishes, the bodily remains of all these village men, except for Skender Pjetri, were exhumed from the Batajnica SAJ Centre, near Belgrade, and forensically identified.[3770] In those cases where it was possible, forensic analysis established that the men had died of gunshot wounds.[3771] Although Skender Pjetri's body was not among those remains found at the Batajnica SAJ Centre, the Chamber is satisfied on the basis of the eye witness evidence of Merita Dedaj that he was also killed along with those men

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[3758] Merita Dedaj, Exhibit P1030, p 3; Merita Dedaj, Exhibit P1031 (*Milutinović* transcript), T 1401.
[3759] Merita Dedaj, Exhibit P1031 (*Milutinović* transcript), T 1401, 1429. While Merita Dedaj describes the men at her house as "VJ soldiers", the description of the clothes worn by the men involved in the operation is not altogether consistent with the regular VJ uniform, leaving open that the men may have been from a paramilitary force rather than regular VJ. However, in view of the involvement of the 52nd Military Police Battalion and the 63rd Parachute Brigade in this operation, the Chamber accepts that those taking part in the operation were predominantly members of those VJ units.
[3760] Merita Dedaj, Exhibit P1031 (*Milutinović* transcript), T 1401, 1429.
[3761] Merita Dedaj, Exhibit P1030, p 3.
[3762] Merita Dedaj, Exhibit P1030, p 3.
[3763] Merita Dedaj, Exhibit P1030, p 3.
[3764] Merita Dedaj, Exhibit P1030, p 3.
[3765] Merita Dedaj, Exhibit P1030, p 4.
[3766] Merita Dedaj, Exhibit P1030, p 3.
[3767] Merita Dedaj, Exhibit P1031 (*Milutinović* transcript), T 1401.
[3768] Merita Dedaj, Exhibit P1031 (*Milutinović* transcript), T 1402.
[3769] Lizane Malaj, T 832.
[3770] Exhibits P98, pp 16-24, 73-79; P100, pp 1-7, 43-49, 56-63, 64-73, 91-97; P818, p 25, 40; P120, pp 24-36.

whose bodies were later recovered in Serbia. Merita Dedaj's evidence, which was uncontested, was that none of her family were members of the KLA.[3772] The Chamber is satisfied that all the victims were unarmed civilians taking no active part in hostilities at the time they were killed outside Prend Markaj's house in Meja/Mejë. It further accepts that they were killed because they were Kosovo Albanian men.

960. The Chamber finds it established that Mark Deda, Pashk Deda, Linton Deda, Prend Markaj, Pashk Markaj, Mark Markaj, Bekim Markaj, Petrit Markaj and Skender Pjetri were killed on 27 April 1999, as set out in Schedule H of the Indictment.

961. On 27 April 1999 at 0700 hours Martin Pnishi noticed that large numbers of the VJ and police had arrived in Meja/Mejë and started to shoot outside his house.[3773] At 0730 hours Martin Pnishi saw a man named Kolë Duzhmani, owner of the petrol station in Korenica/Korenicë, riding a bicycle towards Korenica/Korenicë.[3774] Duzhmani was stopped by four men. Two were members of the MUP and two were thought by Martin Pnishi to be "Russian soldiers". Duzhmani was forced to Martin Pnishi's house by the four men under threat from machine guns. The policemen wore masks and light green camouflage uniforms with stripes.[3775] One of them had ranks on his uniform in the form of a star and a bar.[3776] The two soldiers spoke in a mix between Serbian and Russian[3777] and were dressed in the same blue and grey uniforms which Martin Pnishi believed were worn by Serbian paramilitary forces. They had machine guns and big knives, and did not wear masks.[3778] The four men and their prisoner stopped in front of the entrance to Martin Pnishi's house. He went out and opened the front gate. The police asked him who was inside the house and he told them that his paralyzed wife and his son were there. They then ordered him to leave because they were going to burn the house.[3779] They told him to go to Albania. They behaved in a threatening manner, firing their weapons into the ground and into the air.[3780] He ran into the courtyard and put his sick wife on a wheelbarrow. When he asked the "Russian soldiers" if he should join the convoy towards Albania, one of them opened the well and ordered him to jump into it, telling him "No,

[3771] Exhibits P456, pp 68-70, 201-203, 207-210; P473, pp 37-38, 41-42, 413, 484; P474, pp 344-346.
[3772] Merita Dedaj, Exhibit P1030, p 4.
[3773] Martin Pnishi, Exhibit P1033, p 2.
[3774] Martin Pnishi, Exhibit P1033, p 3; Martin Pnishi, Exhibit P1034 (*Milutinović* transcript), T 1481.
[3775] Martin Pnishi, Exhibit P1033, p 3; Martin Pnishi, Exhibit P1034 (*Milutinović* transcript), T 1444 and 1456.
[3776] Martin Pnishi, Exhibit P1033, p 3.
[3777] Martin Pnishi, T 6579-6580.
[3778] Martin Pnishi, Exhibit P1033, p 3; Martin Pnishi, T Exhibit P1034 (*Milutinović* transcript), 1444. The Chamber notes that during the examination on 29 June 2009, the witness wished to make a correction concerning the colour of the uniforms, clarifying that the uniforms were actually "grass-coloured", but this seems to have been the result of a misunderstanding rooted in the multiple meaning of the Albanian word "verdhe". (Martin Pnishi, T 6546-6547). When asked, the witness made it clear that he had not actually changed anything in his testimony (Martin Pnishi, T 6558).
[3779] Martin Pnishi, Exhibit P1033, p 3.
[3780] Martin Pnishi, Exhibit P1034 (*Milutinović* transcript), T 1443.

your place is here in the well".[3781] When he refused, the soldier asked if his son was a KLA member. Martin Pnishi answered that his wife was sick and that the son had to help her, and the soldier proceeded to kick him, making him fall down, and then kicked him again after he had fallen to the ground.[3782]

962. Some person called the "Russian soldiers" over the radio and asked them if Gjelosh Kola was there. The "Russian soldiers" confused the name with the name Kolë Duzhmani, who was their prisoner, and said that he was there. Martin Pnishi then heard the person on the other end of the radio give the order: "...Umosti ga...", meaning "...Destroy him..." The two "Russian soldiers" and the two MUP officers grabbed Kolë Duzhmani and took him to the front gate of the adjoining house of Martin Pnishi's brother. Martin Pnishi later heard multiple gunshots coming from his brother's house. He did not see Duzhmani alive at any time after that.[3783] A little later, the four men set the house of Martin Pnishi's brother's on fire.[3784] After events described a little later, some 19 days later, Martin Pnishi returned to the house and found the body of Kolë Duzhmani on the cement floor in the kitchen. There were multiple bullet holes all over his body and over the wall of the room.[3785] Martin Pnishi asked the police for permission to bury the body of Kolë Duzhmani, which they gave. Since they couldn't take his body to his home village Korenica/Korenicë, they buried him in the cemetery at Jahoc.[3786]

963. The bodily remains of Kolë Duzhmani were later exhumed at the Batajnica SAJ Centre, near Belgrade, and forensically identified.[3787] Forensic analysis established that the cause of death was from multiple projectile wounds.[3788] There is no evidence that Kolë Duzhmani was a member of the KLA. The evidence of Martin Pnishi indicates he may have been killed as a result of being mistaken for another person called Gjelosh Kola. Although it is a matter of conjecture whether the state of preservation of the remains after some 19 days is normal, this is not a matter that has been further explored, nor does it alter the Chamber's finding, based on eyewitness and forensic evidence, that Kolë Duzhmani died as a result of multiple gunshot wounds. The Chamber is satisfied and finds that he was an unarmed civilian taking no active part in hostilities when he was killed and that he was killed because he was a Kosovo Albanian man. On the basis of the above,

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[3781] Martin Pnishi, T 6578.
[3782] Martin Pnishi, Exhibit P1033, p 3.
[3783] Martin Pnishi, Exhibit P1033, p 3; Martin Pnishi, Exhibit P1034 (*Milutinović* transcript), T 1445.
[3784] Martin Pnishi, Exhibit P1033, p 4.
[3785] Martin Pnishi, Exhibit P1033, p 4; Martin Pnishi, Exhibit P1034 (*Milutinović* transcript), T 1446-1447. The body had not been burned or charred, and seemed to have been preserved by the smoke. Martin Pnishi, Exhibit P1034 (*Milutinović* transcript), T 1447, 1516.
[3786] Martin Pnishi, T 6585; Martin Pnishi Exhibit P1034 (*Milutinović* transcript), T 1481.
[3787] Exhibit P477, p 58 (listed as Pal Kol Duzhmani); Exhibit P576, pp 455-462; Exhibit P818, p 26.
[3788] Exhibit P474, pp 126-128.

the Chamber finds it established that Kolë Duzhmani was killed on 27 April 1999 in Meja/Mejë, as set out in Schedule H of the Indictment.

964. While Kolë Duzhmani was being taken to the adjoining house, Martin Pnishi went to the second floor of his house and saw from there that his sister-in-law Grisha and her 12 year old son Kriste had opened the front gate.[3789] Soldiers and policemen came up to her and started hitting her with the machine gun butts and threatened her son with a knife, holding it against his throat and threatening to cut it. Grisha grabbed her son, was hit again, and then fled down towards the main road where she joined a convoy of other people who were already there.[3790]

965. At around 0930 hours on 27 April 1999, Martin Pnishi saw a huge crowd coming from the villages of Guska/Guskë, Korenica/Korenicë and Junik passing on the main road outside, travelling by means of tractors, cars, horse carriages and on foot.[3791] The Serbian forces had set up a check-point at the intersection between Meja/Mejë and Orize. At the checkpoint stood police forces with armoured vehicles, VJ soldiers and paramilitary units, who made the civilians drop their identification cards on the ground. The men were then forced to lay down with their face on the ground and their hands on their head and some men were taken and locked in the school at the entrance to the village.[3792] He could hear women and children screaming.[3793] Among those who were separating the men from the women and children in Meja/Mejë was Dragutin Stojanović, nicknamed Guta, the police commander in Ponoshec/Ponoševac.[3794] Stojanović also blocked the road at the intersection near the school with a car he had seized from Martin Deda, a villager of Guska/Guskë.[3795] At 1030 hours, all the Serbian forces in the area gathered near the school. Martin Pnishi told his son to flee towards Jahoc. He then took his paralysed wife and dragged her to his godfather's house in Jahoc, arriving at about 1100 hours.[3796]

966. At 1145 hours, Martin Pnishi saw five armed and uniformed men, one of whom he could identify as Predrag Stanojević, a policeman from the Đakovica/Gjakovë police,[3797] pushing seven young Kosovo Albanian men in front of them from the school in Meja/Mejë towards the Ura e Traves bridge.[3798] At the Meja/Mejë side of the bridge, the policemen lined up the young men. One of the police went to the middle of the bridge, while the others stayed, guarding the young

[3789] Martin Pnishi, Exhibit P1033, pp 3-4.
[3790] Martin Pnishi, Exhibit P1033, pp 3-4.
[3791] Martin Pnishi, Exhibit P1033, p 4.
[3792] Martin Pnishi, Exhibit P1033, p 4.
[3793] Martin Pnishi, Exhibit P1033, p 4.
[3794] Martin Pnishi, Exhibit P1033, p 5; Martin Pnishi, Exhibit P1034 (*Milutinović* transcript), T 1448.
[3795] Martin Pnishi, Exhibit P1033, p 5.
[3796] Martin Pnishi, Exhibit P1034 (*Milutinović* transcript), T 1480-1481; Martin Pnishi, T 6580.
[3797] Martin Pnishi, Exhibit P1034 (*Milutinović* transcript), T 1448.
[3798] Martin Pnishi, Exhibit P1033, p 4; Martin Pnishi, Exhibit P1034 (*Milutinović* transcript), T 1493-1494.

men. The policeman who stood in the middle of the bridge shot the seven young men with his machine gun and all seven fell dead to the ground. Martin Pnishi went to the bridge shortly after but did not recognise any of the victims.[3799] The Chamber notes that there is no evidence that these seven men were members of the KLA. The circumstances of their deaths were such that they were unarmed, prisoners in the custody of the police, and were not taking any active part in hostilities. The Chamber is satisfied that they were all killed on account of being Kosovo Albanian.

967. At about 0800 hours on 27 April 1999[3800] Major Vuković sent K90, a military policeman in the 2nd Battalion of the 549th motorised brigade, to check what was happening at the crossroad near the village of Korenica/Korenicë.[3801] There were about 30 armed policemen who were members of the PJP[3802] positioned at the crossroad. They were stopping the columns of people from villages in the area.[3803] They were armed with the type of automatic rifle used by the regular police.[3804] These police were separating men from the women and children, checking paperwork and appeared to be stealing money from the people. The women and children were allowed to continue towards Đakovica/Gjakovë.[3805] The men were taken under gunpoint to a compound.[3806] The compound contained a large house and two smaller buildings; the wall surrounding it was not high.[3807] There were about 10 policemen inside the yard who were members of the PJP.[3808] The men were taken into one of the smaller houses in the compound. A prolonged sound of automatic fire was then heard, following which the police left the building.[3809] K90 looked into one of the small houses. It contained the bodies of men. K90 could not say how many but he could not see the floor for the bodies. He spoke to a policeman and told him that he had been sent by Major Vuković to find out what was happening. The policeman responded that they "were slaughtering Šiptars"[3810] and made it clear that it was none of the army's business what they were doing.[3811] K90 saw at least three to four groups of village men being taken to the compound. The groups numbered from five to over ten people.[3812] K90 reported to Major Vuković what he had seen,[3813] but he was not aware of

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[3799] Martin Pnishi, Exhibit P1033, p 4.
[3800] K90, Exhibit P322 (*Milutinović* transcript), T 9329. The Chamber notes that the witness was unable to specify with certainty that this incident occurred on 27 or 28 April 1999. However, in view of the evidence of several other witnesses who testified, the Chamber is satisfied that the events occurred on 27 April 1999.
[3801] K90, Exhibit P321, para 53.
[3802] K90, Exhibit P322 (*Milutinović* transcript), T 9329.
[3803] K90, Exhibit P321, para 54.
[3804] K90, T 1360; Exhibit P326, weapon No 1.
[3805] K90, Exhibit P321, para 54.
[3806] K90, Exhibit P321, para 55.
[3807] K90, Exhibit P321, para 58.
[3808] K90, T 1535-1536; Exhibit P324 (circle and "VJ" indicates the location of the VJ command posts; "A", the cross-road with 30 policemen; "E" the yard where the police took the separated men, K90, T 1350).
[3809] K90, Exhibit P321, para 59.
[3810] K90, T 1461.
[3811] K90, Exhibit P321, para 60; K90, Exhibit P322 (*Milutinović* transcript), T 9331, 9366; K90, T 1354.
[3812] K90, Exhibit P322 (*Milutinović* transcript), T 9274; K90, T 1351-1352.
[3813] K90, Exhibit P321, para 61.

Vuković taking further action such as talking to the police or calling anyone on the radio.[3814] All the men were Kosovo Albanians and the Chamber is satisfied that this was the reason they were killed. The Chamber finds that although there is no evidence as to whether the men who were killed in the compound were members of the KLA, they were unarmed, in police custody and not taking any active part in hostilities when they were killed.

968. K90 was also asked to establish what had caused the shooting injuries of three VJ soldiers in the area.[3815] He was ordered by Major Vuković to go with the ambulance. On the way he saw at least four bodies, one of which was of a woman, along the road near the entrance of Korenica/Korenicë.[3816] The bodies were not dressed in uniforms and there were no weapons.[3817] K90 spoke to a VJ soldier from the unit of the injured soldiers who told him that the police were shooting in all directions. The entire area was surrounded and secured by the VJ so there appeared to K90 to be no way that any KLA fighters could be in the area or in a position to shoot at VJ.[3818] In any event, there was no fire from the Kosovo Albanian side which confirmed that there was no KLA and the VJ was not shooting at the time the soldiers were injured.[3819] All three injured soldiers were taken to an outpatient hospital at Đakovica/Gjakovë. Two of the soldiers thought that they had been injured by stray bullets fired by the police.[3820]

969. K90 reported back to Major Vuković who instructed him to go to Meja/Mejë and escort the civilians through to Đakovica/Gjakovë. K90 went to Meja/Mejë with a soldier and escorted over 100 Kosovo Albanian villagers to the bridge before Đakovica/Gjakovë which was about two kilometres away. There was a checkpoint at the bridge and the civilians were allowed to pass because K90 told the police and soldiers there that this was an order from Major Vuković.[3821] K90 returned to the crossroad where he saw a group of about eight to 10 men, between 20 and 30 years old, being escorted by police towards the crossroad from the direction of the VJ command post.[3822] As the group approached the crossroad they were diverted towards the compound.[3823] The men were forced to sing Serbian nationalistic songs as they walked to the compound.[3824] K90 then heard

[3814] K90, Exhibit P322 (*Milutinović* transcript), T 9331.
[3815] K90, Exhibit P322 (*Milutinović* transcript), T 9428; K90, Exhibit P321, para 62.
[3816] K90, Exhibit P321, para 63.
[3817] K90, Exhibit P322 (*Milutinović* transcript), T 9335; K90, T 1347; Exhibit P323: number "4" marks the location of the bodies mentioned in para 63; "Q" marks the location of the two wounded soldiers.
[3818] K90, Exhibit P321, para 63. *See also* K90, Exhibit P321, para 62; K90, Exhibit P322 (*Milutinović* transcript), T 9450-9451.
[3819] K90, Exhibit P322 (*Milutinović* transcript), T 9331, 9452.
[3820] K90, Exhibit P322 (*Milutinović* transcript), T 9334.
[3821] K90, Exhibit P321, para 64.
[3822] K90, Exhibit P321, paras 61, 65; K90, T 1462.
[3823] K90, Exhibit P321, para 65.
[3824] K90, Exhibit P321, para 55.

the sound of shooting from the compound.[3825] Nothing in evidence indicates that the men were KLA; all were unarmed, in the custody of the police when they were shot. They were not taking an active part in hostilities. The Chamber is satisfied that they were all killed on account of being Kosovo Albanian. K90 returned to the command post. Major Vuković told him that they were pulling back to the barracks. The police in the area withdrew by bus one hour before the VJ.[3826] Before the police left, the small houses in the compound where the men had been shot were set on fire.[3827] K90 did not personally see the houses set on fire.[3828] The following day he returned and found that only the foundations of the houses remained.[3829] The policemen who had arrived in the area the previous morning on buses, the policemen at the crossroads and those in the courtyard, all as described earlier, were wearing blue uniforms with green bullet proof vests, and with white writing on the sleeves and on the back of the vests.[3830]

970. On 27 April 1999, Nike Peraj and Captain Perović went to Meja/Mejë. They arrived in Orize at 1500 hours wearing their VJ uniforms and carrying weapons. They were stopped at a checkpoint, in front of the store of Krist Sokoli. MUP Inspector Rašović was in charge of the checkpoint.[3831] At the checkpoint, there were Special Police from the Đakovica/Gjakovë MUP station wearing blue camouflage uniforms and reservist police in solid blue uniforms.[3832] The Special Police were armed with automatic weapons with foldable butts while Inspector Rašović had a nine millimetre pistol. The reservists carried semi-automatic rifles with bayonets on top and TT revolvers.[3833] Nike Peraj saw four bodies in the grass behind the toilets of the school opposite the checkpoint, about 30-40 metres away. They appeared to be men aged 30-40 and had been kicked in the face with boots as suggested by the injuries on their face.[3834] Nike Peraj inquired with Inspector Rašović about male villagers who had been stopped at the checkpoint but was told that no men were detained in the school. Rašović advised that Peraj and Captain Perović, who was part of a three-member commission established for "mopping up the terrain",[3835] should not go to Meja/Mejë as it was dangerous.[3836] Nevertheless, Peraj and Captain Perović continued towards Meja/Mejë. On the way, they came upon 10 Albanian families from the area and escorted them back past the

[3825] K90, Exhibit P321, paras 55 65; K90, Exhibit P322 (*Milutinović* transcript), T 9339.
[3826] K90, Exhibit P321, para 66.
[3827] K90, Exhibit P321, para 66; K90, T 1365.
[3828] K90, Exhibit P322 (*Milutinović* transcript), T 9339.
[3829] K90, T 1365-1366.
[3830] *See* Exhibit P326, Nos 6 and 7 (showing patches of the MUP); K90, T 1357, 1359, 1361, 1362.
[3831] Nike Peraj, Exhibit P313, para 68; Nike Peraj, T 1185, 1207-1208; Exhibit P315.
[3832] Nike Peraj, T 1208-1209.
[3833] Nike Peraj, T 1209-1210.
[3834] Nike Peraj, Exhibit P313, para 69.
[3835] Nike Peraj, T 1188.
[3836] Nike Peraj, Exhibit P313, para 70; Nike Peraj, T 1186.

checkpoint in Orize. These families told them about people killed near the Hasanaj house in Meja/Mejë.[3837]

971. Captain Perović and Nike Peraj headed back towards Meja/Mejë at around 1530 hours. Before arriving they came upon 20-30 VJ soldiers who had been there since around midnight the previous night. The lieutenant in command told Nike Peraj that the male villagers abducted from among the displaced persons were in Meja/Mejë.[3838] Upon arrival in Meja/Mejë, Nike Peraj and Captain Perović found the bodies of 20 dead men lying in a meadow near the Hasanaj house,[3839] about 30 metres away from a checkpoint in Meja/Mejë.[3840] Nike Peraj observed powder burns on the heads of some victims indicating they had been shot at close range.[3841]

972. Nike Peraj saw three gas canisters on the ground as well as a pile of torn identification documents.[3842] There were 12 Kosovo Albanian men lined up against the wall of a store near the checkpoint and tractors loaded with women and children. Captain Perović spoke with Milan Šćepanović who wore a MUP blue camouflage uniform with a MUP patch.[3843] Šćepanović ordered the men lined up against the wall to turn to see if Nike Peraj could recognize any relatives. He could not, but he told Šćepanović that he knew the men because they were from his valley and that they had not done anything. Šćepanović replied they were separatists and terrorists.[3844] Nike Peraj said to Captain Perović that he too should go line up because there was no difference between him and the men against the wall. In the meantime, paramilitary soldiers were approaching. Captain Perović called the VJ Lieutenant they had recently been in touch with on the radio and ordered him to come with his soldiers.[3845] When Šćepanović saw the VJ soldiers approaching he ordered his men to withdraw. Šćepanović released the 12 men lined up against the wall and ordered them onto the tractors.[3846] Nike Peraj then escorted about 10 Albanian families through the MUP checkpoint in Meja/Mejë.[3847] Captain Perović ordered the Lieutenant and VJ soldiers to escort the tractors to Orize.[3848]

973. Nike Peraj, Captain Perović and a soldier headed towards Madanaj village. In Meja/Mejë, Nike Peraj saw three jeeps occupied by Arkan's Tigers paramilitaries, whom he recognized from

[3837] Nike Peraj, Exhibit P313, para 71; Nike Peraj, T 1186.
[3838] Nike Peraj, Exhibit P313, para 72; Nike Peraj, T 1186.
[3839] Nike Peraj, Exhibit P313, para 73; Nike Peraj, T 1186.
[3840] Nike Peraj, T 1211; Exhibit P315.
[3841] Nike Peraj, Exhibit P313, para 74.
[3842] Exhibit D34, para 8.
[3843] Nike Peraj, Exhibit P313, para P00313 para 75; Nike Peraj, T 1186.
[3844] Nike Peraj, Exhibit P313, para 76.
[3845] Nike Peraj, Exhibit P313, para 77; Nike Peraj, T 1186.
[3846] Nike Peraj, Exhibit P313, para 78.
[3847] The families helped included those of Kole Shyti, Zef Pnishi, Sadri Beka, Nue Mark Mirashi, Sokol Jetishi, and Hasan Idrizi. Nike Peraj, Exhibit P313, para 82.

the barracks in Đakovica/Gjakovë.[3849] As they travelled, about 600 metres from the Shyt Hasanaj meadow, Nike Peraj saw four dead bodies on the left side and then seven more bodies in a pile. These were all men aged 20-50.[3850] After this, Nike Peraj and Captain Perović escorted two Kosovo Albanian families from Meja/Mejë to Orize. At the checkpoint they requested the police to not harm another two families that were about to pass through. Nike Peraj and Captain Perović then headed to Korenica/Koreničë. Along the way they saw one dead body lying near the house of Nike Peraj's brother-in-law.[3851] In Korenica/Koreničë houses were on fire and there was a checkpoint, manned by three or four policemen.[3852] That evening, after 2200 hours, Nike Peraj was at Brigade Headquarters in Đakovica/Gjakovë. He observed Major Zdravko Vintar, Chief of the Information and Morale Organ of the 52nd Artillery Rocket Brigade, preparing a report which stated that 74 terrorists had been killed in Korenica/Koreničë and 68 terrorists killed in Meja/Mejë.[3853]

974. During the first day of the operation, on 27 April 1999, the anti-terrorist unit of the VJ 52nd Military Police Battalion expelled hundreds of Kosovo Albanian civilians from their villages. The unit worked in coordination with the VJ 63rd Parachute Brigade, who were on their left flank, and with whom they had both visual and radio contact, and the PJP Brigade, who were on their right flank, and with whom they had radio contact.[3854] Once the civilians had left, their houses were set on fire.[3855]

975. In the village of Ramoc,[3856] situated between Dobroš/Dobrosh and Korenica/Koreničë, Captain Sasa Antić, commander of the anti-terrorist unit of the VJ 52nd Military Police Battalion,[3857] took three civilian men who were prominent members of the village, together with a man from the village of Skivjane/Skivjan whom the unit had found earlier in the surrounding woods, as hostages for the night, while the rest of the villagers were expelled to Koreničë/Korenica.[3858] At some point in the night of 27 April 1999, three or four KLA fighters walked into the village of Ramoc not realising that a VJ unit was present.[3859] A VJ soldier who was on guard heard the voices of the KLA fighters and – apparently thinking that they were VJ soldiers – shouted at them to quieten down.[3860] The KLA fighters immediately opened fire upon the VJ soldier, killing him.[3861] A "short

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[3848] Nike Peraj, Exhibit P313, para 78; Nike Peraj, T 1186.
[3849] Nike Peraj, Exhibit P313, para 80; Nike Peraj, T 1187.
[3850] Nike Peraj, Exhibit P313, para 79.
[3851] Nike Peraj, Exhibit P313, para 81; Nike Peraj, T 1187.
[3852] Nike Peraj, T 1215; Exhibit P315.
[3853] Nike Peraj, Exhibit P313, para 83, para 86; *see also* Nike Peraj, T 1301-1306.
[3854] K73, T 1526-1527, 1529.
[3855] K73, Exhibit P330, para 42; K73, T 1524-1525.
[3856] Exhibit P338, p 12.
[3857] K73, Exhibit P330, para 28.
[3858] K73, Exhibit P330, para 43; K73, T 1527; K73, Exhibit P332 (*Milutinović* transcript), T 3331.
[3859] K73, T 1527-1528.
[3860] K73, T 1528.

but fierce exchange of fire" between the KLA fighters and the members of the anti-terrorist unit of the 52nd Miltary Police Battalion ensued.[3862] The following morning, on 28 April 1999, VJ soldiers from the unit found the body of one of the KLA fighters who was wearing a German uniform used by the KLA and was carrying a rocket propelled grenade launcher. He had been shot between his eyes.[3863] This incident was the only time that the unit came across KLA fighters in the course of the Reka Operation.[3864] During the operation, K73 heard shooting from the direction of the PJP Brigade positioned to the right of the unit and was later told by the PJP Brigade that they had had "firing contact" with KLA fighters and had killed three of them.[3865] Given other consistent and substantial evidence of PJP firing activity directed against Kosovo Albanian civilians on 27-28 April 1999, discussed above, the Chamber is left in doubt whether the sound of shooting heard by K73 was in the course of combat activity between the PJP and the KLA.

976. Captain Antić ordered that the body of the KLA fighter referred to in the preceding paragraph be placed in a sitting position in the first house in Ramoc and that the entire village should be burned in retaliation for the killing of the VJ soldier.[3866] According to K73, this was the only time a specific order to burn a village was given to the unit.[3867] After the burning of the village of Ramoc, the unit moved to another village, taking with them the four Kosovo Albanian hostages that had stayed with them overnight. When they arrived in that village, Captain Antić contacted the PJP via radio.[3868] When the PJP arrived, the commander of the PJP requested that the four hostages be handed over to him because they were civilians, falling under police jurisdiction. When the four hostages were handed over by Captain Antić, the commander of the PJP called one of his officers and said: "these four assholes belong to you". The PJP officer took the hostages to the nearby woods and a minute later multiple gunshot sounds were heard from the woods.[3869] The PJP officer returned from the woods with the plastic ties that had been on the wrists of the hostages. He said with a smile on his face, "I was too fair, I gave them a cigarette and they were smoking and crying because they understood what was going to happen". K73 testified that when the members of his unit heard the gunshots, they shouted at the PJP commander who replied, "mind your business; the Siptars killed this man's brother", referring to the PJP officer who had taken the four hostages to the woods.[3870] Evidence indicates that the four Kosovo Albanian men were civilians. Indeed, their handover from the VJ Military Police to the PJP was ostensibly based on fact that they were "not

[3861] K73, Exhibit P330, para 44.
[3862] K72, T 1528.
[3863] K73, T 1528; K73, Exhibit P330, para 44; K73, Exhibit P332 (*Milutinović* transcript), T 3332.
[3864] K73, T 1529.
[3865] K73, T 1529-1530.
[3866] K73, T 1528; K73, Exhibit P332 (*Milutinović* transcript), T 3329, 3392.
[3867] K73, Exhibit P332 (*Milutinović* transcript), T 3329.
[3868] K73, Exhibit P330, para 45; K73, T 1531, 1553.
[3869] K73, Exhibit P330, para 4; K73, T 1531.

prisoners of war. They were not terrorists. They were nothing. They were civilians" and therefore came within the jurisdiction of the regular police, rather than the military police.[3871] Moreover, they were unarmed, wearing civilian clothes, in police custody, and were taking no active part in hostilities. The Chamber is satisfied that they were all killed on account of being Kosovo Albanian.

977. On 28 April 1999, the anti-terrorist unit of the VJ 52nd Military Police Battalion moved to Korenica/Korenicë. There were no civilians.[3872] The village was burning and there were approximately one hundred policemen from the PJP[3873] who were wearing the standard blue camouflage uniform.[3874] K73 asked one of the policemen where the civilians were and he answered: "We sent them out on a trip".[3875]

978. The operation continued on 28 April 1999. Nike Peraj went to the MUP command post in Dužnje/Duzhnjë where he helped two other Kosovo Albanian families to pass through after assuring the MUP, including senior officers, that they were not KLA.[3876] On the same day, Nike Peraj and Captain Perović travelled into the valley and then to the command post Qafe e Osekut. The houses in the villages in the valley were on fire, and the operation was still under way.[3877]

979. Human Rights Watch researcher Frederick Abrahams testified that he and other colleagues based in Albania near the border first heard from Kosovo Albanian women refugees arriving in Albania from Kosovo the morning of 27 April 1999 that they had been separated from their men. Refugees arriving around midday said that they saw men kneeling by the side of the road in Meja/Mejë in the detention of police.[3878] Women arriving at the end of the day said there were even larger numbers. At least two refugees said that they saw dead bodies that had been piled up on the side of the road and they estimated the number of bodies as close to 300.[3879] Once the fighting was over, HRW investigators went to Meja/Mejë to investigate. A colleague of Frederick Abrahams, Joanne Mariner, went there on 14 June 1999 and saw a few dead bodies on the side of the road precisely where the refugees had said they were, as well as remnants of personal identity documents and effects.[3880] Frederick Abrahams went to Meja/Mejë in July 1999 and conducted lengthy

[3870] K73, T 1532.
[3871] K73, T 1531.
[3872] K73, Exhibit P332 (*Milutinović* transcript), T 3333.
[3873] K73, Exhibit P332 (*Milutinović* transcript), T 3333, 3438; K73, T 1535; K73, Exhibit P330, para 46.
[3874] K73, Exhibit P332 (*Milutinović* transcript), T 3438.
[3875] K73, Exhibit P332 (*Milutinović* transcript), T 3334.
[3876] Nike Peraj, Exhibit P313, para 84.
[3877] Nike Peraj, T 1218-1219.
[3878] Frederick Abrahams, T 3969.
[3879] Frederick Abrahams, T 3970; Exhibit P756, p 231.
[3880] Frederick Abrahams, T 3970; Exhibit P756, p 233.

interviews with villagers whose accounts were consistent with those which refugees had given in Albania.[3881]

980. As noted earlier, save for the short unplanned firefight in the village of Ramoc on 27 April 1999 between four KLA fighters and members of a VJ unit, there is little evidence of KLA activity or presence in the valley at the relevant time.[3882] Even if the operation was one purely based on the objective of neutralising the KLA in the area, the actions of the Serbian forces during the operation were clearly disproportionate to any KLA threat that may have existed.

(c) Convoy to Albania

981. A convoy composed of Kosovo Albanian women and children left the villages in the area of Meja/Mejë and Korenica/Korenicë and headed towards Đakovica/Gjakovë city on 27 April 2009.[3883] VJ soldiers and police were lining the road and forcing the people to walk on and not to stop anywhere.[3884] The convoy travelled through Korenica/Korenicë-Đakovica/Gjakovë-Prizren-Verbica/Vërbnicë and then to the border with Albania.[3885] Those in the convoy passed through a number of checkpoints, one by the Tabaku bridge, Ura e Tabakeve, on the road from Korenica/Korenicë towards Đakovica//Gjakovë,[3886] which were manned by Serbian police and soldiers.[3887] From that checkpoint on, they were directed toward Prizren and were not allowed to leave the road.[3888] From Prizren, they proceeded through Verbica/Vërbnicë to the border with Albania at Cafe Morina/Morinë.[3889] Serbian forces escorted the convoy throughout the journey to the border and did not allow them to rest or to have any food or drink.[3890] At the border, the Serbian police took identification documents from the people in the convoy and those on tractors were forced to remove and hand over registration plates from their tractors.[3891] The convoy reached the border of Albania on 28 April 1999 at 1300 hours and crossed into Albania.[3892]

982. Between Korenica/Korenicë and Meja/Mejë, shortly before arriving in Meja/Mejë, from a distance of about 50 metres, Merita Dedaj saw eight bodies covered with blankets. She saw VJ soldiers putting the bodies on a VJ truck and heard one of the soldiers telling the driver to go to

[3881] Frederick Abrahams, T 3970.
[3882] *See supra*, para 975.
[3883] Merita Dedaj, Exhibit P1030, p 3; Lizane Malaj, T 820-821; Exhibit P295.
[3884] Lizane Malaj, T 821.
[3885] Lizane Malaj, T 821. *See also* Nike Peraj, T 1216-1217; Nike Peraj, Exhibit P315.
[3886] Lizane Malaj, T 823; Exhibit P295 (checkpoint marked as 10).
[3887] Lizane Malaj, T 823.
[3888] Lizane Malaj, T 823; Exhibits P295, P296.
[3889] Lizane Malaj, T 827.
[3890] Lizane Malaj, T 828.
[3891] Lizane Malaj, T 828.
[3892] Lizane Malaj, T 829.

Đakovica/Gjakovë.[3893] The convoy arrived in Đakovica/Gjakovë on 27 April 1999. When the people in the convoy tried to stop at the Liberty Park near the Isa Greyda Hospital, police, wearing blue camouflage uniforms and baseball caps, came and told them that they were not allowed to rest and that they had to go to Albania.[3894] One witness heard police say "You either go straight to Albania, or we will execute you".[3895] At the town of Bistražin/Bishtazhin the people in the convoy were stopped at a police check-point and were kept for two to three hours before being allowed to continue.[3896] At this check-point, there were two columns of people: one composed of women and children and the second comprised of men. The police separated 10 young men from the rest, among them Merita Dedaj's cousin Gustin Markaj, who later told her that he and the other young men had been kept in the basement of a house in Ćerim/Qerim district for 10 days, after which he and another man, Arben Kqiri, were released. He understood the other young men were sent to Albania,[3897] however Gustin Markaj told Merita Dedaj that after the war he was informed by the relatives of the other young men that they never returned to their homes.[3898]

983. When some refugees who had been in the convoy eventually returned to Guska/Guskë, they found their houses looted and the cattle killed.[3899] Similarly, when Lizane Malaj's family returned to Kosovo on 3 July 1999, the village of Korenica/Korenicë had been completely burnt, except for 10 or so houses, which were damaged and looted.[3900] The houses in their courtyard had been burnt down, as were the three cars they had left behind.[3901] The houses that remained were generally uninhabitable;[3902] doors and windows were broken, furniture had been trashed, walls had been damaged, and the houses had been looted.[3903] The tractor belonging to the family of Lizane Malaj, which had been left at her home, had been taken away.[3904]

984. The Chamber is satisfied that the offences of forcible transfer and deportation have been established with respect to the villages of Junik, Dobroš/Dobrosh, Ramoc, Meja/Mejë, Orize, Korenica/Korenicë, Guska/Guskë, and other villages in this area on 27 and 28 April 1998.

[3893] Merita Dedaj, Exhibit P1030, p 3.
[3894] Merita Dedaj, Exhibit P1030, p 4.
[3895] Lizane Malaj, T 828.
[3896] Merita Dedaj, Exhibit P1030, p 4.
[3897] Merita Dedaj, Exhibit P1030, p 4.
[3898] Merita Dedaj, Exhibit P1031 (*Milutinović* transcript), T 6541; Merita Dedaj, Exhibit P1030, p 4.
[3899] Merita Dedaj, Exhibit P1030, p 4.
[3900] Lizane Malaj, T 873, 876.
[3901] Lizane Malaj, T 829.
[3902] Lizane Malaj, T 874.
[3903] Lizane Malaj, T 876.
[3904] Lizane Malaj, T 876.

(d) Disposal, exhumation and identification of bodies

985. The Chamber received evidence about the collection of bodies of victims killed during Operation Reka in and around Meja/Mejë and Korenica/Korenicë. On 27 April 1999, when Merita Dedaj was in the convoy travelling from Korenica/Korenicë to Meja/Mejë, she saw VJ soldiers loading eight dead bodies onto a VJ truck, which was ordered to go to Đakovica/Gjakova.[3905] On 29 April at 0930 hours Nike Peraj saw two civilian trucks transporting bodies. The trucks were heading towards Đakovica/Gjakovë. A police Lada Niva jeep was escorting the trucks.[3906] The workers on the trucks wore orange uniforms. He thought there were some 20 bodies on each truck.[3907] The trucks were covered with tarpaulin, but when the wind lifted the tarpaulin, he could see body parts.[3908] A man nicknamed "Nexha" was head of the "commission of cleansing of the area and for the collection of bodies" and gave orders to VJ major Ljubiša Živković, another member of this commission.[3909]

986. Martin Pnishi witnessed the bodies of the seven young men killed at the bridge by policemen on 27 April 1999 being collected the next Sunday, 2 May 1999, by Roma people known to him.[3910] They placed the bodies on a tractor. Later, a big truck came to Meja/Mejë from Đakovica/Gjakovë to pick up the bodies. Two hours later, the truck and the tractor left Meja/Mejë and headed towards the Đakovica/Gjakovë public cemetery. Martin Pnishi could not see the bodies on the truck,[3911] but later spoke to the Roma leader of those who collected the bodies, Hamdija Alitaj, and was told that he "had loaded up to 412 [...] corpses here and in Korenica/Korenicë".[3912]

987. As detailed elsewhere in this Judgement,[3913] in late April 1999, a MUP officer tasked K72, an excavator operator working for a private construction company in Đakovica/Gjakovë,[3914] with the job of excavating bodies buried near the Bistražin/Bishrazhin bridge. The bodies were all male and were all in civilian clothes.[3915] Policemen present during the excavation told K72 there were about 100 bodies.[3916] Some Roma loaded these bodies onto two small trucks.[3917] Some 20 days

[3905] Merita Dedaj, Exhibit 1030, p 3.
[3906] Nike Peraj, Exhibit P313, para 86; Nike Peraj, T 1228.
[3907] Nike Peraj, Exhibit P313, paras 86, 88.
[3908] Nike Peraj, Exhibit P313, para 88.
[3909] Nike Peraj, Exhibit P313, para 87; Nike Peraj, T 1188.
[3910] The witness identifies the leader of the "gypsies" who collected the seven bodies near the bridge as Hamdi Alitaj from Brekoc and his sons, named Halit and Sahit. Martin Pnishi, Exhibit P1033, p 5; Martin Pnishi, Exhibit P1033, p2; Martin Pnishi, Exhibit P1034 (*Milutinović* transcript), T 1526.
[3911] Martin Pnishi, Exhibit P1033, pp 4-5.
[3912] Martin Pnishi, Exhibit P1034 (*Milutinović* transcript), T 1526.
[3913] *See infra*, paras 1275-1285.
[3914] K72, T 8919-8920, 8957-8960.
[3915] K72, T 8927-8928, 8981.
[3916] K72, T 8928.

after this, K72 was again asked by a policeman to dig bodies out of individual graves marked with wooden poles from the public cemetery of Brekovac/Brekoc, located three to four kilometres from Đakovica/Gjakovë city, near the VJ barracks.[3918] All the bodies K72 dug up were male and all were in civilian clothes.[3919] K72 observed shot wounds on the bodies.[3920] Five or six Roma loaded the bodies on a trailer and transported them out of the cemetery to a larger truck with a tarpaulin, which was used to cover the bodies.[3921] K72 was unable to indicate the number of bodies he dug up, but the exhumation process of the bodies took 12 hours, suggesting a large number.[3922] Since this was the lengthiest operation that K72 was involved in, the Chamber notes that it is likely that the number of bodies was significantly higher than 100. Two days later, K72 was tasked by a policeman to excavate bodies in Guska/Guskë,[3923] where there were three rows each of three or four individual unmarked graves.[3924] All the bodies were male and dressed in civilian clothes.[3925] K72 excavated more bodies from a wooded area close by, where there were unmarked graves each containing one or two bodies.[3926] The bodies dug up were of adult males dressed in civilian clothes.[3927] A number of Roma loaded the bodies onto a small truck with a trailer.[3928] After he had completed the exhumations of the bodies at Guska/Guskë, K72 was threatened by one of the policemen in blue uniform present at the site that he would be killed if he "talked too much".[3929] K72 did not know where the trucks were headed that carried the bodies he had exhumed from the three sites.[3930]

988. The Chamber finds from the above evidence that the bodies of a number of the men killed during Operation Reka were exhumed from their initial burial sites in the Carragojs Valley, including near the Bistražin/Bishtazhin bridge, the public cemetery of Brekovac/Brekoc and in Guska/Guskë, and loaded onto trucks. These exhumations were organised by MUP personnel and MUP personnel were present as bodies were clandestinely excavated and transported from the original places of burial. VJ were also involved in the removal of some of the bodies.

[3917] K72, T 8927, 8929. K72, at the time, thought that one of these two smaller trucks was a refrigerated truck. During cross-examination, however, he states that it was a truck that looked identical to a refrigerated truck only it does not have a refrigerating system on it (*see* T 8975-8976).
[3918] K72, T 8932-8933, 8951; Exhibit P1323, marking "2" indicating the approximate location of the cemetery near Brekovac.
[3919] K72, T 8935-8936, 8981.
[3920] K72, T 8935.
[3921] K72, T 8934-8935, 8937.
[3922] K72, T 8935.
[3923] K72, T 8939, 8951; Exhibit P1323, marking "3" indicating the location of Guska/Guskë.
[3924] K72, T 8939-8941.
[3925] K72, T 8941, 8981.
[3926] K72, T 8943.
[3927] K72, T 8943, 8981.
[3928] K72, T 8940-8941.
[3929] K72, T 8944-8945.
[3930] K72, T 8980, 8937.

989. As discussed in more detail elsewhere in the Judgement, several trucks loaded with bodies arrived at the Batajnica SAJ Centre near Belgrade in the course of April and May of 1999.[3931] These bodies were buried in mass graves at the training ground by MUP personnel. Batajnica is some 420 kilometres from the Carragojs Valley.

990. The Batajnica site was subject to forensic examination and exhumations in June-July 2001.[3932] The detailed findings of the Chamber in this regard are discussed in a separate section of the Judgement.[3933] At the mass grave sites at Batajnica, the remains of 744 bodies were identified by the International Commission on Missing Persons.[3934] The Office of Missing Persons and Forensics of UNMIK (OMPF) had compiled a list of 344 persons who were missing from Meja/Mejë on 27-28 April 1999.[3935] The names of these 344 persons are listed in Schedule H of the Indictment. The list includes those 15 persons named by eye witnesses as having been killed by Serbian forces, as described above. The bodies of all but one of these victims (namely, Skender Pjetri) were among those identified from Batajnica. Based on the evidence before the Chamber, in addition to those 14 individuals named by eye witnesses whose bodies were found at Batajnica, 281 of the persons listed in Schedule H of the Indictment were also identified among the remains found at Batajnica.[3936] All of the bodies exhumed from the mass grave sites in Batajnica which were found to have come from Đakovica/Gjakovë were male, except two (namely, Kllaudie Mala and Monika Mala), of varying age, and – where it could be determined – were wearing civilian clothing. Forensic evidence established that 172 of these 281 persons had died as a result of gunshot injuries.[3937] The cause of death was not ascertained for the remaining 109 persons identified in the mass grave at Batajnica who also went missing on 27-28 April 1999 in and around Meja/Mejë and Korenicë/Korenica.[3938]

991. The numbers of male human remains, originally temporarily buried around Đakovica/Gjakovë, most of whom had been killed by gunshot, who (where known) were wearing civilian clothes, and the glaring facts that in such large numbers, and with so many others, they had

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[3931] *See infra*, paras 1325-1352.
[3932] Dušan Dunjić, Exhibit P526 (witness statement), paras 3, 5, 6, 7; Dušan Dunjić, T 3228, 3237; Branimir Aleksandrić, Exhibit P507 (witness summary), para 3; Branimir Aleksandrić, T 3012, 3027. *See* further, *infra,* para 1478-1504.
[3933] *See infra,* para 1478-1504.
[3934] Exhibit P818, pp 14-55.
[3935] Exhibit P477; Jose Pablo Baraybar, Exhibit P453, para 31; Jose Pablo Baraybar, T 2550-2551.
[3936] Exhibits P98, P99, P456, P472, P473, P474, P576 and P818. In total from the municipality of Đakovica/Gjakovë 295 individuals were exhumed from Batajnica 2, 5 and 8, *see infra,* para 1493, 1500, 1506.
[3937] This figure does not include the 15 victims identified by eye witnesses discussed earlier in this Chapter, *see supra* para 956, 958, 960; Exhibit P454, p 14.
[3938] The Chamber did not receive autopsy reports for 11 of these individuals. For the remaining 98 individuals the cause of death could not be ascertained due to the incomplete, destroyed, or decomposed state of remains, Jose Pablo Baraybar, T 2665-2666; *see also* Exhibits P98; P99; P472; P474; P576; *see infra,* para 1494-1495, 1501-

been re-buried later, clandestinely, in mass graves near Belgrade in Serbia, on MUP land, some 420 kilometres from the places where they were killed, generally is consistent with and confirmatory of the accounts of the killing of Kosovo Albanian males at the hands of MUP and other Serbian forces in the area in which Operation Reka was conducted late in April 1999. The Chamber is satisfied that the only reasonable inference on the basis of the clear and universal evidence of what occurred in the area on those days, the fact that these bodies were all buried in mass graves in the Batajnica SAJ Centre, and, where it could be ascertained (in 172 cases), that all had been killed by gunshot wounds, is that these 281 persons were killed by Serbian forces.

992. Hence, in addition to its findings on specific killings discussed above, the Chamber is satisfied that the following 281 individuals were killed in and around Meja/Mejë and Korenicë/Korenica by Serbian forces engaged in Operation Reka mainly on 27-28 April 1999:

Mark Abazi; Pashk Abazi; Pjeter Abazi; Bekim Ademaj; Shemsi Ademaj; Isuf Ademi; Mazllum Ademi; Liridon Ahmetaj; Ahmet Ahmeti; Ahmet Ahmeti; Blerim Ahmeti; Hysen Ahmeti; Adem Aliaj; Agron Aliaj; Ali Aliaj; Sali Aliaj; Zenun Aliaj; Arben Aliaj; Ymer Avdullahu; Avdyl Avdyli; Bajrush Avdyli; Hysen Avdyli; Muhedin Avdyli; Lavdim Bajraktari; Ali Bajrami; Shaban Bajrami; Syle Bajrami; Xhafer Bajrami; Xhavit Bajrami; Ali Bala; Bajram Bala; Mehmet Bala; Perparim Bala; Ragip Baliu; Demush Bardheci; Idriz Bardheci; Haki Batusha; Armend Beqaj; Bajram Beqaj; Bedri Beqaj; Brahim Beqaj; Dritan Beqaj; Emin Beqaj; Kujtim Beqaj; Milazim Beqaj; Ramadan Beqaj; Rasim Bequaj; Tafe Beqaj; Ymer Beqaj; Albert Beqiraj; Arsim Beqiraj; Syle Beqiraj; Tahir Beqiraj; Halil Berisha; Avni Binaku; Binak Binaku; Ismet Bobi; Fiqrih Cuni; Muharrem Cuni; Sutki Cuni; Frrok Dedaj; Gjon Dedaj; Mikel Dedaj; Pjeter Dedaj; Deli Deliu; Ali Demaj; Agron Duzhmani; Frane Duzhmani; Gezim Duzhmani; Gostin Duzhmani; Manuel Duzhmani; Marjan Duzhmani; Mikel Duzhmani; Pashk Duzhmani; Male Fazlija; Haxhi Fetaj; Robert Gashi; Brahim Gaxherri; Xhafer Gaxherri; Deme Gjocaj; Ardian Gjokaj; Asllan Golaj; Avdi Golaj; Idriz Golaj; Musa Golaj; Rame Golaj; Rexhe Golaj; Skender Hadergjonaj; Faik Hajredini; Hysni Hajredini; Qamil Hajredini; Gjon Hasanaj; Luan Hasanaj; Shyt Hasanaj; Mentor Haxha; Afrim Haxhiu; Avdi Haxhiu; Florim Haxhiu; Tahir Haxhiu; Ardian Hoxha; Bajram Hoxha; Blendian Hoxha; Fitim Hoxa; Hajrullah Hoxha; Naim Hoxha; Ramiz Hoxha; Rifat Hoxha; Binak Hyseni; Hysni Ibrahimi; Masar Idrizi; Demë Islamaj; Bajram Isufi; Isa Isufi; Besim Kameri; Gëzim Kameri; Muharrem Kamberi; Rrustem Kameri; Shpend Kameri; Nikolle Komani; Fran Komani; Pashk Komani; Mikel Kqira; Pashk Kqira; Luz Kqira; Albert Krasniqi; Mark Krasniqi; Ndue Krasniqi; Pjeter Krasniqi; Hasan Kuqi; Shpend Kuqi; Ilmi Kurpali; Haki Kurtaj; Isa Kurtaj; Muhamet Kurtaj; Sami Kurtaj;

1502, 1506; *see infra,* Schedule: Victim Charts. This figure does not take into account the findings in relation to the cause of death of the 15 victims discussed earlier in this Chapter, *see supra* paras 956, 958, 960.

Kllaudie Mala; Kol Mala; Monika Mala; Blerim Maloku; Burim Maloku; Petrit Maloku; Ymer Maloku; Besim Malushaj; Shefki Mulashaj; Dede Markaj; Gezim Marku; Gjovalin Markaj; Milan Markaj; Sokol Markaj; Agron Mehmeti; Arben Mehmeti; Gani Mehmeti; Hysen Mehmeti; Hysni Mehmeti; Muharrem Mehmeti; Quash Mehmeti; Rame Mehmeti; Sami Mehmeti; Marash Merturi; Bajram Meta; Ismet Miftari; Brahim Miroci; Fahredin Miroci; Isuf Miroci; Sokol Miroci; Kole Nrejaj; Nue Ndue; Ahmet Neziri; Sokol Ndue (Nuo); Sokol Nuza; Shpend Osmani; Avdyl Pajaziti; Gani Pajaziti; Haxhi Pajaziti; Ismet Pajaziti; Muje Pajaziti; Qerim Pajaziti; Shkelzen Pajaziti; Shpend Pajaziti; Smajl Pajaziti; Zenel Pajaziti; Uke Pepaj; Gasper Pjetri; Ilirjan Pjetri; Ardian Prelaj; Driton Prelaj; Gjergj Prelaj; Sokol Prelaj; Tome Prelaj; Mark Prendi; Pal Prendi; Prend Prendi; Robert Prendi; Sokol Prendi; Vitor Prendi; Hajdar Qestaj; Adem Rama; Bujar Rama; Nijazi Rama; Sadri Rama; Sezaj Rama; Zenun Rama; Zeqir Rama; Rame Ramaj; Tahir Ramaj; Adem Rexha; Anton Rexhaj; Avni Rexha; Bashkim Rexha; Iber Rexha; Ruzhdi Rexha; Hamza Rexhaj; Isuf Rexhaj; Xhevdet Rexhaj; Bekim Rrustemi; Dan Rrustemi; Xhafer Rrustemi; Iber Sadiku; Ismet Sadiku; Osman Sadiku; Ramiz Sadiku; Sadik Sadiku; Hysni Sadriu; Rexhep Sadriu; Shaqir Sadriu; Osman Salihaj; Bajram Salihu; Beqir Selmanaj; Nexhat Selmanaj; Ali Selmani; Baki Selmani; Burim Selmani; Jonuz Selmani; Ujkan Selmani; Xheme Selmani; Deme Shala; Agim Shehu; Ahmet Shehu; Bujar Shehu; Ismet Shehu; Mehmet Shehu; Rame Shehu; Elvis Shoshi; Naser Shoshi; Perparim Shoshi; Gani Smajli; Filip Sokoli; Kastriot Sokoli; Kriste Sokoli; Simon Sokoli; Ismet Syla; Rexhep Syla; Bajram Syla; Bajram Tahiraj; Halil Tahiraj; Isuf Tahiraj; Osman Tahiraj; Ramadan Tahiraj; Rrustem Tahiraj; Selman Tahiraj; Xhevdet Tahiraj; Uke Xhemajli; Hasan Xhemajli; Isa Xhemajli; Miftar Xhemajli; Rifat Xhemajli; Xhemajl Xhemajli; Elez Ymeri; Halit Ymeri; Hasan Ymeri; Hysen Ymeri; Musa Ymeri; Xhafer Ymeri; Zenel Ymeri; Bajram Zenuni; Xhevat Zenuni; Zenel Zenuni; Hasan Zeqiri; Arber Zyberi; Gani Zyberi; Skender Zyberi.

993. There is no evidence about the fate of 48 individuals listed as missing from Meja/Mejë on the OMPF Consolidated List of Missing Persons, who are also listed in Schedule H of the Indictment. Although it is likely that these persons were also killed in the course of Operation Reka by Serbian forces, in the absence of further evidence the Chamber is unable to make a finding in this regard. These individuals are:

Male Ahmeti; Afrim Avdyli; Mehmet Avdyli; Pajazit Avdyli; Mentor Beqaj; Ahmet Berisha; Ismail Binaku; Istref Curri; Izet Curri; Martin Deda; Shani Fazilijaj; Lulzim Gashi; Hasan Gaxheri; Elson Hasanaj; Mitër Hasanaj; Ndue Hasanaj; Fadil Hoxha; Gafurr Hykosmanaj; Ali Ibrahimi; Pjeter Kacoli; Tom Kacoli; Lazer Krasniqi; Anto Lleshi; Vilson Malaj; Esad Malushaj; Mehmet Mehmeti; Naim Nimanaj; Pashk Ndrejaj; Nrec Nrejaj; Halil Pajaziti; Idriz Pajaziti; Mark Palokaj; Gjergj Prendi; Leonard Prendi; Tahir Rexhaj; Esat Sahiti; Xhavit Salcaj; Nimon Salihu; Sherif Selmani;

Shpend Selmani; Zenun Selmani; Gjergj Sokoli; Alban Xhemajli; Ilija Xhemajli; Muharrem Xhemajli; Shkelzen Xhemajli; Shpend Xhemajli; Gani Ymeri.

994. The Chamber notes that Mark Markaj was, in error, listed twice in Schedule H of the Indictment.[3939]

995. Hence the Chamber is satisfied that 296 of the 344 victims listed in Schedule H of the Indictment were killed by Serbian forces.

(e) Investigations into events in the Carragojs Valley

996. No evidence was adduced at trial by either party as to any investigation into the events at Carragojs Valley on 27-28 April conducted by the Đakovica/Gjakovë SUP or any other Serbian civil authorities. The only police criminal report in evidence of the Đakovica/Gjakovë SUP from the relevant time pertains to a "terrorist attack" against the five police officers including Milutin Prašević on 21 April 1999.[3940] This report stated that a forensic team had examined the crime scene and that officers of the Đakovica/Gjakovë SUP had taken all necessary measures and steps towards apprehending the perpetrators of the crime.[3941] This confirms that criminal investigations were still able to be carried out at this time, in spite of the ongoing armed conflict. Nevertheless, the Chamber observes that the removal from the area of the bodies of many Kosovo Albanian people killed, mainly on 27-28 April 1999, eventually in most cases to the Batajnica SAJ Centre at the end of April and in May 1999, which the Chamber has found was planned and carried out by MUP forces or with their participation, would directly impede any investigation. The Chamber is entirely persuaded by the evidence, and finds, that the movement and clandestine burial or reburial of bodies from Kosovo in the relevant period was pursuant to a deliberate and coordinated plan to conceal crimes committed by MUP and other Serbian forces and to prevent any investigation into those crimes.

997. The VJ could also investigate crimes committed by its personnel. On 28 April 1999, Momir Stojanović, Chief of the Security Section in the Command of the Priština Corps, received a verbal account of Operation Reka, *i.e.* a report of his subordinate security organs and a report from the commander of the 52nd Military Police Battalion, that VJ and MUP units participated in the operation and that, as a result of the operation, a large number of civilians left their homes towards Đakovica/Gjakovë.[3942] It is Stojanović's evidence that the information he received at the time did

[3939] *See infra*, Section XVI, Schedule H.
[3940] Exhibit P1544.
[3941] Exhibit P1544, p 2.
[3942] Momir Stojanović, T 11927-11928, 11932.

not state or lead him to believe that the civilians left their homes as a result of forced expulsions.[3943] He testified that, in his knowledge, the VJ never expelled unarmed civilians in 1998 or 1999. Further, he affirmed that had this occurred, he would have been informed of it.[3944] Stojanović further denied receiving any information that civilians had been killed during this operation.[3945] He claimed that he only learnt some years later through the media that bodies were found in the Batajnica SAJ Centre.[3946] Stojanović also claimed that although he held the position of Chief of Security of the VJ between 2003 and 2005, he did not conduct any investigation into the bodies found in Batajnica because he did not receive such a request from the state judiciary and because it was difficult to gain access to the site for security reasons.[3947] Further, he claimed that in the archives of the military security service of that period (2003-2005), he found no information indicating or leading him to believe that crimes were committed in this area of Kosovo.[3948]

998. The Chamber is unable to accept the evidence of Momir Stojanović. Stojanović, as Chief of the Security Section in the Command of the Priština Corps, was responsible for all military counter-intelligence, in particular, the monitoring and intercepting of terrorist activity.[3949] He was also in charge of monitoring any criminal activity within the army or any links between criminal activity within the army and external factors within the territory.[3950] It was part of the responsibility of Stojanović, therefore, to find information relevant to such issues, particularly of crimes committed by VJ members or units and of anything related to terrorist activity. It is inconceivable that he would not have had information about the participation of VJ units in the Reka operation, ostensibly an anti-terrorist action, or about the forced expulsions and the killings of villagers throughout the days of the operation. The Chamber notes that Sergei Perović, Chief of Security in the 52nd Rocket and Artillery Brigade, had the responsibility to give morning and evening reports to Stojanović.[3951] The Chamber accepts the evidence of Nike Peraj that Perović accompanied Peraj on 27 April 1999 to several locations in and around Mejë/Meja, witnessed shootings of civilians, observed dead bodies of civilians near police checkpoints, and together with Peraj, helped several families to cross the checkpoints unharmed.[3952] There is evidence that Perović reported to Aleksandar Vasiljević, the then Assistant Head of the VJ Security Administration, that MUP Colonel Kovačević had his own

[3943] Momir Stojanović, T 11928-11929.
[3944] Momir Stojanović, T 11930-11931.
[3945] Momir Stojanović, T 11933.
[3946] Momir Stojanović, T 11938.
[3947] Momir Stojanović, T 11940-11941.
[3948] Momir Stojanović, T 11942.
[3949] Momir Stojanović, T 11827, 11860.
[3950] Momir Stojanović, T 11860.
[3951] Momir Stojanović, T 11877-11878.
[3952] Nike Peraj, Exhibit P313, paras 67-81. The Chamber notes that in his statement, Nike Peraj purposely substituted the name Ljubisa Živković for Sergei Perović because the latter had asked Peraj not to name him. Nike Peraj, T 1184-1189.

operational pursuit group called Legija which was involved in the killing of 20 people whose corpses were found at the Đakovica/Gjakovë bus station and left there for some days in April 1999, before being loaded onto vehicles by some Roma pursuant to an order of the police.[3953] The Chamber does not accept that Perović would report these matters to Vasiljević but not to Stojanović. On the receipt of such information, as the Chamber finds occurred, it was the duty of Stojanović to ensure an investigation into suggested crimes by VJ personnel, including by personnel of the VJ units which were working in concert with MUP forces during Operation Reka.

999. It is also the finding of the Chamber that Stojanović's explanation for not conducting an investigation into possible crimes committed by VJ forces during Operation Reka, particularly in Mejë/Meja, once bodies were discovered at the Batajnica SAJ Centre, is implausible. There is no justification for the suggestion that the VJ required a request from the state judiciary to initiate an investigation into crimes allegedly committed by VJ forces. As pointed out by Stojanović in previous proceedings, Article 30 of the Law on the Army of Yugoslavia provides that the military security service has the same rights, powers and duties as those of the police,[3954] and in accordance with the Law on Criminal Procedure and the Law on Military Courts, the military security service participates in actions that precede the institution of criminal proceedings.[3955] Secondly, it is nonsensical that the Chief of Security could not obtain access to a MUP property such as the Batajnica SAJ Centre for security reasons; even international forensic teams were able to gain access at the same time.

1000. The Chamber finds that the only proper inference from the evidence it has received is that Momir Stojanović was informed of the crimes committed by VJ, MUP and other Serbian forces in the Reka operation but took no steps to investigate them, contrary to the obligations of his office. His failure to institute investigations of VJ criminality in Operation Reka, both at the time of the events and later when the bodies of victims of the operation were found at the Batajnica SAJ Centre, is persuasive evidence of the complicity of the VJ in the cover-up of the crimes committed in the Carragojs Valley by VJ, MUP, and other Serbian forces.

(f) Perpetrators

1001. The Chamber accepts, from witness and documentary evidence, that the following Serbian forces were involved in Operation Reka which was conducted in the Carragojs, Trava and Erenik valleys mainly on 27-28 April 1999:

[3953] Aleksandar Vasiljević, T 5734-5736.
[3954] Exhibit P43, p 8.
[3955] Momir Stojanović, Exhibit D723 (*Milutinović* transcript), T 19686.

1002. A military police unit in the 2nd Battalion of the 549th motorised brigade of the VJ commanded by Major Vlatko Vuković took part in Operation Reka. It participated in a systematic effort to force Kosovo Albanians in a number of villages to leave their homes.[3956] The unit was given an order to secure the area around the villages of Korenica/Koreničë and Meja/Mejë by carrying out a blockade on the road.[3957] A combat report dated 27 April 1999 signed by Major Vuković stated that since 0600 hours, part of the unit had been blocking the road between the villages of Korenica/Koreničë, Ripaj/Rrypaj and Madanaj.[3958] The war diary of the same Battalion confirms this, reporting that on 27 April, at 0600 hours, the axis of Korenica/Koreničë-Meja/Mejë-Orize-Kodra e Kikes was blocked off.[3959] The following day, the combat report from Major Vuković noted that "[b]lockade by part of the unit of the line coinciding with the Korenica-Ripanj-Madanaj road is underway" and that certain troops had been assigned a firing position.[3960] The report indicated that there were 48 officers, 48 non-commissioned officers and 1,908 privates from that brigade participating in the operation.[3961] The war diary similarly recorded that on 28 April, "a part of the unit is blocking off the Reka feature" and on 29 April, "a part of the unit is closing off the Reka sector".[3962] The war diary also noted on 29 April that at 1920 hours, civilians were moving out of villages to Albania.[3963]

1003. An infantry company of the 52nd Rocket Artillery Brigade commanded by Miloš Đošan was involved in the operation in Meja/Mejë.[3964] This unit had the assignment of holding the blockade line as envisaged.[3965] Their task was to prevent terrorist forces from the area of Reka from coming into the area of Đakovica/Gjakovë.[3966] One or two anti-aircraft batteries of this brigade were also stationed on a side of the Carragojs valley.[3967] The war diary of the Brigade recorded that on 27 April 1999 at 0800 hours, "the 'Reka' clean-up operation began" with the participation of the 1st manoeuvre Battalion, the 1st rifle platoon and the 2nd rifle platoon of the Command Battalion and that the "Reka operation was carried out according to the plan and dynamics".[3968] The war diary noted that the Reka operation commenced "as scheduled" in the absence of the commander, Miloš

[3956] K90, Exhibit P320, paras 41-44, 48; K90, Exhibit P322 (*Milutinović* transcript), T9401-9403, 9273, 9302; K90, T 1434.
[3957] K90, Exhibit P321, para 48; K90, T 1453.
[3958] Exhibit P926.
[3959] Exhibit D37, p 11.
[3960] Exhibit P927, p 1.
[3961] Exhibit P927, p 2.
[3962] Exhibit D37, p 12.
[3963] Exhibit D37, p 12.
[3964] Miloš Došan, Exhibit D684 (*Milošević* transcript), T 45437-45438.
[3965] Miloš Došan, Exhibit D684 (*Milošević* transcript), T 45696.
[3966] Miloš Došan, Exhibit D684 (*Milošević* transcript), T 45437, 45438.
[3967] Nike Peraj, T 1204.
[3968] Exhibit P958, p 33.

Đošan, and the Chief of Staff, Colonel Veroljub Zivković, by the "command organs".[3969] The war diary recorded that the unit was still engaged in the Reka operation on 28 April 1999. At 0800-1500 hours, the brigade commander and the Chief of Operations visited the "3rd SARD PVO" and checked the position; they spotted some omissions and assigned specific tasks,[3970] and that the "Chief of Staff is in charge of the intervention unit in the Reka operation" and that there was a daily reporting to the brigade commander at 1800 hours.[3971]

1004. The 52nd Battalion of the Military Police, commanded by Major Stevo Kopanja,[3972] was involved in the Reka operation,[3973] as confirmed by its war diary.[3974] The Battalion's 63rd Parachute Brigade also participated in the operation in a coordinated action.[3975] The 52nd Battalion of the Military Police had been resubordinated to the 152nd Military Police Company, which was part of the 125th Motorised Brigade.[3976]

1005. The 125th Motorised Brigade, commanded by Colonel Dragan Živanović, took part in the Reka operation. The combat reports of 27 and 28 April 1999 to the Priština Corps Command and Đakovica/Gjakovë forward command post signed by Živanović stated that some forces were engaged in "mopping up the terrain from ŠTŠ in the general area of Reka, in keeping with your decision" and clearing "the terrain of ŠTŠ in the general Reka sector, as per your decision".[3977] The combat report of 27 April 1999 specified that part of the forces were to continue "mopping up the general area of Reka in a concerted action with the MUP."[3978] A regular combat report to the Priština Corps of 28 April 1999 stated that Operation Reka was completed successfully on 28 April 1999, and that one member of the unit had been wounded.[3979]

1006. The Đakovica/Gjakovë Military Territorial Detachment, commanded by Major Nikola Mičunović aka "Dragan",[3980] was part of the Serbian forces participating in the Reka operation. Evidence shows that Mičunović and his forces had been active in the area since the end of

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[3969] The Chamber notes that Miloš Đošan gave a different interpretation of the entry, which was: "Due to the absence of the commander (in the 2nd and 4th SARD PVO) and the Chief of Staff (action Reka) meaning he took part in action Reka, the command organs continued their work according to plan. That is to say that they continued with their daily briefings as scheduled otherwise". Miloš Đošan, T 11396-11397. The Chamber does not accept that continuing with "work according to plan" merely refers to daily briefings. The documentary evidence clearly indicates that the command organs commenced with a previously agreed plan of Operation Reka on 27 April 1999.

[3970] Exhibit P958, p 35.

[3971] Exhibit P958, p 35.

[3972] Momir Stojanović, T 11818-11820; T 12008-12009.

[3973] K73, T 1533-1534.

[3974] Exhibit P338, pp 11-12 (noting the killing of a soldier in the village of Ramoc, which lies to the north-west of Mejë/Meja).

[3975] K73, T 1533-1534; Nike Peraj, Exhibit P313, para 65.

[3976] Momir Stojanović, T 11819.

[3977] Exhibits P950, p 2; P920, p 2.

[3978] Exhibit P950, p 3.

[3979] Exhibit P921, p 2.

[3980] Exhibit P900.

March 1999. An order of the Priština Corps Command signed by Colonel Zlatomir Pešić of 27 March 1999 tasked the 113th Military Territorial Detachment in coordination with the 52nd Artillery Rocket Brigade "to guard the *Devet Jugovića* and *Metohija* barracks, and protect the Serbian population in the city of Đakovica".[3981] It was further ordered to establish "combat control over the territory on the axes of Đakovica-Skivjane village, Đakovica-Zrze, and Đakovica-Bec".[3982] At a meeting of the MUP and the VJ Garrison Command on or around 31 March 1999, it was agreed that the Detachment would be tasked, *inter alia*, with taking part in MUP and VJ activities "aimed at breaking up Šiptar terrorists, focusing on the blockade and control of the territory".[3983] Nikola Mičunović and the VJ forces under his command came to the villages of Guska/Guskë and Korenica/Korenicë at the end of March 1999 and ordered the villagers to leave.[3984] Mičunović attended the informal meeting, discussed earlier, in the days following the killing of MUP officer Milutin Prašević, who was Mičunović's godfather,[3985] in which the Reka operation was planned. Nike Peraj specifically recalled being told by Mičunović that the valley of Carragojs was going to pay a high price.[3986] Given the involvement of Mičunović and forces under his command in the forced expulsion of Kosovo Albanians from their villages in late March 1999, Mičunović's part in the planning of operation Reka in the days just before the event, and the involvement of the VJ 52nd Rocket Artillery Brigade, with whom the Military Territorial Detachment was working, in the Reka operation, the Chamber is persuaded that the Đakovica/Gjakovë Military Territorial Detachment took part in Operation Reka.

1007. It is the Chamber's finding that Operation Reka was a joint activity of the VJ and the MUP with other Serbian forces. The PJP as well as local police were heavily involved. Six companies of the 23rd PJP detachment were in the area of Đakovica/Gjakovë from the end of March 1999 for a period of 40 days.[3987] A combat report of the 125th Motorised Brigade dated 25 April 1999 to the Priština Corps Command and the Đakovica/Gjakovë forward command post indicated that a company of the PJP 73rd Territorial Detachment was attached to the VJ 125th Motorised Brigade and deployed in the sector including Korenica/Korenicë village.[3988] Most pertinently, a combat report of the 125th Motorised Brigade to the Priština Corps command and the Đakovica/Gjakovë

[3981] Exhibit P896, p 4.
[3982] Exhibit P896, p 4.
[3983] Exhibit P900.
[3984] Marita Dedaj, Exhibit P1030, p 2; Merita Dedaj, Exhibit P1031 (*Milutinović* transcript), T 1415; Lizane Malaj, T 808-809.
[3985] Nike Peraj, Exhibit P313, para 58.
[3986] Nike Peraj, Exhibit P313, para 58; Nike Peraj, T 1191.
[3987] Exhibit P711, p 1 (Dispatch No 587 issued on 21 March 1999 by the Accused deploying PJP detachments to several SUPs in Kosovo – members of the 1, 3, 4, 5 and 6 (Subotica – Sombor) companies of the 23rd PJP Detachment were sent to the Đakovica/Gjakovë SUP); Exhibits P1193, P1195, P1196, P1198, and P1199 are reports indicating that four companies of the 23rd PJP detachment (totaling 420 PJP members) were sent to Kosovo to carry out the tasks.
[3988] Exhibit P949, p 2.

forward command post dated 27 April 1999 stated that the forces were "mopping up the area of Reka in a concerted action with the MUP".[3989] The coordination of VJ and MUP activity continued on 28 March 1999. A war diary entry of the 52nd Artillery Rocket Brigade of 28 March 1999 records that several VJ anti-aircraft platoons were sent by the Priština/Prishtinë Corps Chief of Staff Zivković to reinforce the MUP detachment in the Junik area.[3990]

1008. The Chamber is satisfied that between 21 and 27 April 1999, around 400 additional PJP members and paramilitary personnel arrived in the Đakovica/Gjakovë area in buses.[3991] These MUP forces were used in coordination with the VJ forces discussed above in Operation Reka.[3992] Local police and police reservists were also used. The uniforms worn by some of the forces who expelled villagers and killed indicate both local police and PJP members.[3993] The local police commander in Ponoshec/Ponoševac was recognised among the police in Meja/Mejë-Orize,[3994] and a local policeman was among those policemen who killed seven young men at the Ura e Traves bridge.[3995] Police including PJP members were taking groups of men from the columns of villagers to compounds near the checkpoints, where they were shot.[3996] PJP members wearing blue camouflage uniforms and reservist police in solid blue uniforms were at the checkpoint near Orize.[3997] Local MUP officer Milan Šćepanović, who wore a MUP blue camouflage uniform with a MUP patch,[3998] ordered men under his command to line up 12 male villagers near the checkpoint near Meja/Mejë, apparently for execution.[3999] A PJP officer shot and killed four men who had been held hostage by the VJ, after the men were handed over by VJ Captain Antić.[4000] Some 100 policemen wearing the standard blue uniform of local police were in the village of Korenicë/Korenica as it burned on 28 April 1999.[4001] Evidence also indicates the presence of members of the JSO during the operation. Two members of the the JSO unit, the "Frenkis", wearing the particular Frenki hats, arrived with PJP members in a civilian car days before the commencement of the operation.[4002]

3989 Exhibit P950, p 3.
3990 Exhibit P958, p 6.
3991 K90, Exhibit P321, para 47; K90, T 1343-1344; Nike Peraj, Exhibit P313, para 65; Nike Peraj, T 1202-1203.
3992 Nike Peraj, Exhibit P313, para 65; Nike Peraj, T 1203; K90, Exhibit P321, para 48.
3993 Lizane Malaj, T 814, 865; Merita Dedaj, Exhibit P1031 (*Milutinović* transcript), T 1401, 1429; Martin Pnishi, Exhibit P1033, p 3; Martin Pnishi, Exhibit P1034 (*Milutinović* transcript), T 1444 and 1456.
3994 Martin Pnishi, Exhibit P1033, p 5; Martin Pnishi, Exhibit P1034 (*Milutinović* transcript), T 1448.
3995 Martin Pnishi, Exhibit P1034 (*Milutinović* transcript), T 1448.
3996 K90, T 1535-1536; K90, Exhibit P321, paras 55 65; K90, Exhibit P322 (*Milutinović* transcript), T 9339.
3997 Nike Peraj, T 1208-1209.
3998 Nike Peraj, Exhibit P313, para 75; Nike Peraj, T 1186.
3999 Nike Peraj, Exhibit P313, paras 76-78.
4000 K73, T 1532.
4001 K73, T 1535; K73, Exhibit P330, para 46; K73, Exhibit P332 (*Milutinović* transcript), T 3333, 3438.
4002 K90, Exhibit P320, para 47.

1009. On the basis of the above evidence, the Chamber is satisfied that MUP officers, both local police, including local reservist police, and PJP members sent especially for the operation directly participated with other Serbian forces in Operation Reka.

1010. Paramilitaries also participated in operation Reka, alongside the police. On 27-28 April 1999 paramilitary groups were stationed around Meja/Mejë, awaiting the arrival of the villagers who had been expelled from their houses in the villages by VJ and police forces.[4003] Three jeeps containing Arkan's Tigers paramilitaries were in Meja/ Mejë.[4004] Merita Dedaj observed that some of the forces who came to her family compound on 27 April 1999 wore scarves, bandannas, brown army hats, and black masks to hide their faces,[4005] a description consistent with the dress of paramilitary forces as was the dress and equipment of two of the men in the compound of Martin Pnishi on 27 April.[4006]

1011. The Chamber is aware that K73, whose evidence it considers as generally reliable, did not see any paramilitary members where his unit was located during Operation Reka.[4007] However, the evidence indicates that paramilitary forces were working with the police, rather than with the VJ to whom K73 was attached, and the numbers of paramilitaries were rather limited, so that this evidence does not foreclose that paramilitaries were participating. The Accused Vlastimir Đorđević and Defence witness, Miloš Đošan, also testified that there were no paramilitaries in Kosovo.[4008] The assertion of Đorđević is contradicted by documentary evidence which demonstrates Đorđević's and the MUP Staff's knowledge of the use of paramilitaries at the time. A dispatch sent by Đorđević to all organisational units of the RJB in MUP headquarters on 18 February 1999 tasked them to "establish complete control over volunteer and paramilitary units and their members".[4009] Minister Stojiljković sent a further dispatch on 24 March 1999 to the Accused as Chief of the RJB, the headquarters of the RJB organisational units, all the SUPs, MUP headquarters in Priština/Prishtina and all the traffic police stations, referring back to the 18 February dispatch, and tasking them to "...register all volunteers and paramilitary units and their members and keep them

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[4003] Nike Peraj, Exhibit P313, para 65; Nike Peraj, T 1203.
[4004] Nike Peraj, Exhibit P313, para 80; Nike Peraj, T 1187.
[4005] Merita Dedaj, Exhibit P1031 (*Milutinović* transcript), T 1401, 1429.
[4006] Martin Pnishi, Exhibit P1033, p 3; Martin Pnishi, Exhibit P1034 (*Milutinović* transcript), T 1444.The Chamber notes that during the examination on 29 June 2009, the witness wished to make a correction concerning the colour of the uniforms, clarifying that the uniforms where actually "grass-coloured", but this seems to have been the result of a misunderstanding rooted in the multiple meaning of the Albanian word "verdhe", which the interpreter pointed out (Martin Pnishi, T 6546-6547). When asked, the witness made it clear that he had not actually changed anything in his testimony (Martin Pnishi, T 6558).
[4007] K73, T 1564.
[4008] Vlastimir Đorđević, T 9546; Miloš Đošan, Exhibit D684 (*Milutinović* transcript), T 45418, 45419, 45427, 45431, 45658, 45660; Miloš Đošan T 11512, 11415.
[4009] Exhibit P356, p 3.

under control in case that you might need to engage them".[4010] The Minutes of a meeting with senior police officials in Kosovo dated 4 April 1999, the same month in which the Reka operation occurred, record Sreten Lukić, the head of the MUP Staff in Priština, as noting the need to take "rigorous measures towards paramilitary units".[4011]

1012. Miloš Đošan's claim is similarly not credible. In addition to other evidence of the presence of Serbian paramilitary forces in Kosovo, the Chamber has detailed elsewhere in this Judgement[4012] the involvement of members of the Skorpions and of the Pauk Spiders paramilitary group, headed by Jugoslav Petrusic, which was attached to the 125th Brigade of the Priština Corps and deployed in Kosare, Đakovica/Gjakovë municipality, from 15 April 1999 to 5 May 1999.[4013]

I. Gnjilane/Gjilan municipality

1013. On 27 March 1999 the command of the Priština Military District issued an order tasking the VJ Gnjilane Military Territorial Detachment in cooperation with the 175th Infantry Brigade, the 78th Motorised Brigade, and MUP forces, to protect the Serbian population and guard roads, military facilities, and other features of importance for the FRY. The order also specifically tasked the same forces with establishing full combat control over the territory and waging combat against "ŠTS" (Albanian terrorist groups).[4014] An order of the Joint Command of 13 April 1999 tasked the Priština Corps with providing support to MUP forces in "sealing off, routing and destroying" Kosovo Albanian terrorist forces in the area of Mount Žegovačka Planina.[4015] While this area lies to the east of Gnjilane/Gjilan town and the villages of Prilepnica/Prilepnicë, Nosalje/Nosaljë, Žegra/Zhegër, Vladovo/Lladovë and Vlaštica/Llashticë, events at which will be discussed below, lie to the west and south west of Gnjilane/Gjilan town and, therefore, the order does not concern directly these villages, it is a clear indication of VJ and MUP coordinated presence in Gnjilane/Gjilan municipality at a time material to the events below. Witnesses, whose evidence will be address below, and whom the Chamber accepts as generally honest and reliable, confirm the presence of what were apparently VJ reservists, in the Chamber's finding part of the Gnjilane Territorial Detachment, acting in cooperation with the VJ and MUP forces in some locations.

1014. The Chamber finds that regular and reserve VJ and MUP forces, often acting in cooperation, conducted operations in the villages of the municipality of Gnjilane/Gjilan and surrounding villages

[4010] Exhibit P702.
[4011] Exhibit P764, p 3.
[4012] *See supra*, paras 204-216.
[4013] Aleksandar Vasiljević, T 5663; Momir Stojanović, Exhibit D723 (*Milutinović* transcript), T 19778.
[4014] Exhibit P896, item 8.
[4015] Exhibit P766, p 2.

at the time of the events established below. Other Serbian forces including paramilitary forces also participated in some cases.

1. Prilepnica/Përlepnicë

1015. The village of Prilepnica/Përlepnicë, situated in the municipality of Gnjilane/Gjilan, is located in a canyon. It has two main roads – one in the eastern part of the village and the other in the western part – one on each side of a river. At the time of the events described below, Prilepnica/Përlepnicë had approximately 350 to 360 households and 3,000 inhabitants. The ethnic composition of Prilepnica/Përlepnicë was predominantly Kosovo Albanian.[4016] Some 30 Roma families and five or six Serbian families also lived in Prilepnica/Përlepnicë.[4017] In April 1999, displaced persons from the Drenica region were sheltering in Prilepnica/Përlepnicë.[4018]

1016. On 6 April 1999, at around 0810 hours, Abdylhaqim Shaqiri, the Imam of Prilepnica/Përlepnicë, while at his mother's house near the mosque, heard multiple shots coming from all sides of the village. He went to the southern part of the village, from where most of the gunshots were heard.[4019] He was dressed in his Imam clothing, a long black robe, and was wearing a white hat "usually worn by those who go to the Haxh".[4020] As he walked along the main road, he met a Serbian soldier who was holding two villagers, Xelil and Shelik Shaqiri, prisoner.[4021] Further away, a group of 10-15 soldiers dressed in SMB olive-green-grey uniforms were firing repetitively in the air.[4022] Two or three of the soldiers were dressed in green-yellow camouflage uniforms.[4023] The soldier holding the two villagers wore a black bandanna.[4024] The Chamber notes its earlier finding that VJ reservists wore either plain/solid green or SMB uniforms or green camouflage uniforms.[4025] The soldier told Abdylhaqim Shaqiri that they had received information that there was a KLA presence in Prilepnica/Përlepnicë and that the civilians had to be evacuated.[4026] There were many other soldiers standing nearby.[4027] The soldiers explained that they had been ordered "from above" to mine the village and the dam at 1200 hours on the following day.[4028] The villagers

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[4016] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2770.
[4017] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2916-2917.
[4018] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2962.
[4019] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2772, 2836.
[4020] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2772.
[4021] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2772, 2836-2837, 2839.
[4022] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2772-2773.
[4023] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2772-2773.
[4024] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2773, 2840, 2847.
[4025] *See supra*, para 176.
[4026] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2772, 2848.
[4027] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2838. Abdylhaqim Shaqiri later found out that Serbian soldiers searched people's home and took 100-150 villagers prisoners in a house, Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2775, 2797, 2839.
[4028] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2783, 2850.

were given two hours to leave the village and were to go in the direction of Uroševac/Ferizaj.[4029] As the village Imam, Abdylhaqim Shaqiri used the loudspeaker of the mosque's minaret and made an evacuation announcement, urging the villagers to gather in the field located in the southern part of the village.[4030]

1017. The villagers gathered on the eastern and western roads of the village, divided by the river.[4031] Abdylhaqim Shaqiri asked to speak to the officer in charge and was escorted for some 200 metres to the other end of the village where he met three officers dressed in the same green-yellow camouflage uniforms as the two or three soldiers in the group Abdylhaqim Shaqiri encountered earlier. They had military belts usually worn by soldiers.[4032] They were carrying pistols and caps on their shoulders.[4033] The officers introduced themselves as the regular army defending their country.[4034] Abdylhaqim Shaqiri tried to explain that there was no KLA presence in Prilepnica/Përlepnicë.[4035] Abdylhaqim Shaqiri further tried to explain that the village was surrounded on all sides by Serb populated villages and that the continuation of shelling would cause harm to the Serb population living in the villages near Prilepnica/Përlepnicë.[4036] The officers, however, claimed that the KLA was responsible for firing from the eastern, northern and western part of Prilepnica/Përlepnicë.[4037] One of the officers, who was referred to by the others as "Russ", and was perhaps 42-43 years old, took Abdylhaqim Shaqiri aside and explained to him that they received information that Prilepnica/Përlepnicë was going to be bombed by NATO forces and that they were going to stop this "by all means".[4038] He told Abdylhaqim Shaqiri that the villagers had to leave Prilepnica/Përlepnicë in the direction of Uroševac/Ferizaj within two hours because he was "duty-bound to lay mines in all the village streets and the surrounding hills".[4039] He advised

[4029] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2782.
[4030] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2772-2774, 2780, 2849.
[4031] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2775, 2918.
[4032] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2776.
[4033] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2775.
[4034] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2780-2781.
[4035] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2777.
[4036] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2777-2778. Abdylhaqim Shaqiri testified that Prilepnica/Përlepnicë was surrounded by seven Serbian villages, Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2777.
[4037] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2777.
[4038] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2849-2850; Exhibit D94, p 3. The Chamber notes that Abdylhaqim Shaqiri did not include this evidence about the officer nicknamed "Russ" in his written statements dated 25 April 1999 (Exhibit D94, p 3); 19 and 22 June 2001 (Exhibit D95, p 2) or in the correction of the statements dated 5 February 2002 (Exhibit D96). The Chamber accepts that this was an omission in the earlier statements, and is not a fresh "invention". It accepts the truth of the witness's present evidence. This discrepancy does not, in the view of the Chamber, render his evidence unreliable.
[4039] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2850; Exhibit D94, p 3.

Abdylhaqim Shaqiri to flee to the neighbouring villages.[4040] The officer "Russ" told Abdylhaqim Shaqiri that the order to evacuate Prilepnica/Përlepnicë came from Belgrade.[4041]

1018. The officer nicknamed "Russ" took Abdylhaqim Shaqiri in his Pinzgauer and they drove to the place where the villagers of Albanian and Roma ethnicity had gathered.[4042] There were 20 to 30 soldiers there. The people had been stopped by soldiers on a road while making their way to the southern part of the village.[4043] Abdylhaqim Shaqiri observed that the western part of the village had been plundered. He was told by a villager that some people had been beaten and their documents had been seized. Abdylhaqim Shaqiri told the officer "Russ" what the person had said and "Russ" ordered the documents to be given back to the villagers.[4044] However, soldiers threw the documents near a wall.[4045]

1019. While the people were on the road soldiers fired shots in the air. One Serbian soldier was injured by a bullet that had ricocheted.[4046] The officer "Russ" and two others put this soldier in the Pinzgauer and ordered the soldiers to withdraw. The people remained in Prilepnica/Përlepnicë while the soldiers departed in the direction of Gnjilane/Gjilan town.[4047] The soldiers gave no further instructions to the villagers. The order to leave the village within two hours was not countermanded.[4048]

1020. Abdylahqim Shaqiri and other villagers tried to contact the chief of the police in Gnjilane/Gjilan town in order to gain permission to stay.[4049] They also tried to meet Vlado Denić, a Serb, who was deputy director of the local hospital and related to a member of the military staff in Gnjilane/Gjilan,[4050] hoping that his mediation would help to obtain permission to stay.[4051] However, the group did not succeed in these efforts.[4052]

[4040] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2779.
[4041] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2779. As noted in footnote 4038, Abdylhaqim Shaqiri did not include the reference to the origin of the order in his earlier statements mentioned above. The Chamber accepts the honesty and reliability of this aspect of the witness's evidence. However, it has no adequate basis on which to evaluate the truth of what was said by "Russ" to the witness about the origin of the order. The circumstances indicate that "Russ" and the others may have been fabricating accounts of the KLA shooting from east, north and west of the village – and of the order from Belgrade – to overcome resistance to the achievement of their orders to empty the village. The Chamber is unable to make a finding on the origin of the order.
[4042] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2779.
[4043] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2779-2780.
[4044] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2779.
[4045] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2779.
[4046] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2781.
[4047] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2781-2782.
[4048] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2782.
[4049] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2782-2783.
[4050] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2782-2785.
[4051] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2782.
[4052] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2785-2786.

1021. Abdylhaqim Shaqiri and the villagers with him went back to Prilepnica/Përlepnicë. Abdylhaqim Shaqiri made a further announcement through the mosque's loudspeakers that Prilepnica/Përlepnicë must be evacuated and requested that the people meet on the main road Gnjilane/Gjilan-Bujanovc/Bujanoc in Bunar.[4053]

1022. At around 1400 hours on 6 April 1999, Abdylhaqim Shaqiri led a column of more than 3,000 villagers of Albanian and Roma ethnicity and 400 vehicles east in the direction of Dobrčane/Dobërçan village, on the road passing through to Kosovska Kamenica/Kamenicë and Bujanovc/Bujanoc in Kosvoska Kamenica/Kamenicë municipality.[4054] The Serb resident families stayed in Prilepnica/Përlepnicë.[4055] The road was mined and there were Serbian police and military forces at the village of Kmetovce/Kmetofc.[4056] The police wore blue uniforms. They also had a white cloth with a ribbon on the arm.[4057] The soldiers were dressed in olive-green-grey uniforms,[4058] which appears to be a reference to the solid green/SMB uniforms worn by VJ reservists. The police looked at the convoy but did not interfere. The soldiers, however, stopped the convoy and asked Abdylhaqim Shaqiri where they were heading to and for what reason. The soldiers let the convoy pass through when Abdylhaqim Shaqiri explained that the villagers had been ordered to leave by the army.[4059] The Defence submits that by asking where the convoy was going, these soldiers showed that there was no coordinated plan to remove the villagers.[4060] The Chamber will consider the issue of whether there was a plan to remove residents of Kosovo from their home towns and villages later in this Judgement. The Chamber notes, nevertheless, that the apparent lack of knowledge of one group of soldiers in one village is not a reliable indication of the existence, or of the absence of, a coordinated plan.

1023. From the village of Kmetovce/Kmetofc the convoy moved on to Dobrčane/Dobërçan village.[4061] Abdylhaqim Shaqiri wanted the convoy to move to Trnovc, an Albanian inhabited village in Serbia next to Bujanovac/Bujanoc.[4062] He led the convoy of more than 3,000 people

[4053] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2788.
[4054] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2788, 2835, 2883. By going east, Abdylhaqim Shaqiri disobeyed the order to go in the direction of Uroševac/Ferizaj.
[4055] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2868.
[4056] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2788-2789, 2864-2865.
[4057] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2789; Abdylhaqim Shaqiri, T 3902.
[4058] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2789; Abdylhaqim Shaqiri, T 3902.
[4059] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2789, 2864, 2951; Abdylhaqim Shaqiri, T 3902, 3904.
[4060] Defence Final Brief, para 848.
[4061] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2790.
[4062] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2790.

through the administrative border crossing between Serbia and Kosovo, where a bridge divided the two. From there, the convoy went in the direction of Trnovc.[4063]

1024. The convoy was finally stopped in Serbia, four or five kilometres before Končul, by the Kosovska Kamenica/Kamenicë local police. Policemen told the people that they had orders from the chief of police in Gnjilane/Gjilan that the villagers could safely return to Prilepnica/Përlepnicë.[4064] A small number of people from the convoy then returned to Prilepnica/Përlepnicë on the night of 6 April 1999. Others stayed with relatives in other villages.[4065] Some 70-80 per cent of the villagers had returned to Prilepnica/Përlepnicë by 7 April.[4066] The returning people found that over 100 houses in the western part of the village had been burned, while the rest had been damaged, demolished or looted. However, Serb houses located in the eastern part of the village remained intact.[4067] The Defence submits that the events demonstrate that the villagers had been asked to leave "temporarily and for their own protection".[4068] The Chamber will deal more fully with the reasons for Kosovo Albanians leaving their homes in Prilepnica/Përlepnicë later in the Judgement. However, it will record here its finding that the demands of the soldiers and threats of the village being mined on the following day, as well as the fact that only the non-Serb population left the village, persuade the Chamber that on 6 April 1999 the residents of Prilepnica/Përlepnicë were forcible displaced from their village.

1025. On 13 April 1999, at around 1200-1230 hours, Abdylhaqim Shaqiri was approached by two prominent Serbs from Gnjilane/Gjilan town who were VJ reserve officers.[4069] They were dressed in army yellow-green camouflage uniforms but were not armed.[4070] They told Abdylhaqim Shaqiri that they had received an order that the population had to leave Prilepnica/Përlepnicë once again.[4071] They explained that this order had come from the Supreme Staff in Belgrade.[4072] One of the Serbs, Djilas Mladenović, explained to Abdylhaqim Shaqiri and other villagers who had come to Abdylahqim Shaqiri's house, that on 6 April 1999 the villagers were moved out of Prilepnica/Përlepnicë by the paramilitary army and now the regular army would be in charge. However, Abdylhaqim Shaqiri noted that the soldiers who came on 6 April 1999 and those who

[4063] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2790.
[4064] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2793-2795; Exhibit P731.
[4065] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2794, 2796.
[4066] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2796, 2970.
[4067] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2796, 2835-2836, 2902.
[4068] Defence Final Brief, para 848.
[4069] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2799, 2803.
[4070] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2799.
[4071] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2800.
[4072] The Chamber notes that Abdylhaqim Shaqiri did not include this allegation in any written statement prior to his testimony before the Tribunal (Exhibit D94, p 5; Exhibit D95, p 4; Exhibit D96, p 2). The Chamber repeats its comments as to footnotes 4038 and 4041 and accepts that this was an omission in the earlier statements, and is not

came on 13 April wore the same yellow-green camouflage uniforms.[4073] The Chamber considers from the evidence that it is probable that the soldiers were less than honest with the Imam on more than one occasion during these events. It is not likely that it was a different force of soldiers on 13 April. Djilas Mladenović also pointed out that Abdylhaqim Shaqiri had disobeyed the order to lead the convoy in the direction of Uroševac/Ferizaj and instead had left in the direction of Bujanovac/Bujanoc.[4074]

1026. During the conversation between Abdylhaqim Shaqiri, villagers and the two local Serbs from Gnjilane/Gjilan who had joined the reserve forces, a third soldier entered Abdylhaqim Shaqiri's yard and distributed Kalashnikov rifles to the two Serb men.[4075] Abdylhaqim Shaqiri requested a police or military escort if he was to organise movement of villagers from the village. The soldiers agreed to convey this demand to their staff.[4076] Within the next hour the two reserve officers left a message for Abdylhaqim Shaqiri that an escort would be provided demanding that the villagers be at a nearby well at 0800 hours on the following day.

1027. Other villagers went to the police in Gnjilane/Gjilan town in order to try to stop the displacement. When they returned they informed Abdylhaqim Shaqiri that they had been told that "the army had taken the situation into their hands and that the police could no longer do anything about it".[4077] By that time the army had encircled the village and kept the villagers from fleeing.[4078]

1028. By 0730 hours the following morning, the population of Prilepnica/Përlepnicë was on the road, in tractors, motor cultivators and cars.[4079] At one end of the village, an APC similar to that used on 6 April 1999, manned by three men was positioned.[4080] They asked Abdylhaqim Shaqiri if he needed a bus or fuel and said that the escort was waiting for the villagers at the well. From the well Abdylhaqim Shaqiri led the convoy a short distance in the direction of the main road. There they stopped, waiting for the escort. A black Mercedes car apparently carrying senior officers came by. The officers in the Mercedes had a brief conversation with a soldier or a police reservist standing by the convoy, following which this person contacted the military staff in Gnjilane/Gjilan

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a fresh "invention". It accepts the truth of his present evidence. This difference does not, in the view of the Chamber, render his evidence unreliable.

[4073] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2799, 2802.

[4074] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2801.

[4075] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2803. The two men were reserve soldiers from Gnjilane/Gjilan who had previously have civilian employment, Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2799, 2800, 2802; Abdylhaqim Shaqiri, T 3896.

[4076] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2803.

[4077] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2804.

[4078] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2805, 2822.

[4079] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2805.

[4080] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2805-2806, 2975.

via radio.[4081] Abdylhaqim Shaqiri was told that the escort would arrive in five minutes and they were ordered to go in the direction of Uroševac/Ferizaj.[4082]

1029. After five minutes a regular traffic policeman came to the convoy to act as an escort and the approximately 3,000 villagers from Prilepnica/Përlepnicë, together with about a further 1,000 people who had come from other villages, started to move out of Prilepnica/Përlepnicë.[4083]

1030. The policeman escorted the convoy through Gnjilane/Gjilan to Livoč/Livoç-i-Epërm where the convoy's escort was changed. From there a white Zastava car driven by a traffic policeman from Gnjilane/Gjilan town and three other policemen escorted the convoy in the direction of FYROM.[4084] In Livoč/Livoç-i-Epërm, Abdylhaqim Shaqiri saw the last remaining inhabitants of that village getting onto a bus. That bus and another bus from Žegra/Zhegër followed the convoy for a part of the way.[4085]

1031. The convoy passed through Parteš/Paresh, Radivojce/Radivojc and Klokot/Kllokot in Vitina/Viti municipality. From Klokot/Kllokot the convoy, instead of going in the direction of Uroševac/Ferizaj, was directed by police through Vitina/Viti and Doganović/Doganaj in the direction of FYROM.[4086] On their way, Abdylhaqim Shaqiri observed that many Kosovo Albanian villages were deserted; there was not a single inhabitant.[4087]

1032. The convoy passed through several checkpoints. A checkpoint in Klokot/Kllokot was manned by the police together with people wearing various uniforms.[4088] In Doganović/Doganaj, the convoy was stopped for three hours at a military checkpoint manned by men in olive-green uniforms.[4089] Approximately five to six kilometres from the FYROM border, the convoy of over 500 vehicles was stopped at a checkpoint by an army officer wearing an olive-green uniform.[4090] The officer ordered Abdylhaqim Shaqiri to tell people to line up by their cars, 50 by 50.[4091] As soon as he returned to his own car Abdylhaqim Shaqiri was badly beaten by another – more junior – soldier, until he lost consciousness.[4092] During the beating, the officer stepped in and apologised

[4081] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2806-2807.
[4082] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2807.
[4083] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2811, 2884, 2886, 2918.
[4084] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2814.
[4085] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2812.
[4086] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2814, 2823, 2973.
[4087] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2816.
[4088] Abdylhaqim Shaqiri, T 3906.
[4089] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2817; Exhibit P732.
[4090] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2817.
[4091] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2817, 2956.
[4092] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2818-2819.

for his soldier's conduct.[4093] After making his apologies, the officer escorted the people to the border.[4094]

1033. Before crossing the border from Kosovo into FYROM, the police escorted the convoy to the person in charge of the Serbian border police station.[4095] The chief of the border police, dressed in a solid blue police uniform,[4096] ordered the villagers to leave their vehicles in a field, with car keys, licenses and documentation inside.[4097] None of those vehicles were ever recovered by their owners.[4098] The villagers from Prilepnica/Përlepnicë spent the first night and the next day in the zone between the two borders.[4099] On the following days buses from FYROM took the refugees to various camps in FYROM.[4100]

1034. After his return to Prilepnica/Përlepnicë in June 1999, Abdylhaqim Sahqiri found the village burned to the ground, destroyed and looted.[4101] The mosque and the library which had existed for over 150 years were also burned.[4102]

1035. The Chamber is satisfied that on 14 April 1999 a convoy of not less than 4,000 people, including 3,000 people from Prilepnica/Përlepnicë and some 1,000 from other nearby villagers were forced by Serbian forces to leave Prilepnica/Përlepnicë and were deported to FYROM. The Chamber is satisfied that directed by Serbian police these people crossed the border into FYROM.

2. Žegra/Zhegër and Nosalje/Nosaljë

1036. The village of Žegra/Zhegër is located 12 kilometres to the south of Gnjilane/Gjilan town and close to the Serbian and FYROM borders.[4103] At the time of the events alleged in the Indictment Žegra/Zhegër had a population of approximately 4,000 people of predominantly Albanian ethnicity. There were 900 Kosovo Albanian houses.[4104] There were also less than 100 Serb houses in Žegra/Zhegër[4105] but the evidence varies as to the precise number.

[4093] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2818-2819.
[4094] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2819-2820, 2887, 2900-2901.
[4095] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2820.
[4096] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2822, 2955.
[4097] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2820, 2956.
[4098] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2820-2821.
[4099] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2820.
[4100] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2820.
[4101] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2821.
[4102] Abdylhaqim Shaqiri, Exhibit P729 (*Milutinović* transcript), T 2949.
[4103] Qamil Shabani, Exhibit P786, p 2; Exhibit P789.
[4104] K81, Exhibit P791, statement of 30 May 1999, p 3.
[4105] Qamil Shabani estimates the number as 97, Qamil Shabani, Exhibit P786, p 2. According to K81 there were approximately 900 Kosovo Albanian houses and 30-40 Serb houses in Žegra/Zhegër, K81, Exhibit P792, witness statement of 30 May 1999, p 3. The Chamber remains satisfied that the population of Žegra/Zhegër was predominantly Kosovo Albanian.

1037. In mid March 1999, Serbian forces, who wore military clothing, and "paramilitary" forces, positioned themselves at the entrance of Žegra/Zhegër and in the surrounding mountains close to the village.[4106] A checkpoint was set up at a factory at the entrance of Žegra/Zhegër, which was manned by 15 to 20 men, wearing "regular military uniforms" and armed with AK47 automatic weapons.[4107] Because they were older they were thought to be reservists. APCs and tanks were also seen at the checkpoint.[4108] Members of the Serbian forces moved into four or five Kosovo Albanian houses forcing their occupants to leave. Their headquarters was established at the agricultural co-operative.[4109] The forces patrolled the streets of Žegra/Zhegër asking for people's documents.

1038. On 28 March 1999, the Serb families in Žegra/Zhegër marked their homes by putting a piece of white cloth on the door.[4110] On the same day, at 1800 hours, Serbian forces described by a witness as "paramilitaries"[4111] went to houses in Žegra/Zhegër, apparently looking for prominent people of Albanian ethnicity. They were assisted by local Serbs.[4112] There is hearsay evidence of the killings of villagers by Serbian forces in late March 1999,[4113] including the killing of Shyqeri Tahiri, a local LDK leader, who was killed on 28 March 1999 and Ukshin Ukshini on 30 March 1999.[4114]

1039. On 29 March 1999, soldiers along with what a witness identified as paramilitary forces went house by house ordering people to leave.[4115] The Chamber recalls that minutes of a meeting of Chiefs of SUPs in Kosovo, PJP detachment commanders, and SAJ and JSO commanders held in the

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[4106] Qamil Shabani, Exhibit P786, pp 2-3. Qamil Shabani did not provide a description of the paramilitary forces. His evidence, however, is confirmed by K81. K81 testified that around 25 March 1999 the VJ together with armed men in civilian clothes came to the adjacent village of Vladovo/Lladovë and that they were stationed in the depot of a battery factory located at the entrance to Žegra/Zhegër. K81 also testified that there were Serbian villagers accompanying them, K81, Exhibit P793 (*Milutinović* transcript), T 7080. Local residents were told that the men in civilian clothes were Arkan's Tigers but the origin of this information is not revealed in the evidence. These men were older than the VJ soldiers, had long beards, and were armed with automatic weapons, K81, Exhibit P791, witness statement of 30 May 1999, p 2.

[4107] Qamil Shabani, Exhibit P786, pp 2-3.

[4108] Qamil Shabani, Exhibit P786, p 2.

[4109] Qamil Shabani, Exhibit P786, p 3.

[4110] Qamil Shabani, Exhibit P788 (*Milutinović* transcript), T 2700-2703; Qamil Shabani, Exhibit P786, p 2; Qamil Shabani Exhibit P787, para 5.

[4111] Qamil Shabani did not describe the forces operating on 28 March 1999. However, he defined the term "paramilitary" as meaning someone who is working with the police but who is not a regular police officer and he recognised them by their irregular uniforms, including the use of handkerchiefs (bandannas) on their heads and other items, like masks, cockades with the four S's, Qamil Shabani, Exhibit P788 (*Milutinović* transcript), T 2756. The Chamber notes that the symbol with the four S's was on the patches of the SAJ forces, *see supra*, para 76.

[4112] Qamil Shabani, Exhibit P786, p 3. Qamil Shabani was later told by Albanians in the village that members of the Serb community, *inter alia,* Sinisha Paviq the MUP inspector in Gnjilane/Gjilan, had compiled a list of prominent Albanians who should be killed, Qamil Shabani, Exhibit P787, para 5.

[4113] Qamil Shabani, Exhibit P787, para 7; K81, Exhibit P791, statement of 30 May 1999, p 2 (testimony to the same incident and the killing of another person). In particular Qamil Shabani testified that Ukshin Ushini was shot dead on 30 March 1999. He learned this from Ukshin Ushini's son.

[4114] Qamil Shabani, Exhibit P786, p 3; K81, Exhibit P791, statement of 30 May 1999, p 3.

[4115] Qamil Shabani, Exhibit P786, p 2.

MUP Staff in Priština/Prishtinë on 4 April 1999 record the chief of SUP Gnjilane/Gjilan referring to problems with volunteers in Žegra/Zhegër[4116] and accepts that paramilitary forces also participated in this operation.

1040. The forces shot at inhabitants and entered houses in order to drive their inhabitants out.[4117] Out of fear of the Serbian forces in the evening of the same day about 1,300 villagers left Žegra/Zhegër and headed towards the hills in the direction of Donja Stubla/Stubëll-e-Poshtme in Vitina/Viti municipality, about 10 kilometres away.[4118] They were on foot.[4119] They spent the night on a hill called Kusljevica and on the following morning, as shots could no longer be heard from Žegra/Zhegër, went back to the village.[4120]

1041. On or about 30 March 1999 Serbian forces again shot at houses as they drove through the village in their APCs.[4121] The same group of 1,300 villagers, who had left the village the night before, left immediately after the shooting resumed. They went in the direction of the hill of Kusljevica. Serbian forces were shooting at the people while they were fleeing.[4122] These Serbian forces comprised army, police in blue uniforms and paramilitaries.[4123] The group headed towards Donja Stubla/Stubëll-e-Poshtme on foot and arrived there one hour later.[4124] Most stayed there for five weeks,[4125] but about 500 left for FYROM three weeks after arriving.[4126] The Defence submits that the villagers left the village by their own free will, and that there was no coordinated plan to remove villagers from the village.[4127] The Chamber will deal with these issues later in this Judgement, however, the Chamber will record here its finding that the evidence discussed above discloses that on 29 and 30 March 1999 the residents of Žegra/Zhegër left the village out of fear caused by the shooting and other behaviour of the Serbian forces. The Chamber does not accept, however, that it has been proved that Serbian forces caused the movement of the residents of Žegra/Zhegër from Donja Stubla/Stubëll-e-Poshtme to FYROM some three to five weeks after their arrival in Donja Stubla/Stubëll-e-Poshtme.

4116 Exhibit P764, p 2.
4117 Qamil Shabani, Exhibit P788 (*Milutinović* transcript), T 2684.
4118 Qamil Shabani, Exhibit P786, p 3; Qamil Shabani, Exhibit P788 (*Milutinović* transcript), T 2685.
4119 Qamil Shabani, Exhibit P786, p 4.
4120 Qamil Shabani, Exhibit P786, p 3; Qamil Shabani Exhibit P788 (*Milutinović* transcript), T 2716.
4121 Qamil Shabani, Exhibit P786, p 3; Qamil Shabani, Exhibit P787, para 8; Qamil Shabani Exhibit P788 (*Milutinović* transcript), Qamil Shabani , T 2684-2685.
4122 Qamil Shabani, Exhibit P786, pp 3-4; Qamil Shabani, Exhibit P787, para 9; Qamil Shabani, Exhibit P788 (*Milutinović* transcript), T 2685; Qamil Shabani, T 4512-4513.
4123 Qamil Shabani, Exhibit P787, para 9. Qamil Shabani saw different vehicles, owned by the Army and he identified them on a chart depicting different types of vehicles, Exhibit P318, Qamil Shabani, Exhibit P788 (*Milutinović* transcript), T 2688-2689; Qamil Shabani, T 4490. Qamil Shabani saw, in the vicinity of his village, forces wearing the uniforms depicted on picture No 9 of Exhibit P325, and No 4 and No 6, Qamil Shabani, Exhibit P788 (*Milutinović* transcript), T 2689-2690.
4124 Qamil Shabani, Exhibit P786, p 4; Qamil Shabani, T 4492.
4125 Qamil Shabani, Exhibit P786, p 4; Qamil Shabani, T 4493.

1042. On or about 6 April 1999 Serbian forces attacked nearby villages, including Rimnik/Ribnik, Gornja Budrika/Budrikë-e-Eperme and Mogila/Mogillë in Vitina/Viti municipality and the villages of Nosalje/Nosaljë and Vladovo/Lladovë in Gnjilane/Gjilan municipality.[4128] The inhabitants of these villages also went to Donja Stubla/Stubëll-e-Poshtme where the people from Žegra/Zhegër had taken refuge, so that there were about 20,000 people there.[4129] Serbian forces were stationed in Gornja Stubla/Stubëll-e-Epërme, about one kilometre away from Donja Stubla/Stubëll-e-Poshtme and in the surrounding area, and were monitoring the situation.[4130]

1043. On or about 20 April 1999, about 1,500 people left Donja Stubla/Stubëll-e-Poshtme and returned to their villages in Vitina/Viti municipality as there appeared to be no Serbian forces there at that time.[4131] After this day some 500 to 1000 people, mainly women, children and elderly, left Donja Stubla/Stubëll-e-Poshtme each day. A witness testified that they went to FYROM out of fear and because they did not have any food.[4132] As noted a few paragraphs above, the Chamber does not accept as proven that this movement was caused by Serbian forces.

1044. On 2 May 1999, a group of about 600 people, including 200 from Žegra/Zhegër, left for FYROM.[4133] They set out at 1900 hours towards the village of Goden in Vitina/Viti municipality.[4134] From there, they walked through the Jucufovce Mahala, where about 60 people joined their column.[4135] The column continued to the mountains of Seferaj where these displaced persons stayed during the night.[4136] They did not see army or police on their way to the mountains.[4137]

1045. On 3 May 1999, at 0500 hours, the group left the mountains of Seferaj and at 1400 hours reached the area of Rustaj in Gnjilane/Gjilan municipality.[4138] There the convoy encountered regular and "paramilitary" soldiers.[4139] The witness does not provide any description of the paramilitary soldiers so that the Chamber is not able to identify reliably whether these were indeed paramilitary soldiers. The soldiers called for their commander. In the meantime men were

[4126] Qamil Shabani, Exhibit P786, p 4.
[4127] Defence Final Brief, para 853.
[4128] Qamil Shabani, Exhibit P786, p 4.
[4129] Qamil Shabani, Exhibit P786, p 4.
[4130] Qamil Shabani, Exhibit P786, p 4.
[4131] Qamil Shabani, Exhibit P786, p 4.
[4132] Qamil Shabani, Exhibit P786, p 4.
[4133] Qamil Shabani, Exhibit P786, p 5; Qamil Shabani, Exhibit P788 (*Milutinović* transcript), T 2721-2722; Qamil Shabani, T 4493, 4501.
[4134] Qamil Shabani, Exhibit P786, p 5.
[4135] Qamil Shabani, Exhibit P786, p 5.
[4136] Qamil Shabani, Exhibit P786, p 5.
[4137] Qamil Shabani, Exhibit P786, p 5.
[4138] Qamil Shabani, Exhibit P786, p 5; Qamil Shabani, T 4493; Exhibit P789.
[4139] Qamil Shabani, Exhibit P786, p 5.

separated by the soldiers from women. Both men and women were searched.[4140] The men were ordered by the Serbian forces to kneel down and keep their hands above their heads. During this time they were threatened that they would be killed, but eventually the soldiers let the men join the group of women.[4141] From Rustaj, the convoy was escorted by 30 or more "paramilitaries and soldiers" to a hill near the FYROM border about one hour away.[4142] There some of the men were threatened and were accused of intending to join the KLA in Albania.[4143] Eventually, the group was ordered to go in the direction of Preševo in Serbia where another group of regular and paramilitary soldiers was expected to be waiting for them.[4144] However, as there was no escort, the people in the convoy decided not to go to Preševo but towards FYROM, which was about 90 minutes walk away.[4145] On their way they came across another group of 300 displaced persons, including people from Žegra/Zhegër, coming from the direction of Preševo. These people joined the convoy.[4146]

1046. On 4 May, the convoy crossed the border into FYROM in the area of the mountains of Lojane.[4147] Although there were Serbian soldiers in trenches nearby, the convoy of refugees was not stopped.[4148]

1047. For reasons stated in more detail later in this Judgement, the Chamber is satisfied that the offence of forcible transfer has been established with respect to Žegra/Zhegër.

1048. When residents of Žegra/Zhegër eventually returned to their village in June 1999 they found approximately 120 Albanian houses totally burned and some 420 houses partially burned. The Serb houses remained intact.[4149]

3. Vladovo/Lladovë and Vlaštica/Llashticë

1049. The village of Vladovo/Lladovë is situated in the municipality of Gnjilane/Gjilan approximately one kilometre to the north of Žegra/Zhegër. In 1999 Vladovo/Lladovë had

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[4140] Qamil Shabani, Exhibit P786, p 5; Qamil Shabani Exhibit P788 (*Milutinović* transcript), T 2724; Qamil Shabani, T 4493, 4500.
[4141] Qamil Shabani, Exhibit P786, p 5; Qamil Shabani, T 4494, 4500.
[4142] Qamil Shabani, Exhibit P786, p 5. The estimates of the number of escorts varies. In this trial the estimate was 70 "militaries and paramilitaries" (Qamil Shabani, T 4494) but in an earlier statement the witness had suggested 30 or more (Qamil Shabani, Exhibit P786, p 5). The Chamber does not consider that this inconsistency goes to material elements of Qamil Shabani's evidence. It does not render his evidence unreliable.
[4143] Qamil Shabani, Exhibit P786, p 5.
[4144] Qamil Shabani, Exhibit P786, p 6; Qamil Shabani, Exhibit P788 (*Milutinović* transcript), T 2724.
[4145] Qamil Shabani, Exhibit P786, p 6; Qamil Shabani, T 4517.
[4146] Qamil Shabani, Exhibit P786, p 6; Qamil Shabani, Exhibit P788 (*Milutinović* transcript), T 2725.
[4147] Qamil Shabani, Exhibit P786, p 6; Qamil Shabani, T 4495.
[4148] The convoy was led by an Albanian person who knew the way and who guided them in exchange of some German Marks, Qamil Shabani, Exhibit P788 (*Milutinović* transcript), T 2726.
[4149] Qamil Shabani, Exhibit P787, para 19.

approximately 100 houses and was divided into three hamlets.[4150] The village of Vlaštica/Llashticë is situated about two to three kilometres away from Vladovo/Lladovë. A mountain area called the Black Mountain or Kodra-e-Zeze[4151] is about three kilometres from Vladovo/Lladovë and is just around the village of Vlaštica/Llashticë.[4152]

1050. On or around 25 March 1999 VJ and some "armed civilians" arrived in the area around the village of Vladovo/Lladovë. A checkpoint was set up at a factory, situated at the entrance of Žegra/Zhegër.[4153] The men in civilian clothes were described as having long beards and wearing "partial uniforms" with no identifying patches or symbols on them.[4154] They were much older than the soldiers and were armed with automatic guns. The villagers were told that these were Arkan's men[4155] but there is no satisfactory evidence to support this. These armed "civilians" drove civilian vehicles with civilian registration plates.[4156] The VJ used vehicles, including army buses, heavy trucks and other types of vehicles, all with VJ registration.[4157] The provocations of the VJ towards the villagers started to become more "severe".[4158] The situation in the village deteriorated on account of the intimidating behaviour of these forces.[4159]

1051. On or about 29 March 1999 some of the Kosovo Albanian people from Vladovo/Lladovë left towards the area of the Black Mountain (Kodra-e-Zeze) because of the Serbian military presence nearby.[4160] Among them were men, women, elderly and children.[4161] A witness spent two weeks in hiding on a hill in the area of the Black Mountain (Kodra-e-Zeze) and from his vantage point in the mountains, this witness was able to monitor events in Žegra/Zhegër, Vladovo/Lladovë and Vlaštica/Llashticë.[4162] He saw soldiers, along with what the witness described as paramilitaries, looting, stealing and setting fire to houses in Vladovo/Lladovë.[4163]

[4150] K81, Exhibit P791, statement of 30 May 1999, pp 1-2.
[4151] K81, Exhibit P791, statement of 30 May 1999, pp 2-3.
[4152] K81, T 4530, 4579.
[4153] *See supra*, para 1037.
[4154] K81, Exhibit P791, statement of 30 May 1999, p 2.
[4155] K81, Exhibit P791, statement of 30 May 1999, p 2; Exhibit P793 (*Milutinović* transcript), T 7086. The origin of this information is not revealed in evidence.
[4156] K81, Exhibit P791, statement of 30 May 1999, p 1.
[4157] K81, Exhibit P791, statement of 30 May 1999, p 1.
[4158] K81, Exhibit P791, statement of 30 May 1999, p 1.
[4159] K81, Exhibit P791, statement of 30 May 1999, p 1.
[4160] K81, Exhibit P791, statement of 30 May 1999, p 3.
[4161] K81, Exhibit P793 (*Milutinović* transcript), T 7079.
[4162] K81, Exhibit P791, statement of 30 May 1999, p 3; K81, Exhibit P793 (*Milutinović* transcript), T 7081-7082, T 7074-7075; K81, T 4530-4531, 4559-4562; Exhibit D116, a map where K81 marked the villages of Žegra/Zhegër Vladovo/Lladovë,Vlaštica/Lashticë and the hill.
[4163] K81, Exhibit P791, statement of 30 May 1999, p 2; K81, Exhibit P793 (*Milutinović* transcript), T 7082; K81, 4531-4532.

1052. On or around 2 April 1999 at about 1530 hours a group of six villagers, including three women, left the mountain to go back to Vladovo/Lladovë.[4164] When this group was about 500-600 metres away from Vladovo/Lladovë VJ soldiers in dark green uniforms opened fire on them. Three of the group were wounded, the other three, including one woman, were killed.[4165] Three more people were killed in Vladovo/Lladovë by VJ soldiers apparently on the same day.[4166] On the same day, those Kosovo Albanian residents of Vladovo/Lladovë who had not fled their homes until that time, were brought to the mosque by Serbian forces.[4167] VJ soldiers ordered the people at the mosque to bury the six dead bodies and to do this before the VJ re-entered the village the next day. The dead were buried. The people were also ordered to leave Vladovo/Lladovë.[4168] The residents left. Nobody from Vladovo/Lladovë dared to return.[4169]

1053. For reasons stated in detail later in this Judgement, the Chamber is satisfied that the offence of forcible transfer has been established with respect to Vladovo/Lladovë.

1054. On or about 6 April 1999, Serbian forces were observed looting and setting houses in Vlaštica/Llashticë on fire.[4170] These forces were VJ soldiers and police.[4171] They were accompanied by men from Žegra/Zhegër in civilian clothes, who assisted the VJ and police by directing them to houses of local LDK activists.[4172] On that day, two of the men who were normally in civilian clothes were wearing dark blue police uniforms.[4173] Despite the fact that there was no resistance from the villagers, the joint Serbian forces entered the houses of Kosovo Albanians, forced the inhabitants out, looted the houses and finally set the houses on fire.[4174]

1055. The mosque in Vlaštica/Llashticë was the first building in the village that was set on fire. It was heavily damaged and its library destroyed by a fire lit by VJ forces.[4175]

1056. On or about 11 April 1999 VJ troops wearing dark green uniforms were again observed around the village of Vlaštica/Llashticë.[4176] VJ and police forces collected the population and

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[4164] K81, Exhibit P791, statement of 30 May 1999, p 2.
[4165] K81, T 4566-4572. The names of the victims are Hevzi Ajeti (aged 28 years), Ganimete Ajeti (aged 22 years, female) and Ahmet Ajeti (aged 39 years). Ahmet Ajeti was an LDK activist, K81, Exhibit P791, statement of 30 May 1999, p 2.
[4166] K81, T 4572-4573, 4590; K81, Exhibit P793 (*Milutinović* transcript), T 7082. The names of the victims are Daut Mahmuti (aged 30 years), Zijadin Mahmuti (aged 30 years, female) and Beqir Mahmuti (aged 40 years), K81, Exhibit P791, statement of 30 May 1999, p 2.
[4167] K81, T 4572.
[4168] K81, T 4590. K81, Exhibit P791, statement of 1 February 2002, p 2.
[4169] K81, T 4590.
[4170] K81, T 4530-4531.
[4171] K81, T 4530-4531.
[4172] K81, Exhibit P791, statement of 30 May 1999, p 3; K81, Exhibit P793 (*Milutinović* transcript), T 7070, 7081.
[4173] K81, Exhibit P791, statement of 30 May 1999, p 3.
[4174] K81, Exhibit P793 (*Milutinović* transcript), T 7081.
[4175] K81, T 4535; K81, Exhibit P791, statement of 30 May 1999, p 3. *See* also *infra,* paras 1838-1841.
[4176] K81, Exhibit P792, statement of 30 May 1999, p 3; K81, T 4579.

directed a part of it towards Preševo in Serbia.[4177] Many tractors carrying villagers from Vlaštica/Llashticë proceeded in the direction of Preševo. In the same area three other Kosovo Albanian men were carrying an older man on a blanket. Three or four VJ soldiers in green uniforms fired on the men with automatic weapons. The bullets hit the man on the blanket and the men carrying him ran for cover. The older man was killed. He was buried in an unmarked grave in the village of Beqir.[4178]

1057. For reasons stated in more detailed later in this Judgement the Chamber is satisfied that the offence of deportation has been established with respect to the events in Vlaštica/Llashticë on 6-11 April 1999.

1058. A witness observed that on or around 12 April 1999 VJ forces were present in the village of Žub/Zhub near the area of the Black Mountain or Kodra-e-Zeze. These forces expelled people from the village.[4179] About 70 residents were seen fleeing from Žub/Zhub.[4180]

1059. An undetermined number of Kosovo Albanian people, who had fled their homes in early March gathered in the area of Sefer in the municipality of Gnjilane/Gjilan, from where they left for Preševo in Serbia.[4181] The journey took them 12 hours by foot.[4182] There is also evidence that Serbian police and army maltreated some Kosovo Albanians who had arrived in Preševo.[4183]

1060. On 13 April 1999 at about 1100 hours a convoy of some 1,000 Kosovo Albanians from Kosovo was formed in Preševo.[4184] People from Vladovo/Lladovë joined this convoy[4185] which went to FYROM via the villages of Miratovać/Miratovc and Stankovec in FYROM.[4186] The convoy consisted of people of different ages, including elderly, women and children.[4187] The convoy was escorted to the FYROM border by VJ forces in dark green uniforms and Serbian police in dark blue uniforms on tractors that had been seized earlier from Kosovo Albanians.[4188] At Miratovać/Miratovc the convoy was ordered to stop and their escort searched the group and seized

[4177] K81, T 4579.
[4178] K81, Exhibit P792, statement of 30 May 1999, p 4.
[4179] K81, Exhibit P791, statement of 30 May 1999, p 4; K81, Exhibit P793 (*Milutinović* transcript), T 7072; K81, T 4582.
[4180] K81, Exhibit P792, statement of 30 May 1999, p 4. Exhibit D116, a map where K81 marked the village of Žub/Zhub with the number seven.
[4181] K81, Exhibit P791, statement of 30 May 1999, p 4; Exhibit D116, a map where K81 marked the village of Sefer with the number six.
[4182] K81, Exhibit P791, statement of 30 May 1999, p 4; K81 Exhibit P793 (*Milutinović* transcript), T 7076.
[4183] K81, T 4538, 4543-4544.
[4184] K81, Exhibit P791, statement of 30 May 1999, p 4; K81, T 4545, 4547.
[4185] K81, Exhibit P792, statement of 30 May 1999, p 4.
[4186] K81, Exhibit P792, statement of 30 May 1999, p 4; K81, T 4545, 4547.
[4187] K81, T 4537.
[4188] K81, T 4545.

all identification papers.[4189] The convoy finally crossed the FYROM border through the village of Tabanovce and arrived in Stankovec, FYROM at 0400 hours on 14 April 1999.[4190]

1061. Some months after these events, villagers of Vladovo/Lladovë returned to find that houses in their village had been burnt and looted.[4191] There is evidence that some 25 Kosovo Albanian residents of Vlaštica/Llashticë were killed by Serbian forces during the events described above.[4192]

J. Uroševac/Ferizaj municipality

1062. On 27 March 1999 the Military District Command in Priština/Prishtinë issued an order tasking the 64th Military Territorial Detachment in cooperation with MUP forces, to establish combat control of the territory on the axes of Uroševac/Ferizaj—Tankosić/Tankosiq, Uroševac/Ferizaj—Doganović/Doganaj, and Uroševac/Ferizaj—Srpski Babuš/Babush-i-Serbëve.[4193] The villages of Biba/Bibaj, Sojevo/Sojevë, Staro Selo/Fshati-i-Vjeter, and Mirosavlje/Mirosalë, events at which are to be discussed below, are to both sides of the Uroševac/Ferizaj—Tankosić/Tankosiq axes, in the immediate proximity of the road connecting Uroševac/Ferizaj with Tankosić/Tankosiq. Eyewitnesses of the events described below have identified the presence of VJ and MUP forces in the villages of Biba/Bibaj, Sojevo/Sojevë, Staro Selo/Fshati-i-Vjeter, and Mirosavlje/Mirosalë on 1 April 1999 and the following days. The Chamber, therefore, finds that both VJ and MUP forces were present and acting in cooperation to establish combat control in the villages of Biba/Bibaj, Sojevo/Sojevë, Staro Selo/Fshati-i-Vjeter, and Mirosavlje/Mirosalë at the time of the events described below. Entries for 29 and 31 March 1999 in the war diary of the 243rd Mechanised Brigade of the VJ which was deployed in Uroševac/Ferizaj municipality indicate that volunteers kept arriving and that they were issued with personal weapons.[4194] While in some cases, witnesses may have mistakenly identified volunteers, reservists or territorial forces as paramilitary forces, in other cases the identification of paramilitary forces appears to the Chamber to be soundly based so that the Chamber accepts the presence of some Serbian paramilitary forces.

1063. The Chamber finds that VJ and MUP acted in coordination in ensuring the movement of tens of hundreds of displaced persons from the villages of Biba/Bibaj, Sojevo/Sojevë, Staro Selo/Fshati-i-Vjeter, and Mirosavlje/Mirosalë and other villages to and across the border into FYROM, as it will be discussed below.

[4189] K81, T 4537, 4544, 4545.
[4190] K81, Exhibit P792, statement of 30 May 1999, p 4.
[4191] K81, T 4542.
[4192] K81, T 4538-4539.
[4193] Exhibit P896, p 3.
[4194] Exhibit P956, pp 5-7.

1. Biba/Bibaj and Sojevo/Sojevë

1064. The village of Biba/Bibaj is located in Uroševac/Ferizaj municipality, to the east of the town of Uroševac/Ferizaj. In 1999 the village had approximately 1,000 inhabitants, all of whom were Kosovo Albanians. There were approximately 100 houses in the village.[4195] Sojevo/Sojevë is located some two to three kilometres to the east of Biba/Bibaj and some five kilometres from Uroševac/Ferizaj.

1065. During the night of 24/25 March 1999 residents of Biba/Bibaj saw two APCs passing by the village on the way to Sojevo/Sojevë. As APCs were used by both VJ and some MUP forces the Chamber is not able to determine, on this evidence, whether these Serbian forces were VJ or MUP. The APCs opened fire on houses close to the road.[4196] After this incident all villagers who had houses along the main road moved from those houses further into the village.[4197] On 27 March 1999 residents of Biba/Bibaj moved to Sojevo/Sojevë because Biba/Bibaj had become overcrowded with displaced persons from other villages.[4198]

1066. On 1 April 1999 a VJ unit moved into the school in Sojevo/Sojevë.[4199] A group of VJ soldiers with three tanks and anti-aircraft cannons were stationed in the village on 2 April 1999.[4200] On 3 or 4 April 1999 another VJ tank was deployed close to the main road in Sojevo/Sojevë.[4201]

1067. On 6 April 1999 at 0800 hours a Serbian force comprising about 18 armed and uniformed men entered the village of Sojevo/Sojevë. This group comprised soldiers and two police officers.[4202] The soldiers wore green uniforms with red berets and carried automatic weapons and knives.[4203] Again, the Chamber is not able, from this evidence, to identify the unit from which these men came. One witness described these soldiers as paramilitary soldiers, but in the absence of more detailed evidence the Chamber cannot confirm this. The police had blue camouflage uniforms.[4204] It was later learned that the commander of this group was Novic Mijović,[4205] who at the time lived in Uroševac/Ferizaj town and was with the VJ.[4206]

[4195] Bedri Hyseni, Exhibit P808, p 2. The Defence submits the credibility of Bedri Hyseni should not be accepted due to discrepancies in his testimony, Defence Final Brief, para 860. While there are some discrepancies in his testimony of certain events, in the Chamber's finding he is an honest and reliable witness. The Chamber has accepted his evidence to the extent relied on below.

[4196] Bedri Hyseni, Exhibit P808, p 2; Bedri Hyseni, Exhibit P809, p 5.

[4197] Bedri Hyseni, Exhibit P809, p 5.

[4198] Bedri Hyseni, Exhibit P808, p 2; Bedri Hyseni, Exhibit P809, p 5; Bedri Hyseni, Exhibit P810 (*Milutinović* transcript), T 3108-3110; Bedri Hyseni, T 4903.

[4199] Bedri Hyseni, Exhibit P809, p 5.

[4200] Bedri Hyseni, Exhibit P810 (*Milutinović* transcript), T 3097.

[4201] Bedri Hyseni, Exhibit P808, p 2.

[4202] Bedri Hyseni, Exhibit P810 (*Milutinović* transcript), T 3097.

[4203] Bedri Hyseni, Exhibit P808, p 3; Bedri Hyseni, Exhibit P810 (*Milutinović* transcript), T 3137-3138.

[4204] Bedri Hyseni, Exhibit P810 (*Milutinović* transcript), T 3137-3138.

1068. These armed men went to the Limanaj neighbourhood of Sojevo/Sojevë and set fire to houses there. Some 90 per cent of the houses there were burnt as a result.[4207] One family alone lost 14 houses.[4208] As a result of these fires, two Kosovo Albanian men, Qerim Ajvazi and Hamit Hali, died.[4209] The smoke from the burning of the houses in Sojevo/Sojevë could be seen from nearby villages that day, and on the following day people in Mirosavlje/Mirosalë could still observe houses in Sojevo/Sojevë burning.[4210]

1069. These armed men then continued to the Shulhaj neighbourhood of Sojevo/Sojevë, again setting houses on fire. Two of the soldiers approached the house of Nazmi and Haxhere Nebihu in this neighbourhood. Nazmi, who was paralyzed, was indoors at the time and his wife was outside.[4211] When she saw the soldiers coming closer, Haxhere started to run towards the house. She was screaming and the two soldiers raised their rifles. A short burst of fire was heard and Haxhere fell to the ground. One of the soldiers went inside the house and shortly thereafter a second burst of fire was heard.[4212] These events were observed by a witness hiding only some 100 to 120 metres from Nebihu's house.[4213] That evening, villagers were able to approach the house and discovered the bodies of Nazmi and Haxhere Nebihu in their house. Bullet wounds could be seen in the chest of Nazim Nebihu.[4214] In the Chamber's finding both Nazmi and Haxhere Nebihu were shot dead that day by these Serbian soldiers. Nazmi and Haxhere Nebihu were civilians.

1070. As the Serbian force was advancing in Sojevo/Sojevë that morning, 6 April 1999, approximately 200 of the Kosovo Albanian people from the village, mainly women, children and the elderly, fled into the woods. In the woods they split up into two groups, some went in the direction of Kamena Glava/Komogllave, others went to a forested area known as Ljubizanis.[4215] The Serbian force saw the villagers who were fleeing to Kamena Glava/Komogllave and stopped them. The Serbian force took their valuables from the villagers and then ordered them to walk to the town of Uroševac/Ferizaj.[4216]

[4205] Bedri Hyseni, Exhibit P808, p 3; Exhibit P810 (*Milutinović* transcript), T 3098.
[4206] Bedri Hyseni, Exhibit P810 (*Milutinović* transcript), T 3129-3130.
[4207] Bedri Hyseni, Exhibit Exhibit P809, p 5; Bedri Hyseni, Exhibit P809, p 6; Bedri Hyseni, Exhibit P810 (*Milutinović* transcript), T 3112; Bedri Hyseni, T 4866, 4906.
[4208] Exhibit P809, p 6; Bedri Hyseni, Exhibit P810 (*Milutinović* transcript), T 3112.
[4209] Bedri Hyseni, Exhibit P810 (*Milutinović* transcript), T 3097; Bedri Hyseni, Exhibit P808, p 3; Bedri Hyseni, T 4866.
[4210] Florim Elmi Krasniqi, Exhibit P631, p 4.
[4211] Bedri Hyseni, Exhibit P808, p 2; Bedri Hyseni, Exhibit P810 (*Milutinović* transcript), T 3135.
[4212] Bedri Hyseni, Exhibit P808, p 3; Bedri Hyseni, Exhibit P810 (*Milutinović* transcript), T 3135-3136; Bedri Hyseni, T 4866.
[4213] Bedri Hyseni, Exhibit P808, p 2; Bedri Hyseni, Exhibit P810 (*Milutinović* transcript), T 3135.
[4214] Bedri Hyseni, Exhibit P808, p 3; Bedri Hyseni, Exhibit P810 (*Milutinović* transcript), T 3136.
[4215] Bedri Hyseni, T 4866-4868.
[4216] Bedri Hyseni, T 4867.

1071. The other villagers, who fled towards the forested area of Ljubizanis, spent some four days in the woods. They heard constant firing from anti-aircraft weapons coming from the surrounding area.[4217] After four days, on 10 April, these villagers met another group of villagers also coming from Sojevo/Sojevë[4218] who told them that the regular army stationed at the Sojevo/Sojevë school had given them an order, in the form of an ultimatum, to leave the village and go to the town of Uroševac/Ferizaj. The villagers hiding in the forest decided to join this group. On the same day they continued with them towards Uroševac/Ferizaj.[4219] On their way they observed tanks and anti-aircraft vehicles stationed in the yard of the agricultural cooperative and other yards in Sojevo/Sojevë and more than 100 VJ soldiers there.[4220] When they passed by Biba/Bibaj they could also see VJ tanks and anti-aircraft launchers and some 70 VJ soldiers in the village.[4221]

1072. Before reaching Uroševac/Ferizaj members of the MUP traffic police turned these villagers back and ordered them to proceed to Gnjilane/Gjilan.[4222] On the way to Gnjilane/Gjilan the convoy of villagers stopped in the village of Slatina/Sllatinë in Vitina/Viti municipality where displaced Kosovo Albanians from several villages had gathered. A witness estimated that more than 10,000 displaced persons arrived there.[4223] Those from Sojevo/Sojevë stayed in Slatina/Sllatinë for some 10 to 12 days.[4224]

1073. On 22 April 1999 Bedri Hyseni and his family, who had been travelling with the persons displaced from Sojevo/Sojevë, left Slatina/Sllatinë and went to Uroševac/Ferizaj town.[4225] After staying in the town for a few days, however, they decided to leave and go to FYROM as the conditions in Uroševac/Ferizaj were such that it was not possible for them to stay.[4226]

1074. On 27 or 28 April 1999 a group of about 40 displaced persons went to a bus station one and a half kilometres from where they were staying in Uroševac/Ferizaj town and paid a driver to take them to Kačanik/Kaçanik and the border. On the road they saw convoys of other people moving along the road.[4227] In Kačanik/Kaçanik the bus was stopped at a checkpoint manned by VJ soldiers, police officers and police and army reservists. Two Serbian reservists, whom a witness knew to be reserve police, ordered the displaced persons to get off the bus and produce their identification

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[4217] Bedri Hyseni, Exhibit P809, p 6.
[4218] Bedri Hyseni, Exhibit P810 (*Milutinović* transcript), T 3097; Bedri Hyseni, Exhibit P809, p 6; Bedri Hyseni.
[4219] Bedri Hyseni, Exhibit P809, p 6; Bedri Hyseni, Exhibit P810 (*Milutinović* transcript), T 3112.
[4220] Bedri Hyseni, Exhibit P809, p 6; Bedri Hyseni, Exhibit P810 (*Milutinović* transcript), T 3112.
[4221] Bedri Hyseni, Exhibit P808, p 3.
[4222] Bedri Hyseni, Exhibit P808, p 3; Bedri Hyseni, Exhibit P810 (*Milutinović* transcript), T 3141.
[4223] Bedri Hyseni, Exhibit P808, p 3; Bedri Hyseni, Exhibit P809, p 6.
[4224] Bedri Hyseni, Exhibit P809, p 6.
[4225] Bedri Hyseni, Exhibit P810 (*Milutinović* transcript), T 3102, 3111.
[4226] Bedri Hyseni, Exhibit P809, p 7. *See infra*, footnote 4273.
[4227] Bedri Hyseni, Exhibit P809, p 7.

documents.[4228] They first asked the displaced persons for mobile phones and cameras and when there was no response they separated two or three younger men and started questioning them. They were assisted by a policeman wearing a blue or black uniform with a light blue strip of 20 centimetres hanging from his right arm.[4229] Eventually the young men were allowed to return to the other displaced persons and the bus was allowed to proceed to the border.[4230]

1075. The bus continued to the border with FYROM at Đeneral Janković/Han-i-Elezit, where some 30 policemen dressed in dark blue camouflage uniforms were positioned 300 to 400 metres from the road.[4231] A long line of Kosovo Albanian people was standing along the road to the border and the police had them cross the border in groups of 10.[4232] A witness who crossed the border at Đeneral Janković/Han-i-Elezit on 27 or 28 April 1999 testified that his personal documents were not taken away from him.[4233]

1076. For reasons expressed in detail a little later in this Judgement the Chamber is satisfied that the offence of forcible transfer has been established with respect to the displacement of Kosovo Albanian people from Sojevo/Sojevë on 6 April 1999 and the following days. For reasons stated in detail later in this Judgement, the Chamber is satisfied that the offence of deportation has been established with respect to displacement from the town of Uroševac/Ferizaj on 27/28 April 1999.

2. Staro Selo/Fshati-i-Vjeter

1077. Staro Selo/Fshati-i-Vjeter is located three kilometres to the east of Uroševac/Ferizaj town, along the Priština/Prishtinë-Skopje road. In 1999 some 103 Kosovo Albanian and some 13 Serb families lived in Staro Selo/Fshati-i-Vjeter.[4234]

1078. On 2 April 1999, at around 0830 hours, about 40 to 50 VJ soldiers entered Staro Selo/Fshati-i-Vjeter, coming from the road between Uroševac/Ferizaj and Gnjilane/Gjilan.[4235] These soldiers wore green-brown camouflage uniforms and green berets with the VJ metal badge and were supported by five green tanks.[4236] A resident of Staro Selo/Fshati-i-Vjeter tried to run away with his son but a soldier told him not to go, saying that the soldiers were members of the

[4228] Bedri Hyseni, Exhibit P808, p 3; Bedri Hyseni, Exhibit P809, p 7; Bedri Hyseni, T 4870-4871, 4913. The two men wore green camouflage uniforms and had the insignia of a two-headed eagle on their right arm; they carried automatic rifles, Bedri Hyseni, Exhibit P808, p 4.
[4229] Bedri Hyseni, Exhibit P808, p 4; Bedri Hyseni, Exhibit P809, p 7; Bedri Hyseni, T 4870-4871.
[4230] Bedri Hyseni, Exhibit P808, p 4.
[4231] They appeared organised, standing in groups of three, Bedri Hyseni, T 4871.
[4232] Bedri Hyseni, T 4871.
[4233] Bedri Hyseni, Exhibit P809, p 7; Bedri Hyseni, T 4913.
[4234] Bajram Bucaliu, Exhibit P824, p 2; Exhibit P827 (*Milutinović* transcript), T 2981-2982; Bajram Bucaliu, T 5056.
[4235] Bajram Bucaliu, Exhibit P826 (*Milošević* transcript), T 2060; Bajram Bucaliu, Exhibit P827 (*Milutinović* transcript), T 2981.

regular army and that the villagers should not be afraid of them.[4237] The soldiers occupied six empty houses at the entrance of Staro Selo/Fshati-i-Vjeter, which belonged to Kosovo Albanians who had moved in with other villagers closer to the centre. The soldiers marked one of the Serbian houses by painting the letter S four times on it (other Serbian families in the village refused to have their houses marked).[4238]

1079. On 3 April 1999 the soldiers asked the villagers about the structure of the village and told them to hand over their weapons if they had any. Two hunting rifles were handed over by the villagers. The soldiers also asked whether there were any KLA members in the village, to which the villagers answered that there were none. The next day, the soldiers searched the houses for weapons, but did not find any.[4239] On 4 April, the soldiers took trucks belonging to residents of the village without giving their owners receipts or compensation.[4240]

1080. On 5 April 1999 at around 0800-0900 hours the soldiers left the village in the direction of Gnjilane/Gjilan, after burning some of the houses they had occupied.[4241] On the same day, at around 1500 hours, another Serbian force of some 80 armed men, the villagers believed they were paramilitary soldiers, entered the village from the Priština/Prishtinë-Skopje road.[4242] Members of this force went from house to house. In one house they asked a man for his identification documents while threatening his family by pointing their automatic rifles at them. The man was then forced to show his tractor to the soldiers. The paramilitaries told the man that he should not leave the village, since one of the roads leading to Uroševac/Ferizaj and Gnjilane/Gjilan had been blocked and that it was impossible to leave without obtaining a special permission from the military.[4243]

1081. The paramilitary soldiers told a villager that they were Serbs coming from Sombor and Apatin, which are located in Serbia, close to the Hungarian border. Their ages varied between 18 and 60; they had long hair and beards.[4244] A witness described them as wearing VJ type

[4236] Bajram Bucaliu, Exhibit P826 (*Milošević* transcript), T 2060; Bajram Bucaliu, Exhibit P827 (*Milutinović* transcript), T 2981.
[4237] Bajram Bucaliu, Exhibit P824, p 2; Bajram Bucaliu, Exhibit P826 (*Milošević* transcript), T 2062, 2118.
[4238] Bajram Bucaliu, Exhibit P824, p 2.
[4239] Bajram Bucaliu, Exhibit P826 (*Milošević* transcript), T 2061-2062; Bajram Bucaliu, Exhibit P827 (*Milutinović* transcript), T 2984.
[4240] Bajram Bucaliu, Exhibit P824, p 2; Bajram Bucaliu, Exhibit P826 (*Milošević* transcript), T 2062; Bajram Bucaliu, Exhibit P827 (*Milutinović* transcript) T 3021-3023, 3046.
[4241] Bajram Bucaliu, Exhibit P824, p 3; Bajram Bucaliu, Exhibit P826 (*Milošević* transcript), T 2063, 2087-2088; Bajram Bucaliu, Exhibit P827 (*Milutinović* transcript), T 2984, 3034-3035.
[4242] Bajram Bucaliu, Exhibit P824, p 3; Bajram Bucaliu, Exhibit P827 (*Milutinović* transcript), T 2985.
[4243] Bajram Bucaliu, Exhibit P824, p 3; Bajram Bucaliu, Exhibit P827 (*Milutinović* transcript), T 2985; Bajram Bucaliu, T 5055.
[4244] Bajram Bucaliu, Exhibit P827 (*Milutinović* transcript), T 2985.

camouflage uniforms, caps and "Kokarda" (a special hat used by "Chetnik" groups).[4245] On their arms there were insignias of a human skull with a cross and on the other side an eagle and the acronym "SCP", which was understood to mean the Serbian Chetnik Movement.[4246] These paramilitary soldiers carried light weapons: automatic rifles and long knives.[4247] The residents of Staro Selo/Fshati-i-Vjeter were terrified by the presence of these soldiers in the village.[4248]

1082. Between 5 and 14 April 1999 these paramilitary soldiers remained in the village imposing a curfew on the villagers, not allowing them to leave their houses between 1900 and 0700 hours. The villagers were told they could be shot without warning if they broke the curfew.[4249] All motor vehicles of the villagers were taken by the paramilitary soldiers, who drove some of them around in the village. A villager, acting on the orders of the paramilitary soldiers, collected money from his neighbours, while members of the paramilitary force escorted him.[4250] The paramilitaries threatened the villagers, telling them that there would be many "mass graves", and that the villagers would be used as human shields and "cannon fodder" and would have to fight together with the Serbs should "Clinton's infantry" come.[4251] For some nine or 10 days, 25 young villagers were forced by these paramilitary soldiers to dig defensive trenches.[4252]

1083. It appears that on 14 April 1999 word spread among the Kosovo Albanian villagers that three members of the Zeka family in Staro Selo/Fshati-i-Vjeter had been killed by masked soldiers in their house. There is no other evidence of this. There is no evidence of the finding of bodies.[4253] The Chamber cannot make any finding about this matter. On that same day, because of the behavior of the Serbian force in the village in the past 10 days and for fear of further killings, almost all the Kosovo Albanian inhabitants of Staro Selo/Fshati-i-Vjeter, about 500-600 people, left the village on foot and went to Uroševac/Ferizaj town.[4254] Only the Serb families and an elderly

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[4245] Bajram Bucaliu, T 5054.
[4246] Bajram Bucaliu, Exhibit P824, p 3; Bajram Bucaliu, Exhibit P826 (*Milošević* transcript), T 2065; Bajram Bucaliu, Exhibit P827 (*Milutinović* transcript), T 2986-2987.
[4247] Bajram Bucaliu, Exhibit P826 (*Milošević* transcript), T 2095; Bajram Bucali, T 5054. There is also a suggestion that the paramilitaries told residents of Staro Selo/Fshati-i-Vjeter that they were "Šešelj's volunteers" and that they "had done the same thing in Bosnia and now had come to defend Kosovo", Bajram Bucaliu, Exhibit P827 (*Milutinović* transcript), T 2987. In the Chamber's view, while this may have been said, it is more likely that these men were from Sombor and Apatin.
[4248] Bajram Bucaliu, Exhibit P824, p 3; Bajram Bucali, Exhibit P826 (*Milošević* transcript), T 2095.
[4249] Bajram Bucaliu, Exhibit P824, p 3; Bajram Bucaliu Exhibit P826 (*Milošević* transcript), T 2066; Bajram Bucaliu, Exhibit P827 (*Milutinović* transcript), T 3023.
[4250] Bajram Bucaliu, Exhibit P824, p 4; Bajram Bucaliu, Exhibit P826 (*Milošević* transcript), T 2095.
[4251] Bajram Bucaliu, Exhibit P824, p 4; Bajram Bucaliu, Exhibit P825, p 3; Bajram Bucaliu, Exhibit P826 (*Milošević* transcript), T 2097; Bajram Bucaliu, Exhibit P827 (*Milutinović* transcript), T 2987; Bajram Bucaliu, T 5086.
[4252] Bajram Bucaliu, Exhibit P824, p 4; Bajram Bucaliu, Exhibit P826 (*Milošević* transcript), T 2066, 2095-2096.
[4253] Bajram Bucaliu, Exhibit P824, p 4; Bajram Bucaliu, Exhibit P826 (*Milošević* transcript), T 2066-2067, 2092.
[4254] Bajram Bucaliu, Exhibit P824, p 5; Bajram Bucaliu, Exhibit P826 (*Milošević* transcript), T 2067, 2126-2127.

couple remained. After the war, the burned bodies of the elderly couple were discovered in the village.[4255]

1084. When Bajram Bucaliu returned to his house in Staro Selo/Fshati-i-Vjeter after the war, he saw that about 40 houses had been burnt in the village. Except for one Serb house, both Serb and Albanian houses had been damaged and burned.[4256]

1085. The villagers from Staro Selo/Fshati-i-Vjeter, who had gone to Uroševac/Ferizaj on 14 April 1999, stayed there with relatives. That same day, tanks could be seen in the centre of Uroševac/Ferizaj and at checkpoints manned by VJ. Police were at entrances to neighbourhoods. Soldiers had taken over and were living in houses belonging to Kosovo Albanians in the town. No vehicles were allowed in the town. Many people could be seen walking towards the train station.[4257]

1086. For reasons expressed in detail later in this Judgement, the Chamber is satisfied that the offence of forcible transfer has been established with respect to Staro Selo/Fshati-i-Vjeter.

3. Mirosavlje/Mirosalë

1087. The village of Mirosavlje/Mirosalë is situated to the north-east of Uroševac/Ferizaj town towards the border with Gnjilane/Gjilan municipality. In 1999 the village had approximately 3,000 inhabitants almost all of whom were Kosovo Albanians. There were some 160 houses in the village of which only one belonged to a Serb family.[4258]

1088. On 4 April 1999, around noon, a large convoy of vehicles of military green colour passed by Mirosavlje/Mirosalë on the main road from Gnjilane/Gjilan to Uroševac/Ferizaj. The convoy included four large trucks which towed cannons to the village of "Softaj" (Softovic/Softoviq), from where the cannons fired at targets in different directions including towards the village of Zlatare/Zllatare, located near Mirosavlje/Mirosalë, where four people were killed and five wounded by the artillery fire.[4259] These deaths are not specifically alleged in the Indictment.

1089. At about 1300 hours on 5 April 1999, residents of Mirosavlje/Mirosalë heard the sound of shelling and automatic weapon fire coming from the direction of Pojatište/Pojatë village. A witness was told that six elderly men from Pojatište/Pojatë were shot at by VJ soldiers, although not all of

[4255] Bajram Bucaliu, Exhibit P826 (*Milošević* transcript), T 2067, 2092; Bajram Bucaliu, T 5096-5097.
[4256] Bajram Bucaliu, Exhibit P825, p 5; Bajram Bucaliu, Exhibit P826 (*Milošević* transcript), T 2071-2072, 2109; Bajram Bucaliu, T 5089, 5111-5112.
[4257] Bajram Bucaliu, Exhibit P824, p 5; Bajram Bucaliu, Exhibit P825, p 4; Bajram Bucaliu, Exhibit P826 (*Milošević* transcript), T 2067, 2126-2127.
[4258] Florim Elmi Krasniqi, Exhibit P631, p 2.

the six were killed.[4260] These deaths are not specifically alleged in the Indictment. About 1,000 displaced villagers arrived later in Mirosavlje/Mirosalë from Pojatište/Pojatë, Muhadžer Prelez/Prelez-i-Muhaxherëve, Muhovce/Muhoc and other villages in Uroševac/Ferizaj municipality.[4261] Displaced Kosovo Albanians told the villagers in Mirosavlje/Mirosalë that tanks had come along the main road from Uroševac/Ferizaj towards their villages and that Serbian soldiers then told them to leave as soon as possible.[4262]

1090. On 8 April 1999 several military vehicles approached Mirosavlje/Mirosalë from Sojevo/Sojevë including one tank with a Serbian flag on it and some APCs. When the vehicles approached the village soldiers jumped off and started running towards the houses, making people in the village panic and flee. The residents, with those taking refuge in the village, fled in different directions, some through the woods, others, in the opposite direction.[4263] The Chamber accepts the evidence that the people fled in fear for their lives, having seen or heard what the Serbian military had done in surrounding villages.[4264]

1091. Some residents and displaced Kosovo Albanians headed towards the main road to Uroševac/Ferizaj in a convoy of vehicles including cars, tractors and trailers. On the road they encountered what appeared to be a military roadblock. Two soldiers stopped the first car of the convoy. The men in the car left it with the soldiers and ran to one of the trailers. The convoy then continued towards the town of Uroševac/Ferizaj.[4265]

1092. There were about hundred villagers and 20 tractors in the convoy from Mirosavlje/Mirosalë.[4266] At another military checkpoint in the village of Sojevo/Sojevë,[4267] there were five tanks;[4268] a soldier took photos of every tractor. It was apparent that soldiers had hidden a number of civilian cars and trucks in some of the garages in the village, together with additional tanks. Carpets and blankets had been used to cover the vehicles and tanks. The convoy was allowed to pass the checkpoint although soldiers shouted ethnic insults at them.[4269]

[4259] Florim Elmi Krasniqi, Exhibit P631, p 2.
[4260] On 5 April 1999, Florim Elmi Krasniqi spoke with a resident of the village of Pojatište/Pojatishte who told him that he and five elderly men had been taken outside the village by one of the VJ soldiers who had then opened fire on them, killing or wounding some of them, Florim Elmi Krasniqi, Exhibit P631, p 3.
[4261] Florim Elmi Krasniqi, Exhibit P631, p 3.
[4262] Florim Elmi Krasniqi, Exhibit P631, pp 3-4.
[4263] Florim Elmi Krasniqi, Exhibit P630 (*Milutinović* transcript), T 3082.
[4264] Florim Elmi Krasniqi, Exhibit P631, p 5.
[4265] Florim Elmi Krasniqi, Exhibit P631, p 5.
[4266] Florim Elmi Krasniqi, Exhibit P631, p 5.
[4267] Florim Elmi Krasniqi, Exhibit P631, pp 5-6.
[4268] Florim Elmi Krasniqi, Exhibit P631, pp 5-6.
[4269] Florim Elmi Krasniqi, Exhibit P631, pp 5-6.

1093. Along the way between Mirosavlje/Mirosalë and Uroševac/Ferizaj, houses and vehicles had been destroyed and were burning. VJ soldiers and tanks stood beside the road; the soldiers were cleaning their weapons, occasionally pointing them towards the convoy.[4270]

1094. At the outskirts of Uroševac/Ferizaj town there was a police checkpoint where regular traffic policemen directed the convoy to Skopje in FYROM.[4271] Most of the displaced Kosovo Albanians in the convoy, therefore went to FYROM, however, some turned back to Uroševac/Ferizaj town, using back roads and arrived there on the same day, 8 April 1999[4272] but were forced to leave again and cross into FYROM a week later because it was impossible to stay in the conditions in Uroševac/Ferizaj.[4273]

1095. On 14 April 1999, Florim Elmi Krasniqi, who was in the group of villagers from Mirosavlje/Mirosalë who had returned to Uroševac/Ferizaj, tried to leave the town by train with his family but could not since the train was very crowded. After the departure of the train buses started arriving at the train station charging money for a place to the border. Florim Elmi Krasniqi left on one of the buses going to the town of Đeneral Janković/Han-i-Elezit on the border with FYROM.[4274] Along the road from Uroševac/Ferizaj there were trenches, apparently excavated for tanks. In Đeneral Janković/Han-i-Elezit regular policemen stopped the buses and asked the passengers for identification documents. The policemen checked a few of the identification documents and handed them back to the people on the bus Florim Elmi Krasniqi was on.[4275] The buses were then taken to the police station where some of the people were told to get off. The policemen demanded money from the Kosovo Albanians. After some hours of waiting, families with children were allowed to pass across the border without paying. They were told to walk down the middle of the railway tracks and across the border to FYROM.[4276]

[4270] Florim Elmi Krasniqi, Exhibit P631, p 6.
[4271] Florim Elmi Krasniqi, Exhibit P631, p 6.
[4272] Florim Elmi Krasniqi, Exhibit P631, p 6.
[4273] Florim Elmi Krasniqi gave evidence that he was hearing about killings and massacres by Serbian forces every day and that he felt it was too dangerous to stay, Florim Elmi Krasniqi, Exhibit P632, p 6. Bedri Hyseni testified that Uroševac/Ferizaj had been cleansed of Kosovo Albanians and that those Kosovo Albanians who still remained in the town had to stay indoors most of the time as movement in town was forbidden. There were police and paramilitaries in the town and constant shooting could be heard, Bedri Hyseni, Exhibit P809, p 7; Bedri Hyseni, T 4869-4870. Bajram Bucaliu testified that there were tanks in the centre of Uroševac/Ferizaj and that there were manned checkpoints at critical locations throughout town, Bajram Bucaliu, Exhibit P825, p 4. In these circumstances the Chamber is satisfied that the conditions in Uroševac/Ferizaj in the second half of April 1999 were such that Kosovo Albanians present did not have a genuine choice but to leave towards the nearest safe location which was FYROM.
[4274] Florim Elmi Krasniqi, Exhibit P630 (*Milutinović* transcript), T 3055.
[4275] Florim Elmi Krasniqi, Exhibit P631, p 6.
[4276] Florim Elmi Krasniqi, Exhibit P631, p 7.

4. Railway station at Uroševak/Ferizaj town

1096. During the morning of 15 April 1999, about 4,000 to 5,000 Kosovo Albanians, including some of the people who had fled from Staro Selo/Fshati-i-Vjeter, tried to leave Uroševac/Ferizaj town and go to FYROM, taking the train which passed through to Đeneral Janković/Han-i-Elezit. There were about 10 policemen at the station who tried to maintain order. They stopped and questioned some younger men.[4277] An estimated 1,500-2,500 people eventually managed to board the train. Altogether, there were over 3,000 people in the train. There were lightly armed policemen in solid blue uniforms aboard the train.[4278]

1097. At Đeneral Janković/Han-i-Elezit railway station the passengers waited for some hours, not being allowed to leave the train. There were police and military on both sides of the rail tracks. Buses also arrived, bringing more Kosovo Albanians to Đeneral Janković/Han-i-Elezit. The people on the buses were allowed to cross the border, but the train with its passengers returned to Uroševac/Ferizaj a few hours later. There is some suggestion in the evidence that the train could not pass the border on 15 April 1999 because FYROM officials did not allow it.[4279]

1098. On the morning of 16 April 1999, some of the displaced Kosovo Albanians once again boarded a train to Đeneral Janković/Han-i-Elezit. This train went past Đeneral Janković/Han-i-Elezit station and continued further.[4280] VJ soldiers were on tractors on the road beside the railway. The train stopped suddenly. Policemen inside the train and VJ soldiers outside told the Kosovo Albanian refugees onboard to get off the train and walk in a line on the railway tracks. The refugees were told that the ground beside the tracks had been mined. The police made sure no one walked beside the railway tracks. The police did not explicitly tell the Kosovo Albanians to go to FYROM, but escorted them to the border. It is clear from the circumstances, in the Chambers finding, that the Kosovo Albanian people had no option but to cross into FYROM. The VJ soldiers made insulting gestures towards the refugees walking by.[4281]

[4277] Bajram Bucaliu, Exhibit P825, p 4; Bajram Bucaliu, Exhibit P826 (*Milošević* transcript), T 2068; Bajram Bucaliu, T 5058-5059.

[4278] Bajram Bucaliu, Exhibit P824, p 5; Bajram Bucaliu, Exhibit P825, p 4; Bajram Bucaliu, Exhibit P826 (*Milošević* transcript), T 2068-2069; Bajram Bucaliu, Exhibit P827 (*Milutinović* transcript), T 2991; Bajram Bucaliu, T 5059.

[4279] Bajram Bucaliu, Exhibit P824, p 5; Bajram Bucaliu, Exhibit P825, p 4; Bajram Bucaliu, Exhibit P826 (*Milošević* transcript), T 2069; Bajram Bucaliu, Exhibit P827 (*Milutinović* transcript), T 2990; Bajram Bucaliu, T 5057-5058.

[4280] Bajram Bucaliu, Exhibit P824, p 5; Bajram Bucaliu, Exhibit P825, p 4.

[4281] Bajram Bucaliu, Exhibit P824, p 5; Bajram Bucaliu, Exhibit P825, p 5; Bajram Bucaliu, Exhibit P826 (*Milošević* transcript), T 2070, 2110-2112; Bajram Bucaliu, T 5060.

1099. The refugees arrived at the FYROM border at about 1000 hours on 16 April 1999. They were registered there and taken by bus to Stenkovec camp in Bradza, FYROM. No identification documents were taken from them.[4282]

1100. The evidence of witnesses who had left towns and villages and later crossed to FYROM, having travelled from Uroševac/Ferizaj by rail, is consistent with other evidence that there was an increased number of trains on that route and that police were at the station. Usually, there were four trains per day from the Uroševac/Ferizaj railway station to Đeneral Janković/Han-i-Elezit and across to Skopje.[4283] Normally, the trains would consist of two to three passenger carriages, on Saturdays there were four.[4284] However, from 31 March to 3 April 1999 the number of trains going through the Uroševac/Ferizaj railway station increased.[4285] There were also trains with more carriages than usual.[4286] Trains going to Đeneral Janković/Han-i-Elezit were full, while those coming back were empty.[4287] Some trains were escorted by police.[4288]

K. Kačanik/Kaçanik municipality

1. Kotlina/Kotlinë and Ivaja/Ivajë

1101. The village of Ivaja/Ivajë is located four to five kilometres to the north of the village of Kotlina/Kotlinë, in the Kačanik/Kaçanik municipality. In March 1999, it had approximately 600 to 700 inhabitants.[4289]

1102. On 8 March 1999, shells fell on the village of Ivaja/Ivajë.[4290] The shelling initially came from positions to the east, west and north of the village. Tanks were later observed in the village.[4291] Smoke rising from Ivaja/Ivajë was observed from the nearby village of Kotlina/Kotlinë.[4292] A witness who visited Ivaja/Ivajë a few days after 8 March 1999 described how the mosque had been burnt and destroyed and that the minaret had been partly destroyed. Most of the houses had either been burnt or knocked down. Other buildings were still smoking from fire. Pets and farm animals

[4282] Bajram Bucaliu, Exhibit P824, p 5; Bajram Bucaliu, T 5094.
[4283] Bajram Buklaiu, Exhibit P825, p 2.
[4284] Bajram Bukaliu, Exhibit P825, p 2; Bajram Bukaliu, Exhibit P826 (*Milošević* transcript), T 2054.
[4285] Bajram Bukaliu, Exhibit P826 (*Milošević* transcript), T 2129-2133; Bajram Bukali, Exhibit P827 (*Milutinović* transcript), T 2995-3001; Exhibit P829.
[4286] Bajram Bukaliu, Exhibit P826 (*Milošević* transcript), T 2055-2058.
[4287] Bajram Bukaliu, Exhibit P826 (*Milošević* transcript), T 2129-2133.
[4288] Bajram Bukaliu, Exhibit P826 (*Milošević* transcript), T 2055-2058.
[4289] Hazbi Loku, Exhibit P653 (*Milutinović* transcript), T 3209; Hazbi Loku, Exhibit P652, p 2.
[4290] Hazbi Loku, Exhibit P652, p 2.
[4291] Hazbi Loku, Exhibit P652, p 2.
[4292] Hazbi Loku, Exhibit P652, p 2.

had been killed.[4293] There is evidence suggesting that fighting between the Serbian forces and the KLA may have taken place in Ivaja/Ivajë.[4294] One civilian was killed at this time.[4295]

1103. The village of Kotlina/Kotlinë is situated in a valley between elevated areas in the municipality of Kačanik/Kaçanik.[4296] In February and March 1999, Kotlina/Kotlinë had a population of approximately 450 to 500 inhabitants. The population of Kotlina/Kotlinë was exclusively Kosovo Albanian.[4297] Kotlina/Kotlinë is divided into three neighbourhoods: Dreshec/Drašec, Donja Reka/Reka-e-Poshme and Gornja Reka/Reka-e-Eperme.[4298] One of Kotlina/Kotlinë's roads connects it to Ivaja/Ivajë four to five kilometres away, one leads to the asphalt road to Kačanik/Kaçanik, one goes to Globočica/Gllobojçicë, which is a bordering village to FYROM, and another leads to Straza/Strazhë village. Kotlina/Kotlinë had a mosque, three schools and a clinic.[4299]

1104. Just before the NATO bombing commenced, the municipality of Kačanik/Kaçanik, and in particular the area of Kotlina/Kotlinë, was known as a significant "hotspot" because it had a combination of KLA activity and was considered by Serbian forces as a key area.[4300] Prior to 28 February 1999, the KLA moved into the region of Kačanik/Kaçanik and formed a force of 120 to 160 fighters. The KLA are recorded to have told the population in the region to move out, nearly all of whom did so by 27 February 1999. [4301] On 27 February 1999, four armed men wearing camouflage uniforms with KLA insignia are reported to have come to Kotlina/Kotlinë and confiscated hunting rifles before driving the villagers into the woods.[4302]

1105. General Karol John Drewienkiewicz, the chief of Operations and Deputy Head of Mission of operations for the Kosovo Verification Mission (KVM), confirmed that from late-February to mid-March 1999, a large operation involving a number of VJ Brigades and MUP forces took place in the Kačanik/Kaçanik area. In his assessment, because of its nature and complexity, this operation was planned and ordered at least at the VJ Corps level. The VJ and the MUP were on the offensive at this stage and typically they would seal off areas where they were conducting operations, denying entry to the KVM verifiers. A cordon would be set up by the VJ, and the MUP

[4293] Hazbi Loku, Exhibit P652, p 2; Hazbi Loku, Exhibit P653 (*Milutinović* transcript), T 3152; Hazbi Loku, T 3670.
[4294] Hazbi Loku, Exhibit P652, p 2; Hazbi Loku, Exhibit P653 (*Milutinović* transcript) T 3209-3210; Hazbi Loku, T 3636-3637, 3671.
[4295] Hazbi Loku, T 3670; Hazbi Loku, Exhibit D85.
[4296] Hazbi Loku, Exhibit P653 (*Milutinović* transcript), T 3153.
[4297] Hazbi Loku, T 3689; Hazbi Loku, Exhibit P653 (*Milutinović* transcript), T 3149.
[4298] Hazbi Loku, Exhibit P653 (*Milutinović* transcript), T 3239.
[4299] Hazbi Loku, Exhibit P653 (*Milutinović* transcript), T 3153, 3155; Exhibit P654.
[4300] John Crosland, Exhibit P1400, para 71; Bislim Zyrapi, T 2484.
[4301] Radomir Mitić, T 12712-12713; Exhibit D844.
[4302] Radomir Mitić, T 12712-12713; Exhibit D844.

would then sweep the area within.[4303] According to Drewienkiewicz, the VJ operation in Kačanik/Kaçanik began on 8 March 1999 and was successful in pushing the KLA off the high ground on either side of the defile, but primarily the west side. After having secured Kačanik/Kaçanik, the VJ placed platoon or section-sized units at key locations along the road to the Đeneral Janković/Han-i-Elezit border crossing into Albania.[4304]

1106. Hazbi Loku was a resident of Kotlina/Kotlinë at the time of the events described below. He testified that while there was KLA presence across Kačanik/Kaçanik municipality, including in Ivaja/Ivajë, there were never any KLA units in Kotlina/Kotlinë.[4305] While some young people from Kotlina/Kotlinë were known KLA members, they had left to join the KLA's ranks in the mountains.[4306]

1107. On 9 March 1999, at about 0400 hours, rockets were fired over Kotlina/Kotlinë and illuminated the sky for approximately 20 seconds.[4307] A witness believed that rockets came from four positions, namely, Globočica/Gllboçicë, Gorance/Garance, the main asphalt road Kačanik/Kaçanik-Hani-i-Elezit and from upper Kačanik/Kaçanik. Globočica/Gllboçice, Gorance/Garancë and the main road Kačanik/Kaçanik-Hani are located approximately four or five kilometres from Kotlina/Kotlinë and they are visible to the naked eye.[4308] Serbian forces had been positioned in the area for months prior to 9 March 1999 on roads and at checkpoints.[4309]

1108. As rockets were fired over Kotlina/Kotlinë, the residents came out in the houses' yards. As the rockets suggested the presence of Serbian forces, about 30 young men were sent outside the village to see where they where located.[4310] Most of the young men came under sniper fire approximately 100 metres beyond the perimeter of Kotlina/Kotlinë.[4311]

1109. The men who returned reported that the Serbian forces had blocked the road to Ivaja/Ivajë and that they had heard tanks rumbling in that direction.[4312] The women, children and elderly of the village then set off in a convoy through Drošec/Droshec on the road in the direction of

[4303] Karol John Drewienkiewicz, Exhibit P996, para. 190.
[4304] Karol John Drewienkiewicz, Exhibit P996, para. 191.
[4305] Hazbi Loku, Exhibit P653 (*Milutinović* transcript) T 3183–3185, 3191, 3227, 3234, 3241.
[4306] Hazbi Loku, Exhibit P653 (*Milutinović* transcript) T 3185.
[4307] Hazbi Loku, Exhibit P652, p 2; Hazbi Loku, Exhibit P653 (*Milutinović* transcript), T 3151; Hazbi Loku, T 3638.
[4308] Hazbi Loku, Exhibit P652, pp 2, 4; Hazbi Loku, T 3637-3639, 3657, 3677, 3679-3680; Hazbi Loku, Exhibit P654.
[4309] Hazbi Loku, Exhibit P652, p 4 ; Hazbi Loku, T 3637-3639, Hazbi Loku, Exhibit P654.
[4310] Hazbi Loku, Exhibit P652, p 2 ; Hazbi Loku, T 3677-3678.
[4311] Hazbi Loku, T 3678.
[4312] Hazbi Loku, T 3678.

Globočica/Glloboçicë.[4313] Some 60 to 70 male residents, aged between 16 and 45 years old, including handicapped persons, hid in the gullies and ravines around the village.[4314]

1110. After the convoy of women, children and elderly had travelled about a kilometre, armed forces believed to be VJ and also police in blue camouflage uniforms, blocked the convoy passing through the Drošec/Droshec neighbourhood towards the border with FYROM near Globočica/Glloboçicë. These forces fired warning shots in the direction of the convoy. Prevented from going any further, the convoy walked back 300 metres along the road and hid in a ravine.[4315] At this moment, three green tanks and two dark blue APCs, advanced ahead of the Serbian forces who were moving on foot towards Kotlina/Kotlinë.[4316] Serbian forces on foot also advanced from Ivaja/Ivajë toward Kotlina/Kotlinë. The sound of the gunfire and vehicles passing was heard from a ravine near Kotlina/Kotlinë.[4317] At this moment, two houses in Kotlina/Kotlinë were burning and several others had been knocked down.[4318] The sound of gunfire and vehicles from Kotlina/Kotlinë could no longer be heard from the ravine after about 1530 hours. Later in the evening of 9 March 1999 and during the following few days, all villagers returned to Kotlina/Kotlinë.[4319] They observed that the houses and shops had been looted, the cars had been stolen, the insides of the houses had been damaged by gunfire and the animals had been shot or injured by gunfire.[4320]

1111. Approximately six days after 9 March 1999, the bodies of Emrlah Kuqi[4321] and Milaim Loku were found by other villagers in the vicinity of Kotlina/Kotlinë. These two young men had been missing since, with others, they went out from Kotlina/Kotlinë to find the location of the Serbian forces on the morning of 9 March 1999.[4322] Milaim Loku's body had been shot through the right side of his head and he had a wound from front to back through the right side of his body. There were two bullet holes in Emrlah Kuqi's body on the upper right side of his back and two bullet holes through the left side of his jacket. Milaim Loku and Emrlah Kuqi were wearing civilian clothes and did not have any weapons.[4323] There is no eye-witness evidence with respect to the circumstances of the death of Milaim Loku and Emrlah Kuqi. They were buried but their bodies were not found by the national expert forensic experts who conducted crime scene investigations and forensic examinations of the bodies of persons in Kotlina/Kotlinë. Therefore, the

[4313] Hazbi Loku, T 3678.
[4314] Hazbi Loku, Exhibit P652, p 3; Hazbi Loku, T 3678-3679.
[4315] Hazbi Loku, Exhibit P652, p 3; Hazbi Loku, Exhibit P653 (*Milutinović* transcript), T 3238.
[4316] Hazbi Loku, Exhibit P652, p 3.
[4317] Hazbi Loku, Exhibit P652, p 3.
[4318] Hazbi Loku, Exhibit P652, p 3.
[4319] Hazbi Loku, Exhibit P652, p 3.
[4320] Hazbi Loku, Exhibit P652, p 4.
[4321] Also identified as Emrlah Kuçi.
[4322] Hazbi Loku, Exhibit P652, p 3.
[4323] Hazbi Loku, Exhibit P652, p 3.

Chamber is not able to be satisfied of the circumstances of the deaths of Milaim Loku and Emrlah Kuqi.

1112. About two weeks later, on 24 March 1999, at about 0630 hours, Kotlina/Kotlinë was shelled for a second time. The shelling continued until 0900 hours.[4324] The source of the shelling was not identified but VJ tanks were positioned in Globočica/Gllobоçice and in other locations from which they could have shelled the village. The shelling had been directed towards the outskirts of Kotlina/Kotlinë.[4325] When the shelling ceased, at approximately 0900 hours, Serbian infantry troops escorted by tanks entered Kotlina/Kotlinë from the directions of Globočica/Gllobоçicë, Straza/Strazhe and Ivaja/Ivajë.[4326] The male population of the village fled in small groups towards a ravine to the south and towards the hill to the north of Kotlina/Kotlinë.[4327] The troops and tanks were seen to be an obvious threat of danger to them in the circumstances. A tank arrived at the top of the hill as one of the groups of men fleeing from the village reached the hill. The men on the hill were captured by the Serbian forces and beaten with rifle butts, kicked and knocked down the hill.[4328] Some members of these Serbian forces wore green camouflage uniforms and green berets. While this description is not fully consistent with the uniform usually worn by VJ, the Chamber is satisfied that only VJ forces were equipped to undertake the shelling of Kotlina/Kotlinë. Other Serbian forces present that day wore the blue uniforms of the police and blue camouflage bullet proof vests. Some of the forces in police uniforms wore black masks with holes for the eyes and mouth, some wore red bandannas around their heads. "Policija" was written in white letter on the back of some of their uniforms.[4329] This description is generally consistent with the uniforms worn by MUP forces.

1113. In the meantime, the women, children and elderly voluntarily gathered in a field south of Kotlina/Kotlinë.[4330] Before the arrival of the forces, the villagers had agreed between themselves that the women, children and elderly would go to an open area in order to be visible and safe. The Serbian forces split into groups: some went with the women, children and elderly, some went with the captured on the hill, and some went to the village. At approximately 1200 hours, the Serbian forces had gathered the entire population still in Kotlina/Kotlinë in the field. They separated the

[4324] Hazbi Loku, Exhibit P652, p 4; Hazbi Loku, T 3637-3639.
[4325] Hazbi Loku, Exhibit P652, p 4; Hazbi Loku, T 3637-3639, 3657-3658, 3679-3680; Hazbi Loku, Exhibit P653 (*Milutinović* transcript), T 3210; Exhibit D85.
[4326] Hazbi Loku, Exhibit P652, p 4; Hazbi Loku, T 3637-3639.
[4327] Hazbi Loku, Exhibit P652, p 4; Hazbi Loku, Exhibit P653 (*Milutinović* transcript), T 3158, 3195, 3198; Hazbi Loku T 3641; Exhibit P656. The events in Kotlina/Kotlinë were observed from a distance of 400 metres from a fortress the top of a ravine by a witness using hunting binoculars, although the events could be seen with the naked eye.
[4328] Hazbi Loku, Exhibit P652, pp 4-5.
[4329] Hazbi Loku, Exhibit P652, p 5.
[4330] Hazbi Loku, Exhibit P652, p 4; Hazbi Loku, T 3641; Hazbi Loku, Exhibit P653 (*Milutinović* transcript), T 3155; Exhibit P656.

elderly men from the group, made them to lie down, asked them questions about the KLA and mistreated them.[4331] Idriz Kuçi, a Kosovo Albanian man, approximately 55 or 60 years old wearing a traditional Albanian white cap, was taken away by four or five men wearing police uniform.[4332]

1114. At 1500 hours that day, two military trucks with canvas backs arrived in Kotlina/Kotlinë. The Serbian forces made as many of the women, children and elderly men as possible climb inside. The trucks then drove to the town of Kačanik/Kaçanik.[4333] The remaining women, children and elderly men had to walk behind the trucks.[4334]

1115. On the same day, shortly after the departure of the women, children and elderly men,[4335] approximately 150 members of the Serbian forces forced the group estimated to comprise 20 men, who had been captured on the hill to the north of Kotlina/Kotlinë, along a footpath to two large holes or wells located to the north of the village, at the entrance of Kotlina/Kotlinë.[4336] The captured men had their hands above their heads in a manner which indicated to a witness that their hands were tied, but he could not be sure of this. When they reached the wells, they were beaten by their captors. Their cries were heard in the valley.[4337] Two or three of the man captured at the hill were then thrown into the wells. The others attempted to struggle but were beaten again, severely, during which one or two of the men may have been shot. Eventually, all of the men were picked up by their captors and thrown into the two wells. After the men were thrown in, the wells were mined.[4338] At the same time, some Serbian forces were seen in the village apparently preparing to burn houses. Shortly thereafter, buildings in the village were set on fire.[4339] A school and several houses were burnt, including the houses of Baki Kuçi and Nuredin Kuçi.[4340]

1116. After a time, a loud explosion was heard and dust and a cloud of smoke rose in the air above the area of the wells.[4341] At around 1830 hours, the Serbian forces left in the direction of

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[4331] Hazbi Loku, Exhibit P652, p 5.
[4332] Hazbi Loku, T 3680.
[4333] Hazbi Loku, Exhibit P652, p 5; Hazbi Loku, P653 (*Milutinović* transcript), T 3156-3157.
[4334] Hazbi Loku, Exhibit P652 p 5; Hazbi Loku, Exhibit P653 (*Milutinović* transcript), T 3156-3157.
[4335] Hazbi Loku, Exhibit P652, p 6; Hazbi Loku, Exhibit P653 (*Milutinović* transcript), T 3230-3231.
[4336] Hazbi Loku, Exhibit P652 pp 4-6; Hazbi Loku, Exhibit P653 (*Milutinović* transcript), T 3158-3159, 3180-3181, 3195-3196, 3229; Hazbi Loku, T 3643, 3651-3653, 3662, 3681; Exhibit P660; Exhibit D80; Exhibit D81. The events were observed from a hillside to the south of Kotlina/Kotlinë, less than 600 metres from the wells, which were on a hillside to the north of Kotlina/Kotlinë. These holes had been dug as well shafts for water but were dry at the time.
[4337] Hazbi Loku, Exhibit P652, p 6; Hazbi Loku, Exhibit P653 (*Milutinović* transcript), T 3160, 3229-3230.
[4338] Hazbi Loku, Exhibit P653, T 3160.
[4339] Hazbi Loku, Exhibit P652, p 6.
[4340] Hazbi Loku, Exhibit P653 (*Milutinović* transcript), T 3165; Exhibit P658; Hazbi Loku, T 3644-3645.
[4341] Hazbi Loku, Exhibit P652, p 6; Hazbi Loku, Exhibit P653 (*Milutinović* transcript), T 3160, 3233. The witness was not certain whether some men were shot before being thrown into the wells and his evidence at times has omitted this. *See* for example Hazbi Loku, Exhibit P653 (*Milutinović* transcript), T 3160, 3233 and Hazbi Loku, T 3634, where he does not refer to shooting. In the Chamber's finding, despite this, the witness's evidence was honest and generally reliable. In view of this and of the forensic evidence considered later in this Judgement, the Chamber

Kačanik/Kaçanik.[4342] The Chamber accepts the evidence of a witness that he saw all of the men that had been captured at the hill executed and massacred at the wells area by Serbian forces in this manner. More than 20 men were later found to be dead in the wells.[4343]

1117. After the Serbian forces had left Kotlina/Kotlinë, the men who had been hiding came back to the village. They found Idriz Kuçi's body (55 years old) in Liman Loku's yard. He had been shot in the back of the head at close range. He had small wounds on the back of his head and the front of his face was blown away.[4344] Vejsel Vlashi's body (55 years old) was also discovered in one of the rooms of the second level of the same house. He had been shot several times in the chest and the lower half of his body had been badly burned.[4345] Zimer Loku (67 years old) was found with a wound in his chest and a right leg and left arm bleeding heavily. He died later that day. He had been seen to collapse while walking towards the women and children earlier that day but there is no evidence of the circumstances of his being shot.[4346]

1118. On 25 March 1999, at around 2200 hours, 48 men left Kotlina/Kotlinë and went to FYROM. Three men remained in the village to bury Vejsel Vlashi, Idriz Kuçi and Zimer Loku.[4347] Their bodies were buried in the courtyard of Kotlina/Kotlinë's mosque. In September 1999, their remains were recovered by an Austrian forensic team.[4348] The forensic analysis found that the men had died of gunshot wounds. Idriz Kuçi was last seen being taken away by four or five men wearing police uniforms. His dead body was discovered a few hours later, he had been shot in the back of the head at close range. The Chamber is satisfied that Idriz Kuçi was killed by Serbian police on 24 March 1999 in Kotlina/Kotlinë. At the time of his death, he was unarmed and in the custody of Serbian police and therefore he was taking no part in the hostilities. However, there is no evidence about the circumstances of the shooting of Vejsel Vlashi and Zimer Loku. Therefore, the Chamber cannot exclude the possibility that these two men were KLA taking part in hostilities at the time

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accepts that some of the men in the wells were shot by their captors, but cannot determine whether some of those were shot before being thrown into the wells.

4342 Hazbi Loku, Exhibit P652, p 5; Hazbi Loku, Exhibit P653 (*Milutinović* transcript), T 3212-3213. The Chamber rejected a Defence's contention that the eye witness could not have seen all that he described at the site of the wells. The Chamber accepts that he viewed the events at the wells from a position higher then the wells and the village. Although the area around the wells is wooded, these events occurred in March, before the trees developed their spring leaves so that tree growth did not obstruct his vision. He was less then 600 metres to the well sites and although he could see with his naked eyes, he also used hunting binoculars. *See* Hazbi Loku, T 3687-3688.

4343 Hazbi Loku, T 3626; *See supra*, paras 1423-1427, 1742.

4344 Hazbi Loku, Exhibit P652, p 5; Hazbi Loku, T 3666-3667, Exhibit D84.

4345 Hazbi Loku, Exhibit P652, p 5; Hazbi Loku, T 3680.

4346 Hazbi Loku, Exhibit P653 (*Milutinović* transcript), T 3213; Hazbi Loku, T 3665; Exhibit D84, p 2.

4347 Hazbi Loku, Exhibit P652, p 6; Exhibit P655.

4348 *See supra*, paras 1428-1436.

they were killed. This part of the evidence will be discussed in more details later in the Judgement.[4349]

1119. In the meantime, the women, children and elderly who were sent to Kačanik/Kaçanik, stayed there with the local population. Others were sent to the police station in Uroševac/Ferizaj where they were maltreated for two or three days before they were released. The people from Kotlina/Kotlinë who were sent to Kačanik/Kaçanik stayed there for a few days but when an offensive by Serbian forces started in the area, they left and went to FYROM.[4350]

1120. In the autumn of 1999, after the KFOR had entered Kosovo and Kotlina/Kotlinë's residents had returned to the village, Austrian forensic experts exhumed and identified the remains of no less than 22 men from the wells. At the time the forensic team arrived, the villagers had already began exhuming the well and had reached a depth of 5.8 metres in the upper well and a depth of 7.2 metres in the lower well.[4351] The bodies of 22 men were identified as Ismail Kuqi, Nexhadi Kuqi, Xhemjal Kuqi, Agim Loku, Garip Loku, Ibush Loku, Ismajl (Ismail) Loku, Izijah Loku, Naser R. Loku, Sabit Loku, Neshat Rexha, Sali M. Vlashi, Atmir Loku, Bajram Loku, Cen Loku, Ismet Loku, Mahi Loku, Sabri Loku, Naser (Nasir) F. Loku, Danush Kuqi (Kuci), Sherif Kuqi (Kuci), Minah Kuqi (Kuci).[4352] The forensic examination revealed that the cause of death was related to an explosion and that many of the victims had also been shot. However, the forensic experts were unable to ascertain whether the men who had been shot had died from bullet wounds or from the explosion.[4353]

1121. Later, a village council was convened for the reburial. Its members decided that the bodies of the men killed on 9 and 24 March 1999 were to be buried in the school yard, except for eight who were to be buried in the KLA martyrs' cemetery in Kačanik/Kaçanik.[4354] There is evidence that the decision was taken to bury the eight men in the martyrs' cemetery because they had contributed to the "national cause", prior to 24 March 1999.[4355] The tombstones in the martyr's cemetery bore a KLA emblem and an engraving depicting the deceased.[4356]

[4349] *See supra*, paras 1436.
[4350] Hazbi Loku, Exhibit P653 (*Milutinović* transcript), T 3157.
[4351] Eric Baccard, Exhibit P1167, p 7.
[4352] *See supra*, para 1431; Eric Baccard, Exhibit P1139, p 48 ; Exhibit P1167, p 6 ; Hazbi Loku, Exhibit P653 (*Milutinović* transcript), T 3162-3164, 3188-3189, 3193; Hazbi Loku, T 3646-3649, 3659; Exhibit P659. The body of Adnan Refik Loku, identified as having been killed by Serbian forces on the same day, was not found by the forensic team. Therefore, the Chamber cannot make any finding with respect to his death.
[4353] *See supra,* paras 1433-1436.
[4354] Hazbi Loku, Exhibit P653 (*Milutinović* transcript), T 3167-3158, 3247; Hazbi Loku, T 3691.
[4355] Hazbi Loku, Exhibit P653 (*Milutinović* transcript), T 3191-3192.
[4356] Exhibit D79; Hazbi Loku, Exhibit P653 (*Milutinović* transcript), T 3163-3164, 3170, 3183, 3185-3186, 3189, 3191, 3201-3205; Hazbi Loku, T 3658-5659, 3679, 3691. The Chamber cannot be satisfied that the engravement on the tombstones of Neshat Rexha and Xhemjal Kuqi depicts the deceased wearing a KLA uniform.

1122. The chief of the police of Uroševac/Ferizaj SUP gave evidence that in March 1999, a coordinated action was carried out in the villages of Ivaja/Ivajë and in Kotlina/Kotlinë.[4357] A PJP company of the Uroševac/Ferizaj SUP, a PJP company of the Gnjilane/Gjilan SUP, together with the VJ took part in this operation. The operation was said to be aimed at "destroying" between 150 and 200 KLA members thought to be in the area and to take control of the territory.[4358] Following this operation, on 24 March 1999, an investigation was conducted in the village of Kotlina/Kotlinë by the forensic department of Uroševac/Ferizaj SUP. According to their forensic report, dated 24 March 1999, the bodies of KLA fighters were found next to weapons and equipment. Pieces of KLA uniforms and bunkers where KLA fighters were thought to have been hiding were found and photographed.[4359]

1123. There is also evidence that on 21 March 1999, an order of the 243rd Mechanised Brigade imposed a blockade in the general sector of Kotlina/Kotlinë.[4360] The order commands the deployment of troops on the early morning of 23 March 1999 and the night of 23 and 24 March 1999 to take control of the territory around Kotlina/Kotlinë and the road leading from Đeneral Janković/Han-i-Elezit to Kačanik/Kaçanik and destroy KLA forces.[4361] It is noted in this order that MUP forces were stationed in Kačanik/Kaçanik with the task of maintaining law and order.[4362] A combat report from the VJ 243rd Mechanised Brigade, dated 24 March 1999, indicates that forces of Combat Group 3, in coordination with forces of the VJ 57 Border Battalion and two companies of the PJP, carried out a blockade of the general area of the villages of Straza/Strazha and Kotlina/Kotlinë on the Bojevo-Globočica/Gllobočica axis, where the Albanian "terrorist forces" were apparently concentrated. The report states that 26 "terrorists" were "liquidated" and about 20 firearms were captured. The report further states that an investigating judge came after the end of the operation in order, *inter alia*, to identify the bodies.[4363]

[4357] Radomir Mitić, T 12714, 12728-12829; *See also* Exhibit P935. There is also evidence that at the end of January or the beginning of February 1999, the 52nd Battalion of the VJ took part in a joint operation with the VJ 72nd Special Brigade against KLA forces in the area close to the border with FYROM called Đeneral Janković/Han i Elezit. On 17 March 1999, the 3rd Army Command directed the Sabotage and Reconnaissance Battalion of the 72nd Special Brigade to engage in actions against the KLA in the broad area of the municipality of Kačanik/Kaçanik. (Aleksandar Vasiljević, Exhibit P895, p 1.)

[4358] Radomir Mitić, T 12714, 12728-12829; *See* also Exhibit P935.

[4359] Radomir Mitić, T 12175; D846, p 8.

[4360] Exhibit P935, p 1.

[4361] Exhibit P935, pp 1-2.

[4362] Exhibit P935, p 1.

[4363] Exhibit P937.

1124. In light of the evidence above, the evidence clearly establishes, in the Chamber's finding, that VJ and MUP, including the PJP, were involved in the events in the village of Kotlina/Kotlinë in March 1999 and that they were functioning jointly in this operation.[4364]

1125. The Chamber has given careful attention to the credibility of eye-witness Hazbi Loku, including the contention that he could not have seen all he described, his possible KLA affiliation and variation or incompleteness of his account. In particular, the Chamber has carefully considered the absence of reference to gunshots in his evidence of these events in this or the *Milutinović et al* trial. In an earlier statement, which is in evidence, he did indicate that there may have been gunshots at the wells. But he remained uncertain of this and did not include shooting in his evidence of what he observed. The evidence is not specific about his activities in the 30 minutes or so that passed between the men being thrown into the wells and the sound of the explosions. Much was happening in the village at that time and it appears that Hazbi Loku may have been observing events in the village which was burning. It may be that the sound of shots was common place that day and did not attract his attention. His observation or recollection may be incomplete. While the evidence is not clear about these matters, having weighed the evidence and its impression of the witness carefully, and also the forensic evidence which is discussed elsewhere in this Judgement, the Chamber is persuaded that the witness was honest in his recounting of the events and that his recollection is generally reliable, although not complete. The Chamber accepts the evidence of the eyewitness that he saw all of the men "executed and massacred" at the wells that day. In the finding of the Chamber, the men thrown into the wells had not been shot or killed elsewhere and then brought to the wells and thrown in. They were forced to go to the wells to be beaten there and eventually thrown in before explosive devises in the wells were set off. The evidence does not enable a positive finding as to whether any of the men were shot at the wells site before being thrown into the wells, or after they were thrown in, although it is established that at least 10 of the men were shot at the wells site. In the Chamber's finding, however, all the men died at the wells. Those who had not died before the explosions were killed by explosion in each well.[4365]

1126. The Chamber also observes that even if some or all of the men whose remains were recovered from the wells had been members of the KLA (which is not demonstrated by the evidence), the circumstances in which they were killed by Serbian forces shows that they were unarmed, prisoners of a large armed Serbian force, and not in a position to take any active part in armed conflict. The Chamber is satisfied that all the men killed by Serbian forces at the wells were

[4364] The Command notes the support of the MUP in the surrounding area. It specifically lists the unit's involved in the operation including a PJP company who was deployed along the axis from the village of Gajre to Ivaja and the BOV-3 Platoon and the Combat group BG-21 was specifically tasked with blockading the Đeneral Janković/Han-i-Elezit to Kačanik/Kaçanik road (Exhibit P935, pp 1-2).

Kosovo Albanians. The Chamber is further satisfied that Serbian forces forcibly expelled Kosovo Albanian civilians from their homes in Kotlina/Kotlinë.

2. Kačanik/Kaçanik

1127. On 17 March 1999, the 3rd Army Command directed the Sabotage and Reconnaissance Battalion of the 72nd Special Brigade to engage in actions against the KLA in the broad area of the municipality of Kačanik/Kaçanik.[4366]

1128. A resident of Kačanik/Kaçanik town observed increased police activity in the town of Kačanik/Kaçanik in early March 1999.[4367] From 24 March 1999 to 27 March 1999, frequent shooting coming from the direction of the police station in Kačanik/Kaçanik was heard.[4368] On 27 March 1999, early in the morning, a rocket was fired at Shaip Dema's house, in Bob village. Bob village is adjacent to Kačanik/Kaçanik and located across the Lepece River.[4369] Shaip Dema's house had previously been used by the OSCE.[4370] The Chamber finds that there is no identification of the persons responsible for firing the rocket.[4371]

1129. Later that morning, between 1000 and 1030 hours, three Jeeps and a white 4x4 vehicle arrived at a lime factory, which is located across the Lepece River from the town of Kačanik/Kaçanik.[4372] Around 20 to 30 men wearing blue and white camouflage uniforms and two men in green and brown camouflage patterned uniforms came out of the Jeeps.[4373] The Chamber is satisfied that these descriptions are generally consistent with uniforms worn respectively by the regular police and the SAJ.[4374] The MUP forces crawled or walked towards the factory.[4375] There is some evidence that Lubisha, the Deputy Commander at the police station in Kačanik/Kaçanik, was present and that he was in charge of this operation.[4376] However, the evidence does not enable the Chamber to make a positive finding that this was the case. Men in police uniforms went inside the factory and took position in the windows of the upper floor of the factory. Other men in VJ

4365 *See supra*, paras 1428-1445.
4366 Aleksandar Vasiljević, Exhibit P895, p 1.
4367 Isa Raka, Exhibit P664, para 8.
4368 Isa Raka, Exhibit P664, para 8; Isa Raka T 3536.
4369 Isa Raka, Exhibit P664, para 11; Isa Raka, Exhibit P665 (*Milutinović* transcript), T 3536.
4370 Isa Raka, Exhibit P664, para 11; Exhibit P666; Isa Raka P665 (*Milutinović* transcript), T 3518, 3535-3536; T 3548-3549.
4371 The Defence submits that KLA forces were responsible for this attack. The Defence relies on a MUP report stating that on 27 March 1999, between 1600 and 1700 hours, KLA forces positioned in the lime factory in Bob village launched an attack against at VJ vehicles. The Chamber finds that this occurred several hours after an eye-witness saw the rocket being fired. Defence Final Trial Brief, para 875;
4372 Isa Raka, Exhibit P664, para 12; Isa Raka, Exhibit P668; Isa Raka, T 3729.
4373 Isa Raka, Exhibit P664, p 3.
4374 *See supra*, paras 53-55, 76.
4375 Isa Raka, T 3737-3738; Isa Raka, Exhibit P664, paras 12-14; Isa Raka, Exhibit P665 (*Milutinović* transcript), T 3537-3538.
4376 Isa Raka, T 3729-3730; Isa Raka, Exhibit P664, para 13.

uniforms took positions by the tanks at the factory.[4377] At approximately 1030 hours, these men fired at the houses on the other side of the Lepece River using sniper rifles and a rocket launcher. The firing lasted around one hour. During the shooting, a grenade hit the house in which a witness was staying.[4378] Two guards working in the factory were killed.[4379] Their bodies were not recovered.[4380] There is hearsay evidence that two other people, including Jonuz, a man walking by the river in Kačanik/Kaçanik and Ilaz Nika, an elderly man who was in his house, were also shot and killed.[4381] Sherife Raka, a pregnant woman, was hit by a bullet fired from the direction of the lime factory located across the Lepece River as she was walking through the courtyard of her house.[4382] She died subsequently on 6 April 1999 in a hospital in Skopje, FYROM, of blood loss and poisoning from the dead foetus which had died after she was hit by a bullet. There is no evidence of any return firing. No forensic evidence has been tendered with respect to these people. Therefore, the Chamber is unable to make any finding with respect to these deaths.

1130. On 28 March 1999, residents of other parts of Kačanik/Kaçanik started leaving town after they had heard that police were going from house to house and that they had taken away two men and killed another.[4383] There is no evidence which confirms that the police had killed a man or taken two others. Nevertheless, having heard these things, in fear, a group of 500 to 1000 people from Kačanik/Kaçanik town, including Isa Raka, left for FYROM through the woods. On 29 March 1999, the group crossed the border to FYROM.[4384] On 16 July 1999, upon his return from FYROM, Isa Raka observed that his house in Kačanik/Kaçanik town had been damaged.[4385] The Chamber is satisfied that Kosovo Albanians in Kačanik/Kaçanik were forced to leave by the shooting and killings of the Serbian forces.

3. Vata/Vataj, Dubrava/Lisnaje and Slatina/Sllatinë

1131. The hamlet of Vata/Vataj is located in or by the village of Dubrava/Lisnaje, in the north-western part of Kačanik/Kaçanik municipality.[4386] At the time of the events described below,

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[4377] Isa Raka, T 3730; Isa Raka, Exhibit P664, para 14; Exhibit P666.
[4378] Isa Raka, Exhibit P664, para 15.
[4379] Isa Raka, T 3738; Isa Raka, Exhibit P664, para 17.
[4380] Isa Raka, P665 (*Milutinović* transcript), T 3540; Isa Raka, T 3735-3736, 3738; Isa Raka, Exhibit P664, para 17; Isa Raka, Exhibit D92, p 3. These events were reported to Isa Raka.
[4381] Isa Raka, Exhibit P664, paras 17-21.
[4382] Isa Raka, Exhibit P664, paras 17-21; Isa Raka, Exhibit P665 (*Milutinović* transcript), T 3548.
[4383] Isa Raka, Exhibit P664, para 22; Isa Raka T 3739-3742; Exhibit D92.
[4384] Isa Raka Exhibit P664, paras 22-23; Isa Raka, Exhibit P665 (*Milutinović* transcript), T 3257.
[4385] Isa Raka Exhibit P664, para 28.
[4386] Sada Lama, Exhibit P661, p 2; Exhibit P663.

Vata/Vataj had 43 households. Vata/Vataj is divided into the neighbourhood of Lama, Caka and Tifeku.[4387]

1132. When NATO commenced its bombing campaign, in the evening of 24 March 1999,[4388] Serbian forces began shelling villages in the area of Vata/Vataj. NATO bombed during the daytime and Serbian forces shelled during the night.[4389] Only the VJ had artillery and tanks capable of shelling in this area. During the shelling, Vata/Vataj's residents hid by a stream in the woods. During March and April 1999, Serbian forces also shelled several of the surrounding villages.[4390]

1133. On or about 6 April 1999, around 20 KLA soldiers occupied a house in Vata/Vataj and started digging trenches.[4391] Half of them had uniforms and the others had civilian clothes. [4392] There were Serbian forces on the main road from where Vata/Vataj was visible.[4393] Meanwhile, residents of Vata/Vataj, fearing hostilities between the KLA and Serbian forces, attempted to go to Macedonia. However, the residents came under shelling in the Ljuboten Mountains and they decided to return to their village.[4394] On 12 April 1999, KLA soldiers left Vata/Vataj. They told the population to leave the village because Serbian forces were on their way.[4395]

1134. On 13 April 1999, at around 0500 hours, four Pragas and six dark colour military trucks were seen disembarking approximately 100 men.[4396] These men had camouflage uniforms with a blue and brown colour pattern.[4397] One witness suggested that these forces were VJ.[4398] While the uniform description is not consistent with the uniform usually worn by VJ, the fact that the forces were operating Pragas and military trucks satisfy the Chamber that VJ forces were present.[4399] Other evidence satisfies the Chamber that, in addition to VJ forces, members of the PJP were also present and that they acted together with the VJ in this operation.[4400] Further, a combat report from the 243rd Mechanised Brigade, dated 13 April 1999, discloses that there was a coordinated action

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[4387] Sada Lama, Exhibit P661, pp 1-2, 5; Exhibit P663; Exhibit D90; Exhibit D89.
[4388] Sada Lama, T 3716, 3724-3725; Sada Lama, Exhibit P661, p 3.
[4389] Sada Lama, T 3716; Sada Lama, Exhibit P661, p 3.
[4390] Sada Lama T 3719; Sada Lama, Exhibit P661, p. 3
[4391] Sada Lama, Exhibit P661, p 2; Exhibit D88.
[4392] Sada Lama, T 3714-3715, 3722.
[4393] Sada Lama, Exhibit P661, p 2.
[4394] Sada Lama, Exhibit P661, p 3.
[4395] Sada Lama, Exhibit P661, p 2; Sada Lama, T 3714-3715; Sada Lama, Exhibit P662 (*Milutinović* transcript), T 3264-3265.
[4396] Sada Lama, Exhibit P661, p 3.
[4397] Sada Lama, T 3698.
[4398] Sada Lama, Exhibit P661, p 3.
[4399] John Crosland, Exhibit P1400, paras 7, 13.
[4400] Sada Lama, T 3698; *See supra*, para 64. While the evidence on uniforms discussed in more details later in the Judgement reveal that the PJP wore blue tiger-stripe camouflage uniforms at the time of this operation, the Chamber notes that the purpose of camouflage patterns is to confuse the eye of the onlooker and can make it difficult to identify the actual colours forming the pattern.

involving that VJ unit and the PJP of the Uroševac/Ferizaj SUP in the area of Slatina/Sllatinë, during which 14 "terrorists" were killed.[4401]

1135. The Serbian forces entered Vata/Vataj.[4402] Soon after the trucks left, the Pragas took positions in different parts of the village and the men surrounded Vata/Vataj.[4403] Other armed men wore red and black bandannas. Some had plain black uniforms and some had dark camouflage uniforms, all of which were different from the uniforms worn by the men who arrived in the trucks and Pragas. One witness suggested that these men were "Arkan's army".[4404] While these is evidence that black uniforms were worn by some paramilitary units and that one of the paramilitary unit, known as Arkans's Tigers, occasionally wore black bandanas or tied red ribbons around their heads,[4405] the Chamber is not able to make a finding on this evidence. However, whatever unit they belonged to, it is clear that they acted together with VJ and PJP in this operation.

1136. On the same morning, two other groups of soldiers were seen near the village of Vata/Vataj. One of these was a group of approximately 150 armed men that surrounded the village of Slatina/Sllatinë, located east of Vata/Vataj in Kačanik/Kaçanik municipality. The other group came to Slatina/Sllatinë from the direction of Brod/Brod in Strpce/Shterpce municipality.[4406] Slatina/Sllatinë is located approximately halfway between Vata/Vataj and Brod/Brod.[4407]

1137. On 13 April at 0545 hours, the Pragas and the Serbian forces opened fire in the direction of some villagers of Vata/Vataj as they walked on a path leading to a hiding place in the Ljuboten Mountains.[4408] However, the shots passed over the villagers and frightened them, which may have been the intention. Unhurt but fearing for their lives, the villagers fled to the Ljuboten Mountains. Approximately 300 people from Vata/Vataj and other villages who had sought refuge in the Ljuboten Mountains.[4409]

1138. At around 0630 hours, VJ soldiers captured four residents of Vata/Vataj and made them walk up and down the village. They were killed that day.[4410] While some evidence of this event is hearsay, it is well confirmed because much later that day, the bodies of the four men were found on

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[4401] Exhibit P947; Exhibit P663. Evidence indicates that in early March 1999, the KLA attempted to recruit all able-bodied men in Slatina/Sllatina, a village in the vicinity of Vata/Vataj, to join its ranks; Radomir Mitić, T 12713-12734; Exhibit D 845.
[4402] Sada Lama, T 3718; Sada Lama, Exhibit P661, p 3.
[4403] Sada Lama, Exhibit P661, p 3.
[4404] Sada Lama, Exhibit P661, pp 2-3; Sada Lama, T 3698.
[4405] *See supra*, paras 211-213; Nike Peraj, T 1270-1273; Martin Pnishi, Exhibit P1033, p 5.
[4406] Sada Lama, Exhibit P661, p 3
[4407] Exhibit P663.
[4408] Sada Lama, Exhibit P661, p 4; Sada Lama, Exhibit P662 (*Milutinović* transcript), T 3267-3268.
[4409] Sada Lama, Exhibit P661, p 4.

a path above the gorge.[4411] The four men were Mahmut Caka (45 years old), Hebib Lami (Lama) (18 years old), Brahim Lami (Lama) (52 years old) and Rraman Lami. At least two of the bodies had been mutilated, including that of Rraman Lami, who had his eyes cut out.[4412] The four men were dressed in civilian clothes and had no weapons.[4413] The shooting by the Serbian soldiers in Vata/Vataj resumed for a time in the mid-afternoon before the Serbian forces left the village. On that day, most of the houses in Caka and of Tifeku, two neighbourhoods of Vata/Vataj, were burnt.[4414]

1139. On 14 April 1999, the bodies of Mahmut Caka, Hebib Lami, Brahim Lami and Rraman Lami and seven other unidentified bodies found in the hamlets of Caka and Tifeku were buried in the cemetery in Vata/Vataj.[4415] A few months later, in July 1999, Canadian and Austrian forensic experts exhumed and conducted autopsies on 11 bodies from Vata/Vataj cemetery. The autopsies concluded that the cause of death was gunshot wounds and that the victims were male aged between 15 and 52 years old. Although the identity of the bodies was not studied by the forensic experts, the names of the 11 victims, as marked on the gravestones, are recorded in their forensic report.[4416] This evidence satisfies the Chamber that Mahmut Caka, Hebib Lami, Brahim Lami and Rraman Lami were killed by Serbian forces in Vata/Vataj on 13 April 1999. All were all were Kosovo Albanian. They were not taking any active part in hostilities when they were killed.

1140. On 14 and 15 April 1999, out of fear, all remaining villagers in Vata/Vataj fled the village. Some went to FYROM through Dragomas where the people were asked for money by VJ soldiers and some went to the border crossing in Globočica/Glloboçicë.[4417] On 17 July 1999, when villagers returned, they found that many houses in Vata/Vataj had been burnt and others looted.[4418] The Chamber is satisfied that the Kosovo Albanians in the village were forced to leave by the shooting and killings of the Serbian forces.

1141. The Indictment also alleges that on or about 25 May 1999, Serbian forces attacked the village of Dubrava/Lisnaje, which is also in the municipality of Kačanik/Kaçanik, killing several Kosovo Albanian residents of Dubrava/Lisjane, and that many residents of Dubrava/Lisjane formed

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[4410] Sada Lama T 3719-3720, 3722; Sada Lama, Exhibit P662 (*Milutinović* transcript), T 3259-3260, 3265; Sada Lama, Exhibit P661, p 4. The events were reported to a witness by his wife, who observed the events from a hiding place from a distance of 300 meters.
[4411] Exhibit P663; Sada Lama, T 3722.
[4412] Sada Lama, T 3722; Sada Lama, Exhibit P661, pp 4-5, Sada Lama, Exhibit P662 (*Milutinović* transcript), T 3260-3261.
[4413] Sada Lama, T 3722- 3724; Sada Lama, Exhibit P661, p 5.
[4414] Exhibit P661, p 5.
[4415] Exhibit D91; Sada Lama, T 3709-3712.
[4416] *See supra*, paras 1447-1449.
[4417] Sada Lama, T 3701; Exhibit P663; Sada Lama, Exhibit P661, p 5.
[4418] Sada Lama, Exhibit P661, p 5.

a convoy of tractors and trailers and fled to FYROM.[4419] No evidence was called to support these allegations. The Chamber finds that the events alleged in the Indictment with respect to Dubrava/Lisjane have not been established.

L. Dečani/Deçan municipality

1142. The events discussed below took place in the village of Beleg and in neighbouring villages which are located in the central part of Dečani/Deçan municipality, to the east and south of Dečani/Deçan town.

1143. In 1998 and early 1999 KLA were present in the area of Dečani/Deçan. In March 1999, the command of the Dukagjin operational zone was in the village of Glodane/Gllogjan although its location varied. The 131st, 132nd, 133rd and 134th brigades were operating in this zone.[4420]

1144. On 26 March 1999 Serbian police and military forces arrived in the village of Drenovac/Drenoc.[4421] Police positioned themselves in the village which caused some residents of Drenovac/Drenoc to leave.[4422] As residents left smoke and flames were already seen to be coming from houses in the village.[4423] Some of the residents who left Drenovac/Drenoc fled to the village of Beleg.[4424] More residents of Drenovac/Drenoc fled to Beleg on the following day.[4425] Serbian forces were also active in other villages in the area causing displaced persons from Carrabreg/Crnobreg, Slup/Sllup and other neighbouring villagers also to gather in Beleg at this time.[4426]

1145. On or about 28 March 1999 people in Beleg heard shots being fired, as well as shelling[4427] and the sound of tanks approaching the village.[4428] They saw police and VJ soldiers arrive in the village.[4429] Some of the police officers were recognized as coming from neighbouring towns.[4430]

[4419] *Prosecutor v. Vlastimir Đorđević*, Case No. IT-05-87/1-PT, "Confidential Annex I, Pre-Trial Brief, Prosecution's Submission Pursuant to Rule 65*ter*(e) with Confidential Annex I, Annex II and Annex III", 1 September 2008, para 237; *Prosecutor v. Vlastimir Đorđević*, Case No. IT-05-87/1-PT, "Prosecution's Notice in Respect of its Rule 65*ter* Witness List with Annex A", 12 December 2008.

[4420] Byslim Zyrapi, T 2475-2476. *See* also K20, Exhibit P1280, p 3.

[4421] K58, Exhibit P1080, p 2; K58, T 7307.

[4422] K58, T 7307, 7311-7313; Mehmet Mazrekaj, Exhibit P675, pp 4-5; Mehmet Mazrekaj, Exhibit P676 (*Milutinović* transcript), T 5802. Two witnesses also heard that the police had told some residents to leave the village, K58, T 7311; Mehmet Mazrekaj, Exhibit P676 (*Milutinović* transcript) T 5801.

[4423] K58, T 7313.

[4424] K58, Exhibit P1080, p 2; Mehmet Mazrekaj, Exhibit P675, pp 4-5.

[4425] Mehmet Mazrekaj, Exhibit P675, p 5; Mehmet Mazrekaj, T 3874.

[4426] K20, Exhibit P1280, p 3; K20, Exhibit P1282 (*Milutinović* transcript), T 10055.

[4427] K20, T 8496; K58 Exhibit P1080, p 3; K58, Exhibit P1081 (*Milutinović* transcript), T 7470-7471; K58, T 7314. The Chamber notes that the evidence is inconclusive as to whether the sound of shelling came from shelling of Beleg or from neighbouring villages.

[4428] K20, Exhibit P1281 (*Milošević* transcript), T 2516; K20, T 8496.

[4429] K20, Exhibit P1281 (*Milošević* transcript), T 2515; Mehmet Mazrekaj, Exhibit P675, p 5; Mehmet Mazrekaj, Exhibit P676 (*Milutinović* transcript), T 5808; Mehmet Mazrekaj, T 3842. *See* also K58, Exhibit P1080, p 3,

The police forces who arrived in Beleg were wearing regular police uniforms without camouflage patterns but with badges with the word "police" written in Cyrillic on their arms.[4431] There were also older soldiers who wore grass-green uniforms with camouflage patterns and caps. Witnesses thought these may have been members of paramilitary groups but the evidence is not sufficient to determine whether these were members of the VJ reserve or of paramilitary units.[4432] The use of tanks confirms the presence of VJ forces.

1146. The next morning at about 0600 hours Serbian forces surrounded one of the houses[4433] in the village. A police officer wearing blue camouflage uniform and carrying an automatic rifle entered it through the window and told its inhabitants that they had to leave.[4434] Outside the house there were APCs, heavy weapons and Pragas with two-barrelled weapons mounted on them. The vehicles were blue camouflage colour and the weapons, green camouflage.[4435] More than one hundred armed men[4436] were seen in the village on that day.[4437] Some wore green camouflage uniforms and green helmets,[4438] others had blue camouflage uniforms and wore black hats.[4439] The inhabitants of this house were taken by Serbian forces to a basement where there were already members of three other families.[4440] More people were brought in the course of the day, and soon there were at least 300 people there, many of them children.[4441] There was shooting outside the basement.[4442] An armed policeman stood guard during the whole time.[4443] A police officer, dressed in blue camouflage uniform, was giving orders to the other armed men and appeared to be a

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testifying that police forces and paramilitaries arrived in Beleg on 27 March 1999. During his evidence in the *Milutinović* trial, Mehmet Mazrekaj testified that he saw VJ, police and paramilitaries, Mehmet Mazrekaj, Exhibit P676 (*Milutinović* transcirpt), T 5808-5809.

4430 Mehmet Mazrekaj, Exhibit P675, p 6; Exhibit P676 (*Milutinović* transcript), T 5808-5809, 5811.

4431 K58, Exhibit P1081 (*Milutinović* transcript), T 7464. While one description of the uniforms says they were grey most described the colour of the uniforms as blue. They are a grey-blue blend. These uniforms are consistent with the regular police uniforms worn by local police.

4432 The PJP units of the MUP wore green camouflage uniforms, the SAJ units of the MUP wore green and brown tiger strip camouflage uniforms and the regular VJ forces wore green camouflage uniforms, *see supra*, paras 64, 76, 162.

4433 K20, Exhibit P1280, p 2.

4434 K20, Exhibit P1280, p 2; K20, Exhibit P1281 (*Milošević* transcript), T 2518.

4435 K20, Exhibit P1280, p 2.

4436 Villagers spoke of all the armed men as soldiers but in the Chamber's findings this was not enough for identification of the men as all being members of the VJ.

4437 K20, T 8498.

4438 K20, Exhibit P1280, p 2; K20, Exhibit P1282 (*Milutinović* transcript), T 10062-10063; Exhibit P1283, photograph No 6, which is consistent with the uniforms of the PJP or the VJ.

4439 K20, Exhibit P1280, pp 2-3, which is consistent with the uniforms worn by the police.

4440 K20, Exhibit P1281 (*Milošević* transcript), T 2521.

4441 K20, Exhibit P1280, p 3; K20, T 8498-8499; K20, Exhibit P1281 (*Milošević* transcript), T 2564-2565.

4442 K20, Exhibit P1279, p 3; K20, Exhibit P1281 (*Milošević* transcript), T 2522.

4443 K20, T 8491.

commander.[4444] Speaking in Albanian he told the people in the basement: "You asked for NATO, now they will come and save you".[4445]

1147. In the meantime[4446] VJ soldiers and police surrounded another house in the village and opened fire on it. The people inside the house, some 100 of them, were ordered to leave the house.[4447] The man who walked out first was shot by a policeman wearing a regular police uniform.[4448] Shortly thereafter, another man from the house was shot twice by the same policeman.[4449] Witnesses later learned that both men had died.[4450] The body of one of the men was seen in close proximity to the house on the following day.[4451]

1148. The people from this house were then taken to the basement where other people had been taken earlier,[4452] and afterwards to the yard where some of them were beaten by Serbian police forces.[4453] One of the villagers, Mehmet Mazerkaj, a teacher, was beaten by a policeman identified as Zoran Đurišić (Gjurishiq) who had been one of his students in the local school.[4454] Policemen[4455] then took the men in groups of four or five, to another basement to be "checked".[4456] When they came back the men carried their clothes; some were in their underwear.[4457] After the men, the young girls were taken to the basement to be bodily searched and sometimes forced to remove their clothes,[4458] the women were given the same treatment.[4459] On the floor in the basement where the checking took place there was a cloth on which villagers were required to leave their valuables and

[4444] K20, Exhibit P1280, p 3; K20, Exhibit P1281 (*Milošević* transcript), T 2523; K20, T 8492, 8494. This person wore a hat with a square shaped brim in front, K20, T 8500.
[4445] K20, Exhibit P1280, p 3.
[4446] While K58 and Mehmet Mazrekaj had stated that this happened on 28 March 1999, considering their evidence as a whole and in particular that the events described took place in the course of two days and a night, and other relevant evidence the Chamber accepts that the events described took place on 29 March 1999.
[4447] K58, Exhibit P1080, p 3; K58, T 7318.
[4448] K58, Exhibit P1080, p 3; K58, T 7318. The Chamber notes that when shown samples of insignias the witness indicated that the insignias she saw resembled "approximately" the insignias depicted as No 5 and No 7 in Exhibit P327. (K58, T 7309-7310) Insignia No 5 is the insignia of the military police and insignia No 7 is the insignia of the regular police. The two insignias are similar in shape. The Chamber's finding above is based on the fact that the two insignias were identified, that the two insignias resemble each other, and on the Chamber's evaluation of the overall witness's evidence with respect to the forces.
[4449] K58, Exhibit P1080, p 4; K58, T 7318.
[4450] K58, Exhibit P1080, p 4; K58, T 7319.
[4451] Mehmet Mazrekaj, Exhibit P675, pp 6-7.
[4452] *See* K20, Exhibit P1279, p 3; K20, Exhibit P1281 (*Milošević* transcript), T 2521.
[4453] K58, Exhibit P1080, p 4; K58, Exhibit P1081 (*Milutinović* transcript), T 7466; K58, T 7319. *See* also K20, T 8491-8492, testifying that the beatings took place in a field.
[4454] K58, Exhibit P1080, p 5; K58, Exhibit P1081 (*Milutinović* transcript), T 7487; Mehmet Mazrekaj, Exhibit P675, p 7; Mehmet Mazrekaj, Exhibit P676 (*Milutinović* transcript), T 5835.
[4455] K20, T 8492.
[4456] K58, Exhibit P1080, pp 4-5; Mehmet Mazrekaj, Exhibit P675, p 8; K20, Exhibit P1279, pp 3-4.
[4457] K58, Exhibit P1080, pp 4-5. *See* also K20 Exhibit P1279, p 3.
[4458] K58, Exhibit P1081 (*Milutinović* transcript), T 7473; K20, Exhibit P1279, p 4.
[4459] K58, Exhibit P1080, p 5; K20, Exhibit P1279, p 4.

personal documents.[4460] However, all golden valuables of the women were returned the following day by a policeman.[4461] During the day houses in the village were set on fire by the Serbian forces.[4462]

1149. After the checking was completed the detainees were held in the same place, or in a field, until the evening when they were moved to other buildings.[4463] The men were then taken to the second floor of the house where the checking had taken place earlier.[4464] The women and a few elderly men were taken to two rooms and a stable in another house.[4465] They were guarded by Serbian forces.[4466]

1150. At about 2200 or 2300 hours men came to one of the rooms where the women and children were taken.[4467] These men wore solid green uniforms[4468] or green camouflage.[4469] A witness testified that they had the words police written in Serbian on their arms.[4470] One of them, who spoke Albanian, told the people in the room that they needed people to help clean the house and wash the dishes.[4471] Some older women offered to help but the soldiers told them to stay in the room. The soldiers then checked the faces of the people in the room using a flashlight and took out five young women.[4472] Two returned almost immediately.

1151. The remaining three young women were taken to different rooms in a burned house nearby which was being used as a base by the soldiers.[4473] One of the soldiers took one of the young women to a bathroom without windows or doors, undressed her and raped her. The girl was screaming and the soldier put a piece of cloth against her mouth and threatened her.[4474] During the rape a police officer was standing at the door on guard, occasionally pointing his flashlight to see what was happening. When the soldier who raped the girl left, the police officer slapped her in the

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[4460] K58, Exhibit P1081 (*Milutinović* transcript), T 7501, 7488-7490; K58, Exhibit P1079, p 5; K58, T 7298, 7320, 7324; Mehmet Mazrekaj, Exhibit P675, p 8. *See* also Mehmet Mazrekaj, T 3846, testifying that a golden ring was taken away from one of the men in the process of checking.
[4461] K58, T 7325; K58, Exhibit P1080, p 6.
[4462] Mehmet Mazrekaj, T 3846-3847; Mehmet Mazrekaj, Exhibit P675, p 8.
[4463] K58, Exhibit P1080, p 5; K20, Exhibit P1280, p 4; K20, Exhibit P1281 (*Milošević* transcript), T 2525-2526.
[4464] Mehmet Mazrekaj, Exhibit P675, p 8; K20, Exhibit P1281 (*Milošević* transcript), T 2525-2526; K20, Exhibit P1280, p 4.
[4465] K58, Exhibit P1080, pp 5-6; K58, T 7325; Mehmet Mazrekaj, Exhibit P675, p 8; K20, Exhibit P1280, p 4.
[4466] K58, Exhibit P1080, pp 5-6.
[4467] K58, Exhibit P1081 (*Milutinović* transcript), T 7467-7468; K20, Exhibit P1281 (*Milutinović* transcript), T 10063-10064.
[4468] K20, T 8494; K20 Exhibit P1281 (*Milošević* transcript) T 2526.
[4469] K58, T 7329-7330.
[4470] K58, Exhibit P1081 (*Milutinović* transcript), T 7477-7478.
[4471] K20, Exhibit P1282 (*Milutinović* transcript), T 10064; K20, Exhibit P1280, p 4; K20, Exhibit P1281 (*Milošević* transcript), T 2558; K58, T 7299, 7343; K58, Exhibit P1079, p 6.
[4472] K20, Exhibit P1279, p 4; K58, Exhibit P1080, p 6; K58, T 7299. Two were sent back immediately, K20, Exhibit P1279, p 4, K20, Exhibit P1281 (*Milošević* transcript), T 2527.
[4473] K20, Exhibit P1279, p 5; K20, T 8503.
[4474] K20, Exhibit P1279, p 5.

face and she lost consciousness. A second, third and fourth soldier, wearing green camouflage uniforms, came in and each raped the girl.[4475] After this the police officer, who spoke Albanian, told the girl to tell the others that she had been cleaning.[4476] The screaming of the other two young women who had been taken away by soldiers could be heard during the night.[4477]

1152. After taking away the first group of young women soldiers returned to the room where the people were staying to look for more girls. This happened on four or five occasions and some 20 young women were taken away.[4478] When they were brought back they were crying and had dishevelled hair. One of them told her mother that she had been raped.[4479]

1153. On 30 March 1999 at 0800 or 0900 hours the man who appeared to the villagers to be a commander, in police uniform, arrived at the rooms where the women and children were held and ordered them to leave for Albania.[4480] At about the same time a police officer came to the second floor of the house where the men were and asked whether anyone had a tractor. Those who had tractors or other vehicles were told to take the women and children to Dečani/Deçan town and Đakovica/Gjakovë.[4481] Accordingly, shortly thereafter, a convoy of tractors and vehicles with the women and children and some men set off from Beleg.[4482] Along the way, some other displaced persons from other villages joined the convoy so that there were hundreds of Kosovo Albanians travelling on trucks and tractors.[4483] Despite some inconsistency in the evidence, the Chamber accepts that police and army vehicles travelled with the convoy to the border.[4484] The convoy passed through checkpoints where the people were asked for their personal documents.[4485] The convoy crossed over the Albanian border near Kukës in the evening of 30 March 1999, or on the following day.[4486] At the border, when asked to produce their identification documents the refugees

[4475] K20, Exhibit P1279, p 5.
[4476] K20, Exhibit P1279, p 5.
[4477] K20, Exhibit P1279, p 6.
[4478] K58, Exhibit P1080, p 6; K58, T 7299.
[4479] K58, Exhibit P1081 (*Milutinović* transcript), T 7468; K58, Exhibit P1080, p 6.
[4480] K20, Exhibit P1279, p 6; K58, Exhibit P1079, p 7; K58, T 7300.
[4481] Mehmet Mazrekaj, Exhibit P675, pp 9-10; Mehmet Mazrekaj, T 3847.
[4482] K20, T 8505.
[4483] K20, Exhibit P1281 (*Milošević* transcript), T 2563; K20, T 8495; K58, Exhibit P1080, p 7; K58, T 7330; Mehmet Mazrekaj, Exhibit P676 (*Milutinović* transcript), T 5812. This number includes the Albanians from other villages that joined the convoy afterwards.
[4484] On the evidence of K58 the convoy was escorted by the police, K58, Exhibit P1081 (*Milutinović* transcript), T 7469. On Mehmet Mazrekaj's evidence, three APCs, one belonging to the VJ and the other two to the police, led or escorted the convoy, Mehmet Mazrekaj, Exhibit P676 (*Milutinović* transcript), T 5812. K20 testified that the convoy was not accompanied by the police or by army members, K20, Exhibit P1281 (*Milošević* transcript), T 2534, 2563.
[4485] K58, Exhibit P1279, p 7.
[4486] K20, Exhibit P1281 (*Milošević* transcript), T 2534; K58, Exhibit P1080, p 7.

told the Serbian border authorities that their personal documents had already been taken from them.[4487]

1154. Of the approximately 60 men who were taken to the second floor of a building in Beleg on 29 March 1999, 10 were released on the following day to drive the women and children to Albania.[4488] The remaining men have not been heard of since that day and are still unaccounted for.[4489]

1155. Following the end of hostilities in the summer of 1999, when residents of the area were able to return, they observed that all houses in Beleg had been burnt down.[4490]

1156. For reasons explained in detail later in this Judgement the Chamber is satisfied that the offence of deportation has been established with respect to Beleg.

1157. In addition to the findings made above as to the presence of both VJ and MUP forces, including local MUP and PJP, in Beleg and the immediate vicinity and their activities there, the Chamber also notes the consistency of these findings with documentary evidence from the Serbian forces. In the Chamber's finding, the documentary evidence further confirms the presence of VJ and MUP forces in the immediate area of Beleg, under joint orders to protect the Serbian population in Dečani/Deçan, to establish combat control of the territory in that area, and to "close off" specific axes. Within a few days of the events discussed, VJ forces were further charged to support MUP forces in smashing and destroying terrorists in sectors in the immediate vicinity of Beleg.

1158. In particular Exhibit P1189 is a dispatch issued by the Accused on 2 March 1999 ordering that one manoeuvre company from the 21st and 22nd PJP detachment and one territorial company from the 72nd PJP detachment are sent to Dečani/Deçan for a period of 40 days.[4491] An order of the Priština/Prishtinë Military District Command of 27 March 1999 which tasks the VJ 177th Military Territorial Detachment in coordination with forces of the VJ 125th Motorised Brigade and the MUP, *inter alia,* to protect the Serbian population in the town of Dečani/Deçan and to establish combat control of the territory and close off the axes of Dečani/Deçan—Peć/Pejë.[4492] A further order of the Joint Command issued on 2 April 1999 tasks the VJ 125th Motorised Brigade with providing support for MUP forces in "smashing and destroying" terrorists in the sectors of villages including

[4487] K20, Exhibit P1281 (*Milošević* transcript), T 2534; Mehmet Mazrekaj, Exhibit P676 (*Milutinović* transcript), T 5838; Mehmet Mazrekaj, T 3852-3853.
[4488] K20, Exhibit P1279, p 6; K20, Exhibit P1281 (*Milošević* transcript), T 2565; Mehmet Mazrekaj, Exhibit P675, pp 9-10.
[4489] K20, Exhibit P1279, p 6; K58, Exhibit P1080, pp 6-7; K58, Exhibit P1081 (*Milutinović* transcript), T 7468; K58, T 7301.
[4490] K20, Exhibit P1282 (*Milutinović* transcript), T 10060.
[4491] Exhibit P1189, p 1.

Maznik, Papić/Papiq, Rznić/Irzniq, and Glodane/Gllogljan.[4493] The villages of Papić/Papiq, Rznić/Irzniq, and Glodane/Gllogljan are in the immediate vicinity of the village of Beleg. While the order postdates the events described above, the Chamber accepts that the order is indicative of the presence of VJ and MUP forces in the area at the time of the events as the operations identified in the order could not be carried out if these forces were not then at these locations or in close proximity.

1159. The Chamber also finds that VJ and MUP forces acted in coordination in the movement of hundreds of displaced persons from Beleg and other villages in the immediate vicinity to cross the border into Albania.

1160. The Chamber further finds that Serbian forces, in particular PJP of the MUP, burnt the houses of Kosovo Albanians in Beleg as and after the population, or at least most women, children and elderly, were sent off to go to Albania.

M. Vučitrn/Vushtrri municipality

1161. The municipality of Vučitrn/Vushtrri is located in the centre of Kosovo and borders the municipality of Podujevo/Podujevë to the east, Kosovska Mitrovica/Mitrovicë to the north, Srbica/Skederaj to the west and Glogovac/Gllogoc and Obilic/Obiliq to the south.

1. KLA and Serbian controlled territory in March1999 and April 1999

1162. Evidence indicates that in March 1999, the KLA controlled approximately 80 per cent of the territory of Vučitrn/Vushtrri municipality.[4494] In particular, the KLA controlled the area between the villages of Slakovce/Sllakoc and Donja Sudimlja/Studime-e-Poshtme, except for the neighbourhood of Rašica/Rashica, the neighbourhood of Llapzoviq in Samodreža/Samodrezhë and Cecelija/Ceceli.[4495] There is also evidence that at around the same time, VJ and Serbian police forces held the town of Vučitrn/Vushtrri, the neighbourhood of Rašica/Rashica in Donja Sudimlja/Studime-e-Poshtme and the villages located on the main road between Mitrovica/Mitrovicë, Vučitrn/Vushtrri and Priština/Prishtinë, including Novo Selo

[4492] Exhibit P896, item 6.4.
[4493] Exhibit P1235, item 5.1.
[4494] Shukri Gerxhaliu, Exhibit P512, para 6.
[4495] Shukri Gerxhaliu, Exhibit P512, para 6; Shukri Gerxhaliu, Exhibit P513 (*Milutinović* transcript), T 2494-2499, 2531-2532; Shukri Gerxhaliu, T 3107-3109, 3143; Exhibit P514; Fedrije Xhafa, Exhibit P509 (*Milutinović* transcript), T 2459.

Begovo/Novoselle-e-Begut and Redakovc.[4496] Evidence also indicates that VJ forces held Gorji Svračak/Sfracaku-i-Epërme at the end of April 1999.[4497]

2. Vučitrn/Vushtrri town

1163. On 27 March 1999, Serbian forces, some wearing blue camouflage uniforms and others green camouflage uniforms, arrived at a school in Vučitrn/Vushtrri town.[4498] A witness, Sabit Kadriu, observed two Serbs wearing civilian clothes entering a house opposite the school. Shortly thereafter, he saw this house and the neighbouring house burning.[4499] The witness also observed Serbian forces wearing green camouflage uniforms in the vicinity of the burning houses.[4500]

1164. The same day in the evening, the old part of Vučitrn/Vushtrri and the town centre were burnt. The minaret of a 17th century mosque located in the town centre was burnt and fell down. The surrounding buildings belonging to the mosque were also burnt.[4501] Shouting and the sound of doors being broken could be heard.[4502] On 28 March 1999, in the morning, shooting was heard in the town.[4503] On 29 March 1999 in the morning, three or four bodies were found on a street nearby the old Vučitrn/Vushtrri Bridge.[4504]

1165. Evidence confirms that at the time, blue camouflage uniforms were worn by police and that green camouflage uniforms were worn by the VJ and the PJP of the MUP.[4505] The presence of MUP and VJ forces in Vučitrn/Vushtrri town is supported by an order issued by the Military District Command and dated 27 March 1999, redeploying the 54 Military Territorial Detachment of the Priština/Prishtinë Military Sector to Vučitrn/Vushtrri town. This order tasked the VJ units to act, in coordination with MUP forces, to establish control of the Vučitrn/Vushtrri area.[4506] Another document indicates the presence of two platoons of the 3rd Company of the PJP in Vučitrn/Vushtrri municipality at the time.[4507]

1166. On 1 April 1999 at around 0840 hours, people in Vučitrn/Vushtrri town heard voices shouting and telling the people to leave. These voices were those of police who were wearing blue

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[4496] Shukri Gerxhaliu, Exhibit P513 (*Milutinović* transcript), T 2494-2500, 2531-2533, 2538, 2592; Shukri Gerxhaliu, Exhibit P512, para 6; Shukri Gerxhaliu, T 3107-3109, 3142-3144.
[4497] Shukri Gerxhaliu, Exhibit P512, para 6; Shukri Gerxhaliu, Exhibit P513 (*Milutinović* transcript), T 2499-2500, 2531-2533; Shukri Gerxhaliu, T 3109; Exhibit P514.
[4498] Sabit Kadriu, Exhibit P515, p 12.
[4499] Sabit Kadriu, Exhibit P515, p 12.
[4500] Sabit Kadriu, Exhibit P515, p 12.
[4501] Sabit Kadriu, Exhibit P515, p 12.
[4502] Sabit Kadriu, Exhibit P515, p 12.
[4503] Sabit Kadriu, Exhibit P515, p 12.
[4504] Sabit Kadriu, Exhibit P515, p 12.
[4505] *See supra*, paras 53-54, 64, 162.
[4506] Exhibit P896, p 6.
[4507] Exhibit P1186, p 1.

camouflage uniforms. The residents were told to go to the cemetery.[4508] Three policemen were telling residents to be quick[4509] and Sabit Kadriu recognized one of the policemen to be Dragan Petrović, the Commander of Vushtrri/Vučitrn police station.[4510] He also saw a policeman beat, with the butt of his gun, a man who refused to leave his home.[4511]

1167. When the people of Vučitrn/Vushtrri town arrived at the cemetery, there were no Serbian forces present.[4512] However, three buses from the private company Hajra were waiting, as they had been instructed by the police.[4513] A bus-driver told the people that the police had instructed him to take them to FYROM.[4514] Most of the people at the cemetery boarded the buses, but because of a lack of space, some people had to walk behind.[4515] Sabit Kadriu did not board the bus and was able to reach the house of the KLA commander in Gornja Sudimlja/Studime-e-Epërme.[4516] This house was full of people who had left their villages.[4517] On 2 April 1999, Sabit Kadriu moved on to Cecelija/Ceceli, which was under KLA control.[4518]

3. Donji Svracak/Sfaraçak-i-Poshtëm

1168. The village of Donji Svracak/Sfaraçak-i-Poshtëm is situated on a plain in the municipality of Vučitrn/Vushtrri. The neighbouring village of Gornji Svračak/Sfaraçak-i-Epërm, is located on an elevated area north of Donji Svracak/Sfaraçak-i-Poshtëm.[4519] In March 1999, there were approximately 80 Albanian households and 10 Serbian households in the lower part of Donji Svracak/Sfaraçak-i-Poshtëm.[4520] The village of Gornji Svračak/Sfaraçak-i-Epërm is visible to the naked eye from Donji Svracak/Sfaraçak-i-Poshtëm.[4521]

1169. In March 1999, VJ forces had taken position in the neighbourhood of Llapzoviq in the village of Samodreža/Samodrezhë and in the hills of Gornji Svračak/Sfaraçak-i-Epërm, on the Donja Sudimlja/Studime-e-Poshtme side.[4522]

[4508] Sabit Kadriu, Exhibit P515, pp 12-13.
[4509] Sabit Kadriu, Exhibit P515, p 13.
[4510] Sabit Kadriu, Exhibit P515, p 13; Sabit Kadriu, Exhibit P516 (*Milutinović* transcript), T 5071-5072.
[4511] Sabit Kadriu, Exhibit P515, p 13.
[4512] Sabit Kadriu, Exhibit P516 (*Milutinović* transcript), T 5122; Sabit Kadriu, Exhibit P515, p 13.
[4513] Sabit Kadriu, Exhibit P515, p 13.
[4514] Sabit Kadriu, Exhibit P516 (*Milutinović* transcript), T 5122; Sabit Kadriu, Exhibit P515, p 13.
[4515] Sabit Kadriu, Exhibit P515, p 13.
[4516] Sabit Kadriu, Exhibit P516 (*Milutinović* transcript), T 5123; Sabit Kadriu, Exhibit P515, p 13.
[4517] Sabit Kadriu, Exhibit P516 (*Milutinović* transcript), T 5123.
[4518] Sabit Kadriu, Exhibit P515, p 13.
[4519] Fedrije Xhafa, Exhibit P509 (*Milutinović* transcript), T 2418, 2420; Fedrije Xhafa, T 3083-3084; Exhibit P511.
[4520] Fedrije Xhafa, Exhibit P509 (*Milutinović* transcript), T 2418; Fedrije Xhafa, T 3064.
[4521] Fedrije Xhafa, T 3084.
[4522] Fedrije Xhafa, T 3068; Fedrije Xhafa, Exhibit P510, para 3; Exhibit P511.

1170. On 27 March 1999, all the Serbian families left Donji Svracak/Sfaraçak-i-Poshtëm for the village of Nedakovac/Nedakofc.[4523] On the next day, Fedrije Xhafa, an Albanian resident of lower Donji Svracak/Sfaraçak-i-Poshtëm, heard heavy weapon fire and observed that the houses in Gornji Svračak/Sfaraçak-i-Epërm were burning.[4524] Because of the events and fearing for their safety, with only a few exceptions, all Albanian families left Donji Svracak/Sfaraçak-i-Poshtëm in a convoy.[4525] The convoy travelled through the village of Gornja Dubnica/Dumnicë-e-Epërme and Samodreža/Samodrezhë, before stopping in Vesekovce/Vesekoc.[4526] Fedrije Xhafa's father, her uncle and her cousin, who had remained in Donji Svracak/Sfaraçak-i-Poshtëm, were nevertheless forced to leave the village shortly after the convoy because of danger to the Kosovo Albanian people from sniper shots coming from the direction of Nedakovac/Nedakofc. The Albanian families were not allowed to return to the village at this time.[4527]

1171. At the end of the war, when the residents of Donji Svracak/Sfaraçak-i-Poshtëm were able to return to the village, they found that the houses belonging to Albanian families were burnt and that the houses of Serbian families were not damaged.[4528]

4. Donja Sudimlja/Studime-e-Poshtme and Slakovce/Sllakoc

1172. The village of Donja Sudimlja/Studime-e-Poshtme is divided into the neighbourhood of Lower Mohalla and the neighbourhood of Upper Mohalla. Upper Mohalla is also known as Rašica/Rashica.[4529] It is situated on an elevated area of Donja Sudimlja/Studime-e-Poshtme.[4530] On 28 and 29 March 1999, Serbian forces were present in Donji Svracak/Sfaraçak-i-Poshtëm and in Rašica/Rashica.[4531] Donja Sudimlja/Studime-e-Poshtme came under Serbian shelling and other weapon fire, causing the population to flee towards the surrounding hills.[4532] On 29 March 1999, Serbian forces, believed to be local Vučitrn/Vushtrri police, came to Donja Sudimlja/Studime-e-Poshtme and told the residents they had 15 minutes to leave the village or face the consequences.[4533] Villagers then fled to the hills surrounding the village. The lower part of Donja Sudimlja/Studime-e-Poshtme came under small arms fire, while Rašica/Rashica was under shelling

[4523] Fedrije Xhafa, T 3045, 3066-3068, 3085, 3088; Fedrije Xhafa, Exhibit P510, para 2; Fedrije Xhafa, Exhibit P509 (*Milutinović* transcript), T 2420, 2455-2456.
[4524] Fedrije Xhafa, T 3045, 3066-3068, 3085, 3088; Fedrije Xhafa, Exhibit P510, paras 2-3; Fedrije Xhafa, Exhibit P509 (*Milutinović* transcript), T 2420, 2455-2456; Exhibit P511.
[4525] Fedrije Xhafa, T 3045, 3066-3068, 3085, 3088; Fedrije Xhafa, Exhibit P510, para 2; Fedrije Xhafa, Exhibit P509 (*Milutinović* transcript), T 2420-2421, 2455-2456.
[4526] Fedrije Xhafa, T 3045, 3066-3069, 3085, 3088; Fedrije Xhafa, Exhibit P510, para 2; Fedrije Xhafa, Exhibit P509 (*Milutinović* transcript), T 2420, 2455-2456; Exhibit P511.
[4527] Fedrije Xhafa T 3087-3088; Fedrije Xhafa Exhibit, P510, para 2.
[4528] Fedrije Xhafa, T 3062; Fedrije Xhafa, Exhibit P509 (*Milutinović* transcript), T 2424.
[4529] Shukri Gerxhaliu, Exhibit P513 (*Milutinović* transcript), T 2499-2500.
[4530] Shukri Gerxhaliu, Exhibit P513 (*Milutinović* transcript), T 2499-2500; Shukri Gerxhaliu, Exhibit P512, para 6.
[4531] Shukri Gerxhaliu, Exhibit P513 (*Milutinović* transcript), T 2499-2500; Shukri Gerxhaliu, Exhibit P512, para 6.
[4532] Shukri Gerxhaliu, Exhibit P512, para 6.

from VJ tanks and heavy weapons.[4534] During this operation, houses in the village were set on fire.[4535] A witness in the hills observed that Serbian forces stayed in Donja Sudimlja/Studime-e-Poshtme for a few days.[4536]

1173. Between 7 April 1999 and 10 April 1999, Shukri Gerxhaliu was in his house in Donja Sudimlja/Studime-e-Poshtme.[4537] Around 10 April 1999, he heard that Serbian forces were coming to take him away. Fearing for his safety, he hid in bushes at the back of his house. While hiding, he heard men asking his wife in Serbian and in Albanian about his whereabouts. He was told later by his wife that the men were police officers.[4538] Later, he observed that the house of Izet Bunjaku, in Donja Sudimlja/Studime-e-Poshtme, was burning.[4539] Because of this incident, the witness left the village with his family to go to a KLA controlled area in the surrounding hills.[4540] On the way, as they walked by the stream running alongside the road towards Donja Sudimlja/Studime-e-Poshtme, the family came under small arms fire but were not hit. When they came within sight of Rašica/Rashica, they were also shelled by VJ tanks.[4541] As the family reached a strip of land between 200 and 300 metres in length, located between KLA and Serbian controlled territory between Donja Sudimlja/Studime-e-Poshtme and Gornja Sudimlja/Studime-e-Epërme, they were picked up by people in a horse and cart and taken to Slakovce/Sllakoc, where KLA forces were located.[4542]

1174. Up until the end of April 1999, the KLA resisted Serbian forces in Vučitrn/Vushtrri municipality. However, around 28 April 1999, Serbian forces successfully advancing against KLA positions in the mountains in the direction of Kosovska Mitrovica/Mitrovicë, took control of Bajgora/Bajgorë, and established a camp at Bare. A simultaneous offensive by Serbian forces was launched from the direction of Podujevo/Podujevë and Serbia. On 1 May 1999, Serbian forces advanced to Vesekovce/Vesekoc.[4543]

[4533] Shukri Gerxhaliu, Exhibit P513 (*Milutinović* transcript), T 2501-2503.
[4534] Shukri Gerxhaliu, Exhibit P512, para 6; Shukri Gerxhaliu, Exhibit P513 (*Milutinović* transcript), T 2500.
[4535] Shukri Gerxhaliu, Exhibit P512, para 6.
[4536] Shukri Gerxhaliu, Exhibit P513 (*Milutinović* transcript), T 2503.
[4537] Shukri Gerxhaliu, Exhibit P512, para 7.
[4538] Shukri Gerxhaliu, Exhibit P512, para 7; Shukri Gerxhaliu, Exhibit P513 (*Milutinović* transcript), T 2504.
[4539] Shukri Gerxhaliu, Exhibit P512, para 8; Shukri Gerxhaliu, Exhibit P513 (*Milutinović* transcript), T 2502-2503.
[4540] Shukri Gerxhaliu, Exhibit P513 (*Milutinović* transcript), T 2504-2505.
[4541] Shukri Gerxhaliu, Exhibit P512, para 8; Shukri Gerxhaliu, Exhibit P513 (*Milutinović* transcript), T 2504-2505.
[4542] Shukri Gerxhaliu, Exhibit P512, para 9; Fedrije Xhafa, Exhibit P509 (*Milutinović* transcript), T 2456.
[4543] Sabit Kadriu, Exhibit P515, p 14.

1175. Around 28 April 1999, an advance by Serbian forces in the area caused displaced Kosovo Albanians sheltering in the mountainous region Shala to move towards Samodreža/Samodrezhë, Slakovce/Sllakoc and Cecelija/Ceceli.[4544]

1176. An order dated 15 April 1999 from the Joint Command indicates that the VJ Priština/Prishtinë Corps was deployed at this time to support MUP forces in "breaking up and destroying KLA forces in the Shala Zone, including in Samodreža/Samodrezhë and Cecelija/Ceceli.[4545]

1177. On 1 May 1999, Serbian forces advanced to Vesekovce/Vesekoc, a village situated in the north-east part of Vučitrn/Vushtrri municipality.[4546] In the evening of the same day, Serbian forces started shelling Vesekovce/Vesekoc.[4547]

1178. On or around that day, in the village of Slakovce/Sllakoc, located south of Vesekovce/Vesekoc, the KLA was resisting the advance of Serbian forces coming from the village of Meljenica/Meleniocë and from the Llap Zone. The KLA told the people in Slakovce/Sllakoc that they were running out of ammunition to defend Slakovce/Sllakoc and told them to go to Vučitrn/Vushtrri town.[4548] Meanwhile, the KLA moved from Slakovce/Sllakoc to the east and Serbian forces started shelling Slakovce/Sllakoc.[4549]

1179. On 2 May 1999, by 1100 hours, Slakovce/Sllakoc was being shelled heavily. Houses were seen burning and the sound of automatic gunfire was heard. Shortly thereafter, Serbian infantry forces entered Slakovce/Sllakoc.[4550] At around 1300 hours, over 30,000 Kosovo Albanian people left Slakovce/Sllakofc on foot, by horses and by vehicle.[4551]

1180. The convoy first travelled to Cecelija/Ceceli before heading towards Gornja Sudimlja/Studime-e-Epërme, Donja Sudimlja/Studime-e-Poshtme and Vučitrn/Vushtrri town.[4552]

[4544] Sabit Kadriu, Exhibit P515, p 14.
[4545] Exhibit P969.
[4546] Sabit Kadriu, Exhibit P515, p 14.
[4547] Sabit Kadriu, Exhibit P515, p 14.
[4548] Fedrije Xhafa, Exhibit P510, para 4; Shukri Gerxhaliu, Exhibit P512, para 11; Shukri Gerxhaliu, Exhibit P513 (*Milutinović* transcript), T 2506-2509, 2562-2563, 2598; Shukri Gerxhaliu, T 3147-3150.
[4549] Fedrije Xhafa, Exhibit P510, para 4; Shukri Gerxhaliu, Exhibit P512, para 11; Shukri Gerxhaliu, Exhibit P513 (*Milutinović* transcript), T 2506-2509, 2562-2563, 2598; Shukri Gerxhaliu, T 3147-3150, 3167.
[4550] Sabit Kadriu, Exhibit P515, pp 14-15; Sabit Kadriu, Exhibit P516 (*Milutinović* transcript), T 5126-5127.
[4551] Shukri Gerxhaliu, Exhibit P513 (*Milutinović transcript*), T 2560-2562; Shukri Gerxhaliu, Exhibit P512, para 11; Sabit Kadriu, Exhibit P515, pp 14-15; Fedrije Xhafa, T 3046-3047, 3080-3083; Fedrije Xhafa, Exhibit P510, para 4; Fedrije Xhafa, Exhibit P509 (*Milutinović transcript*), T 2431-2433, 2459-2460.
[4552] Shukri Gerxhaliu, Exhibit P513 (*Milutinović* transcript), T 2560-2563; Shukri Gerxhaliu, Exhibit P512, para 11; Sabit Kadriu, Exhibit P515, p 14; Sabit Kadriu, Exhibit P516 (*Milutinović* transcript), T 5096; Fedrije Xhafa, T 3046-3047, 3080-3083; Fedrije Xhafa, Exhibit P510, para 4; Fedrije Xhafa, Exhibit P509 (*Milutinović* transcript), T 2431-2432, 2448-2449, 2459-2460. There is a variation in the number of people

The road between Slakovce/Sllakoc and Gornja Sudimlja/Studime-e-Epërme was approximately seven kilometres long.[4553] Between Cecelija/Ceceli and Gornja Sudimlja/Studime-e-Epërme, the convoy came under VJ shelling and gun fire coming from Slakovce/Sllakoc, the Rašica/Rashica neighbourhood in Donja Sudimlja/Studime-e-Poshtme, Gornji Svračak/Sfaraçak-i-Epërm and from the north.[4554] At around 1500 hours, the shelling and gunfire forced the convoy to stop in Gornja Sudimlja/Studime-e-Epërme. At least two people in the convoy were wounded by gunfire.[4555]

1181. Between 1600 hours and 1700 hours that same day, the convoy was able to start moving again. However, as the convoy progressed short bursts of machine gun fire were heard. At around 1800 hours, the convoy stopped in a position that was sheltered from the line of fire by a curve in the road. This was at a location some three kilometres past Gornja Sudimlja/Studime-e-Epërme and about one kilometre from Donja Sudimlja/Studime-e-Poshtme.[4556] Serbian forces had imposed a 1600 hours curfew in that area.[4557] At night fall, houses in Gornja Sudimlja/Studime-e-Epërme were seen to be burning and automatic gunfire was heard coming from that village.[4558]

1182. At around 1700 hours, Serbian forces approached the convoy from the north in APC vehicles and Pinzgauers.[4559] They wore green camouflage uniforms, blue camouflage uniforms and plain black uniforms.[4560] Some wore bandannas.[4561] There were men with painted faces, others wore plastic masks which covered the area from their face to their chest with holes for the eyes and the mouth and were painted with eyebrows and moustaches.[4562] Serbian forces were described as paramilitary. There is other evidence that paramilitary forces wore plain black uniforms, bandannas, and had painted faces or wore masks. While the description of the Serbian forces in

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observed in the convoy. Some witnesses report observing up to 50,000 people. These numbers are estimates. The Chamber prefers the more conservative estimate.

4553 Fedrije Xhafa, Exhibit P509 (*Milutinović* transcript), T 2431.

4554 Shukri Gerxhaliu, T 3112-3113, 3168; Shukri Gerxhaliu, Exhibit P512, para 12; Shukri Gerxhaliu, Exhibit, P514; Sabit Kadriu, Exhibit P515, pp 14-15.

4555 Shukri Gerxhaliu, Exhibit P512, para 13; Shukri Gerxhaliu, Exhibit P513 (*Milutinović* transcript), T 2566, 2593; Shukri Gerxhaliu, T 3144-3146; Fedrije Xhafa, Exhibit P509 (*Milutinović* transcript), T 2459; Sabit Kadriu, Exhibit P515, p 15. The Defence argues that the convoy was a "mixed KLA/civilian convoy". The evidence confirms that Shukri Gerxhaliu, who was taking part in the convoy, was a member of the KLA and that in April and May 1999, the villages of Gornja Sudimlja/Studimja-e-Epërme and Cecelija/Ceceli were KLA strongholds. The Defence argues that because of the KLA activity in this area, frequent fighting occurred between the KLA forces and the forces of the FRY. This part of the evidence will be dealt with in further detail later in this Judgement, *see infra,* paras 1742-1743.

4556 Shukri Gerxhaliu, Exhibit P512, paras 14-15; Shukri Gerxhaliu, P513 (*Milutinović* transcript), T 2578; Shukri Gerxhaliu, T 3111-3112, 3167; Exhibit P514; Fedrije Xhafa, Exhibit P509 (*Milutinović* transcript), T 2432-2433; Sabit Kadriu, Exhibit P515, p 14.

4557 Shukri Gerxhaliu, Exhibit P512, para 14; Fedrije Xhafa, T 3048; Fedrije Xhafa, Exhibit P509 (*Milutinović* transcript), T 2437; Sabit Kadriu, Exhibit P515, p 15.

4558 Sabit Kadriu, Exhibit P515, p 15.

4559 Shukri Gerxhaliu, Exhibit P512, para 15; Shukri Gerxhaliu, Exhibit P513 (*Milutinović* transcript), T 2585; Shukri Gerxhaliu, T 3113-3114.

4560 Shukri Gerxhaliu, Exhibit P512, para 16; Shukri Gerxhaliu, Exhibit P513 (*Milutinović* transcript), T 2512, 2602.

4561 Shukri Gerxhaliu, Exhibit P513 (*Milutinović* transcript), T 2578.

black uniforms is consistent with them being paramilitary forces, the presence of green camouflage and blue camouflage uniforms confirms, in the Chamber's finding, that there were also MUP and VJ forces in the mixed Serbian forces which came to the convoy.[4563]

1183. The Serbian forces demanded money from people in the convoy and they threatened to rape the wife of a witness if she did not pay.[4564] The witness's wife then paid some money.[4565] The brother-in-law of this witness, Halil Basholli, was asked for his name and where he was from. He was then beaten by members of the Serbian forces with a rifle, wooden sticks and police batons. Halil Basholli was heavily injured as a result of the beating.[4566]

1184. Another group of Serbian armed men, identified as policemen, driving Jeeps and APCs, approached the main body of the convoy that had remained on the road to Donja Sudimlja/Studime-e-Poshtme. The police came from the direction of the neighbourhood of Rašica/Rashica in Gornja Sudimlja/Studime-e-Epërme. They pushed a vehicle which was in their way into a stream nearby.[4567] They disembarked from their vehicles and demanded money from the people in the convoy, shooting men who did not pay.[4568] One witness saw Serbian forces approach one tractor and repeatedly ask the tractor-driver for money. He then saw police pull the driver off that tractor. The tractor-driver's father, Sherif Bunjaku, begged the police not to kill his son. However, automatic gunfire followed and the tractor-driver was killed.[4569] The tractor driver was not armed. The Chamber accepts that the tractor driver was Hysni Bunjaku, a Kosovo Albanian who is listed in Schedule I of the Indictment and was 21 years old at the time of the events. Members of the Serbian forces were heard to say that they had killed about 50 people and that they would not stop until they reached 100.[4570]

1185. At about the same time, Shukri Gerxhaliu, who was travelling in the convoy, heard men speaking Serbian approach the tractor of Haki Gerxhaliu and his family, which was immediately behind Shukri Gerxhaliu's trailer.[4571] Haki Gerxhaliu got off his tractor and he was shot.[4572]

[4562] Shukri Gerxhaliu, Exhibit P512, para 16; Shukri Gerxhaliu, Exhibit P513 (*Milutinović* transcript), T 2512, 2565, 2600-2601.
[4563] *See supra*, paras 53-54, 162.
[4564] Shukri Gerxhaliu, Exhibit P512, para 15; Shukri Gerxhaliu, Exhibit P513 (*Milutinović* transcript), T 2578.
[4565] Shukri Gerxhaliu, Exhibit P512, para 15.
[4566] Shukri Gerxhaliu, Exhibit P512, para 17; Shukri Gerxhaliu, T 3114.
[4567] Shukri Gerxhaliu, Exhibit P512, paras 18-20; Shukri Gerxhaliu, Exhibit P513 (*Milutinović* transcript), T 2512-2513, 2600-2601.
[4568] Shukri Gerxhaliu, Exhibit P512, paras 18-21.
[4569] Shukri Gerxhaliu, Exhibit, P512, paras 18-20; Shukri Gerxhaliu, T 3115, 3169.
[4570] Shukri Gerxhaliu, Exhibit P512, para 21.
[4571] Shukri Gerxhaliu, Exhibit P512, para 21; Shukri Gerxhaliu, T 3114-3115, 3163-3164. Considering the presence of Serbian forces in that section of the convoy at the time, the Chamber is satisfied that the men speaking Serbian were Serbian forces.
[4572] The Defence argues that Shukri Gerxhaliu could not have seen the killings, including that of Haki Gerxhaliu, as he was lying on a trailer underneath a plastic sheet at the time the events took place. Having carefully considered the

Shortly after, fearing for his life, Shukri Gerxhaliu jumped off his trailer to run away. As he did, he landed on top of the body of Haki Gerxhaliu, who was lying on the ground next to his tractor, apparently dead.[4573] Several other members of the Gerxhaliu's family who were in the convoy were shot that night, although the evidence does not enable them to be separately identified.[4574] Tractors belonging to people in the convoy were pushed into the stream or burnt by members of the Serbian forces.[4575]

1186. Later that evening, at around 2100 hours, three men from the Serbian forces wearing uniforms and masks and carrying automatic weapons, arrived from the direction of Gornja Sudimlja/Studime-e-Epërme and went to another part of the same convoy. They ordered the people in that part of the convoy to move towards Donja Sudimlja/Studime-e-Poshtme.[4576] As the convoy continued its route, members of the Serbian forces pointed a search-light on a man in the convoy. Automatic gunfire was then heard from this location and the body of a man from the convoy was seen to be lying on the ground. Members of the Serbian forces who had fired at this man were standing next to his dead body. The dead man was not armed.[4577]

1187. After 2100 hours, the convoy arrived at a fork in the road. One of the roads led to Vučitrn/Vushtrri and the other led to Donja Sudimlja/Studime-e-Poshtme. Serbian forces directed the convoy to the Vučitrn/Vushtrri road. Meanwhile, shells fell approximately 50 metres from the convoy and divided it in two.[4578] While the main part of the convoy stayed in the area of Donja Sudimlja/Studime-e-Poshtme, a smaller part of approximately 1,000 people was directed by Serbian forces to continue to Vučitrn/Vushtrri. This segment of the convoy arrived at the Agricultural Cooperative in Vučitrn/Vushtrri at about 2200 hours.[4579]

1188. Later that evening, the sound of gunfire was heard in the convoy. Combined Serbian forces, coming from the north in green APCs and Pinzgauers covered with branches, surrounded the

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testimony of this witness, the Chamber considers his account as reliable, in particular, that he was able to see what was happening by putting his head out from under the plastic sheet to observe the scene. Shukri Gerxhaliu, T 3163-3164.

[4573] Shukri Gerxhaliu, Exhibit P512, para 21; Shukri Gerxhaliu, T 3114-3115, 3163-3164.

[4574] Shukri Gerxhaliu, Exhibit P512, para 22.

[4575] Shukri Gerxhaliu, Exhibit P512, para 24.

[4576] Sabit Kadriu, Exhibit P515, p 16.

[4577] Sabit Kadriu, Exhibit P515, p 16. Even if the victim had been a KLA member, Serbian forces were not justified in killing him.

[4578] Sabit Kadriu, Exhibit P515, p 16. The Chamber notes that often mortar shells are described or interpreted as grenades.

[4579] Sabit Kadriu, Exhibit P515, p 16.

convoy.[4580] Some members of the Serbian forces wore blue camouflage uniform, others wore plain black uniforms and the remainder wore green camouflage uniforms.[4581]

1189. The people in the convoy were ordered to clear the road to let the police and VJ vehicles pass through.[4582] Shortly after, a large group of Serbian police officers fired their machine guns in the air. They cursed and shouted insults in Serbian at people in the convoy. They examined the identification documents of a man called Ismet and accused him of being a KLA fighter. Some evidence does indicate that Ismet had been a member of the KLA in the past, but not at the time he was in the convoy. He was not armed.[4583] Ismet was beaten with bare hands and threatened that he would be killed unless he paid money. The policemen were given money after which Ismet was released.[4584]

1190. One member of the Serbian forces wearing a green sleeveless vest over a dark blue camouflage uniform, in the Chamber's finding, a policeman, pulled Fedrije Xhafa's brother, Jetish, from his tractor and beat him with a thick wooden stick. The policeman then threatened to kill Jetish Xhafa unless he paid money. A woman gave the policeman her jewellery and Jetish was released.[4585]

1191. Shortly after this, at about 2330 hours, another group of men approached Jetish Xhafa's tractor. The men wore blue police uniforms and two of them had black gloves, black balaclava masks with holes for the eyes and mouth with their blue camouflage uniforms.[4586] The uniforms satisfy the Chamber that these were police. One of the policemen pointed a machine gun at Fedrije Xhafa's mother. Meanwhile, Jetish was dragged to a nearby road facing towards Donja Sudimlja/Studime-e-Poshtme. A policeman pointed his rifle at Jetish's head. A single shot was fired and Jetish fell to the ground.[4587] The policemen then dragged Fedrije Xhafa's father to the spot where Jetish lay. Fedrije Xhafa heard shots. After the second shot she heard her father, Miran Xhafa (71 years old) cry out. She heard a third shot and she saw that her father had fallen to the

[4580] Fedrije Xhafa, T 3048-3049; Fedrije Xhafa, Exhibit P509 (*Milutinović* transcript), T 2438, 2483; Fedrije Xhafa, Exhibit P510, para 5; Sabit Kadriu, T 3201; Sabit Kadriu, Exhibit P516 (*Milutinović* transcript), T 5141.
[4581] Fedrije Xhafa, Exhibit P510, para 5; Fedrije Xhafa, T 3041.
[4582] Fedrije Xhafa, T 3048, 3093; Fedrije Xhafa, Exhibit P509 (*Milutinović* transcript), T 2438.
[4583] Fedrije Xhafa, T 3085.
[4584] Fedrije Xhafa, T 3048-3049, 3075; Fedrije Xhafa, Exhibit P510, para 5; Fedrije Xhafa, Exhibit P509 (*Milutinović* transcript), T 2439; Exhibit D68.
[4585] Fedrije Xhafa, T 3050, 3093; Fedrije Xhafa, Exhibit P510, para 6; Fedrije Xhafa, Exhibit P509 (*Milutinović* transcript), T 2441.
[4586] Fedrije Xhafa, T 3093-3094; Fedrije Xhafa, Exhibit P509 (*Milutinović* transcript), T 2467-2468, 2478; Fedrije Xhafa, Exhibit P510, para 7.
[4587] Fedrije Xhafa, T 3051; Fedrije Xhafa, Exhibit P510, para 7; Fedrije Xhafa, Exhibit P509 (*Milutinović* transcript), T 2445-2446, 2469.

ground.[4588] Not long after she heard another shot.[4589] It was not until after the war that Fedrije Xhafa learned that Jetish had survived but that her father had died in this incident. Neither of the men shot had been armed.[4590]

1192. At about the same time as these events, Fedrije Xhafa's family, still in the convoy, was ordered by Serbian forces to start moving. The convoy was again under way. There was nobody left in the family to drive the tractor. Lavdim, who was 13 years old and who did not know how to drive, attempted to move the vehicle but was beaten by a policeman with the butt of his rifle when he failed to make it move.[4591] After a few attempts, Lavdim was able to move the tractor for approximately 100 metres but then stopped on the side of the road. The family then hid behind the tractor. The family sent one of its members, Ismet, to Samodreža/Samodrezhë to tell KLA forces what had happened to the convoy.[4592] Other Serbian police wearing blue camouflage uniforms returned to the tractor and ordered the family to keep moving with the rest of the convoy. The family left the tractor and their belongings behind as there was no driver and continued in the convoy on foot.[4593] As the convoy progressed, Serbian forces ordered the people in the convoy to shout: "KLA", "Slobo" and "Draza".[4594] On the way, a witness observed seven or eight corpses. Amongst them, she recognized her cousin, Veli Xhafa, who lay dead on his tractor. The witness also observed injured people, including women and children, on the road. One of them, a young boy, was shot by a policeman.[4595]

1193. Shukri Gerxhaliu, who was in another part of the convoy, observed that 10 vehicles carrying soldiers and police, coming from the direction of Vučitrn/Vushtrri town, were heading along the road from Donja Sudimlja/Studime-e-Poshtme to Gornja Sudimlja/Studime-e-Epërm.[4596] These were APC vehicles and three regular police cars. One of the occupants, a VJ soldier, was heard to say that the area had been "mopped up".[4597] The vehicles carrying the soldiers and police moved on, and the convoy was able to keep going. Bodies could be seen on both sides of the road as they

[4588] Fedrije Xhafa, T 3051; Fedrije Xhafa, Exhibit P510, paras 7-8; Fedrije Xhafa, Exhibit P509 (*Milutinović* transcript), T 2446, 2469.
[4589] Fedrije Xhafa, T 3051; Fedrije Xhafa, Exhibit P510, paras 1, 7-8; Fedrije Xhafa, Exhibit P509 (*Milutinović* transcript), T 2446, 2469.
[4590] Fedrije Xhafa, Exhibit P509 (*Milutinović* transcript), T 2422-2423; Fedrije Xhafa, T 3051.
[4591] Fedrije Xhafa, Exhibit P510, para 9; Fedrije Xhafa, T 3052.
[4592] Fedrije Xhafa, Exhibit P510, para 9; Fedrije Xhafa, T 3052, 3092; Fedrije Xhafa, Exhibit P509 (*Milutinović* transcript), T 2447-2448, 2486.
[4593] Fedrije Xhafa, T 3053, 3073; Fedrije Xhafa, Exhibit P510, para 9; Fedrije Xhafa, Exhibit P509 (*Milutinović tran*script), T 2423.
[4594] Fedrije Xhafa, Exhibit P510, para 9; Fedrije Xhafa, T 3053.
[4595] Fedrije Xhafa, T 3053, 3060, 3094; Fedrije Xhafa, Exhibit P509 (*Milutinović* transcript), T 2470-2472, 2480-2481.
[4596] Shukri Gerxhaliu, Exhibit P512, para 24.
[4597] Shukri Gerxhaliu, T 3102-3103, 3116; Shukri Gerxhaliu, Exhibit P512, para 24; Shukri Gerxhaliu, Exhibit P513 (*Milutinović* transcript), T 2604.

moved along.[4598] One witness left the convoy and return to Gornja Sudimlja/Studime-e-Epërm. There, he found KLA soldiers burying human corpses. Many appeared to have been shot from a close range. The victims were mostly men but there were some women and children.[4599] A KLA member showed the witness a list of 97 people believed to have been killed and asked if he knew any of them. The witness's name mistakenly appeared on the list and was crossed out.[4600]

1194. The Defence challenged the credibility of Shukri Gerxhaliu, arguing that in his previous testimony before the Tribunal, he did not mention the presence of policemen in the vehicles that came from Vučitrn/Vushtrri.[4601] The Chamber notes that Gerxhaliu had amended his previous statement to include that, in addition to the soldiers, policemen were in the APC vehicles and the police cars that came from Vučitrn/Vushtrri town.[4602] The Chamber does not consider that this amendment undermines Gerxhaliu's credibility. Although Gerxhaliu was a member of the KLA at the time of the event alleged in the Indictment, and for this reason his evidence has been considered with much care, the Chamber was generally impressed by the witness and considered that he gave credible and reliable evidence about events in the municipality.

1195. Later that day, it was seen from the convoy that the village of Gornja Sudimlja/Studime-e-Epërm was burning.[4603] At about 0200 hours on 3 May 1999, the main part of the convoy, still escorted by Serbian forces, rejoined the smaller segment of the convoy that had reached the Agricultural Cooperative in Vučitrn/Vushtrri.[4604]

1196. It is alleged in the Indictment that during the night of 2/3 May 1999, Serbian forces killed approximately 105 people travelling in a convoy on the "Studime Gorge" road, in the direction of Vučitrn/Vushtrri.[4605] Schedule I of the Indictment lists 104 alleged victims by name.

1197. As discussed above, eye-witness evidence establishes that four of the victims listed in the Indictment, Hysni Bunjaku, Haki Gerxhaliu, Miran Xhafa and Veli Xhafa, were killed by Serbian forces in the night of 2/3 May 1999 on their way to Vučitrn/Vushtrri town. The evidence about the killings of Haki Gerxhaliu, Miran Xhafa and Veli Xhafa is supported by the findings of the French forensic experts who later exhumed and examined the bodies. The forensic reports reveal that they

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[4598] Sabit Kadriu, Exhibit P515, p 16; Shukri Gerxhaliu, P513 (*Milutinović* transcript), T 2604.
[4599] Shukri Gerxhaliu, Exhibit P512, para 25. The Defence argues that the fact that Shukri Gerxhaliu was able to leave the convoy and to return to Gornja Sudimlja/Studime-e-Epërm shows that his movements were voluntary and that the people in the convoy were not being forced to leave their home. The Chamber is satisfied that the actions of the Serbian forces, in particular the killings, were manifestly intended at terrorizing the people in the convoy into continuing to walk towards the borders and that the movements of the people in the convoy were not voluntary.
[4600] Shukri Gerxhaliu, Exhibit P512, para 25; Shukri Gerxhaliu, T 3117.
[4601] Defence Final Trial Brief, para 900.
[4602] Shukri Gerxhaliu, T 3101-3103.
[4603] Shukri Gerxhaliu, T 3116.
[4604] Fedrije Xhafa, Exhibit P510, para 10; Sabit Kadriu, Exhibit P515, p 16; Fedrije Xhafa, T 3054.

had suffered a violent death caused by gunshot wounds to the head.[4606] The body of Hysni Bunjaku was never found by the forensic team. However, based on eye-witness evidence, the Chamber is satisfied that he was shot and killed in the convoy by Serbian forces in the night of 2/3 May 1999. Based on the eyewitness account discussed above, the Chamber is satisfied that at the time of their killing, these victims were travelling in a convoy of displaced people, were in the custody of Serbian forces and were not taking active part in hostilities. The Chamber is satisfied that these victims were Kosovo Albanians.

1198. With respect to the remaining men listed in Schedule I of the Indictment, no evidence about the circumstances of their death has been presented. The Prosecution seeks to rely on the evidence of Sabit Kadriu, the President of the local War Crime Commission of Vučitrn/Vushtrri, who investigated the killings of the people in the night of 2/3 May 1999. It is his evidence that on the basis of interviews he conducted with the families of the victims and eye-witnesses, he compiled a list of 104 victims thought to have been killed on 2/3 May 1999, in various locations in Vučitrn/Vushtrri municipality.[4607] Kadriu's list is identical to the list in Schedule I of the Indictment. It is also Sabit Kadriu's evidence that the bodies of these 104 persons were found on 3 May 1999, and were then buried in a cemetery in the village of Gornja Sudimlja/Studime-e-Epërm.[4608]

1199. Considering its finding that, at the time, there was on-going fighting between the KLA and Serbian forces in Vučitrn/Vushtrri municipality, the Chamber cannot exclude the possibility that some of the men buried in the cemetery in Gornja Sudimlja/Studime-e-Epërm may have been killed while taking part in hostilities or that their death may not have been caused by Serbian forces. The Chamber is not satisfied that the remaining persons listed on Sabit Kadriu's list were killed by Serbian forces in the manner described above.

5. Agricultural Cooperative in Vučitrn/Vushtrri town

1200. The policeman who had beaten Jetish Xhafa during the progress of the convoy to Vučitrn/Vushtrri town was at the Agricultural Cooperative in the town.[4609] Policemen in blue uniforms ordered people from the convoy to go to various buildings of the Agricultural

[4605] Paragraph 75(i) of the Indictment.
[4606] *See supra*, paras 1427, 1742.
[4607] Sabit Kadriu, T 3177-3179, 3218; Exhibit P515, pp 21-24. Hysni Bunjaku, Haki Gerxhaliu, Miran Xhafa and Veli Xhafa are listed on Sabit Kadriu's list.
[4608] Sabit Kadriu, Exhibit P515, p 21.
[4609] Fedrije Xhafa, T 3060-3061; Fedrije Xhafa, Exhibit P510, para 10, Sabit Kadriu, Exhibit P 515, p 16.

Cooperative, which was a government owned facility with large storage hangars, located on the outskirts of Vučitrn/Vushtrri town.[4610]

1201. The people from the convoy spent the night of 3 May 1999 inside the buildings of the Agricultural Cooperative.[4611] The buildings were dark and crowded.[4612] Police guarded the compound and stopped people from going out to get water.[4613]

1202. On 4 May 1999 in the morning, the people were ordered out of the buildings. Police had surrounded the buildings area.[4614] Sabit Kadriu heard people discussing the killings on 2 May 1999. He observed that some people in the convoy had carried in their tractors the bodies of their relatives who had died on way to Vučitrn/Vushtrri. The witness recognized the bodies of a mother and her two sons from the village of Pasoma/Pasomë.[4615] The evidence indicates that between 17 and 29 bodies were seen on the road to the Agricultural Cooperative in Vučitrn/Vushtrri.[4616]

1203. At around 1300 hours, a man understood to be Simić, the deputy police commander of Vučitrn/Vushtrri, arrived on the site of the Agricultural Cooperative buildings. He too wore a blue police camouflage uniform.[4617] Shortly after, police proceeded to separate men aged approximately 15 to 73 years old from their families and took them to a nearby field which was surrounded by police.[4618] In the field, Serbian forces checked the men's identification documents. A man understood to be Dragan Petrović was supervising this operation.[4619]

1204. Meanwhile, two policemen instructed one of the Kosovo Albanian men from the convoy, Ali Menica, to come with them out of the Agricultural Cooperative buildings.[4620] The two policemen took Ali Mernica to the gate of a factory across a main road. One of these policemen waited at the gate, while the other took Ali Mernica inside the premises. Immediately after, two gunshots were heard inside the premises. Ali Mernica was unarmed and in custody of armed police when taken inside the premises as described above. After the war, a witness heard that the body of Ali Mernica was buried in the village of Pestovo/Pestovë.[4621] However, his body was never found by the forensic teams who conducted crime scene investigations and forensic examinations. In

[4610] Fedrije Xhafa, T 3054-3055; Fedrije Xhafa, Exhibit P510, para 10; Fedrije Xhafa, Exhibit P509 (*Milutinović* transcript), T 2423.
[4611] Sabit Kadriu, Exhibit P515, p 16.
[4612] Sabit Kadriu, Exhibit P515, p 16.
[4613] Fedrije Xhafa, Exhibit P509 (*Milutinović* transcript), T 2484.
[4614] Sabit Kadriu, Exhibit P515, p 17.
[4615] Sabit Kadriu, Exhibit P515, p 17.
[4616] Sabit Kadriu, Exhibit P515, p 17.
[4617] Fedrije Xhafa, T 3056; Fedrije Xhafa, Exhibit P510, para 10; Fedrije Xhafa, Exhibit P509 (*Milutinović* transcript), T 2484.
[4618] Sabit Kadriu, Exhibit P515, p 17; Fedrije Xhafa, T 3055; Fedrije Xhafa, Exhibit P510, para 11.
[4619] Sabit Kadriu, Exhibit P515, p 17.
[4620] Sabit Kadriu, Exhibit P515, p 17.

these circumstances, the Chamber cannot be satisfied by the evidence that his death has been established.

1205. At about 1330 hours, civilian trucks with long trailers and an excavator were brought to the field. Approximately 30 men who had driving licences were singled out from the group and sent back to the Agricultural Cooperative buildings. Other men who paid money to Serbian guards were also allowed to go back.[4622] The remaining men in the field were ordered to get in the trucks. Police formed a line and beat the men with wooden sticks as they ran towards the trucks.[4623] The trucks drove the men to Smrekovnica/Smrekonicë prison, situated approximately halfway between Vučitrn/Vushtrri and Kosovska Mitrovica/Mitrovicë.[4624]

1206. Meanwhile, police ordered the remaining persons from the convoy, mainly women and children, to get a registration certificate at one of three offices that had been set up in the Agricultural Cooperative buildings.[4625]

1207. Afterwards, Simić ordered the people from the convoy to leave Vučitrn/Vushtrri town. He ordered those who had tractors to drive to Albania and those who were on foot to walk back to Smrekovnica/Smrekonicë or Dobra Luka/Dobërllukë.[4626] Fedrije Xhafa's family did as they were ordered. Xhafa's mother, who was sick, was put on another tractor and driven to Albania while the rest of the family walked to the village of Kicik/Kiciq where they found shelter in an empty house. On 7 March 1999, the family went to Dobra Luka/Dobërllukë, where they stayed until approximately 30 June 1999.[4627]

1208. The Defence argues that the movements of population were voluntary and that they were not the result of forced expulsions by Serbian forces.[4628] In support of its contention, the Defence puts forward that Xhafa's family first went to Kicik/Kciq and then to Dobra Luka/Dobërllukë where they remained until NATO troops arrived.[4629] Shukri Gerxhaliu and his family, returned from the Agricultural Cooperative to their homes in the village of Donja Sudimlja/Studime-e-Poshtme.[4630]

1209. The evidence satisfies the Chamber that the people left Vučitrn/Vushtrri town by virtue of the actions of the Serbian police, not of their free will. Under the direction of the Serbian police,

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[4621] Sabit Kadriu, Exhibit P515, p 17; Sabit Kadriu, Exhibit P516 (*Milutinović* transcript), T 5072.
[4622] Sabit Kadriu, Exhibit, P515, p 17.
[4623] Sabit Kadriu, Exhibit P515, p 18; Fedrije Xhafa, T 3055.
[4624] Sabit Kadriu, Exhibit P515, p 18; Fedrije Xhafa, T 3055; Fedrije Xhafa, Exhibit P509 (*Milutinović* transcript), T 2423.
[4625] Fedrije Xhafa, T 3059.
[4626] Fedrije Xhafa, T 3055-3056; Fedrije Xhafa, Exhibit P510, para 11.
[4627] Fedrije Xhafa, T 3056, 3062.
[4628] Defence Final Trial Brief, para 908.
[4629] Fedrije Xhafa, T 3054-3056, 3096; Fedrije Xhafa, Exhibit P510, para 11.

they were deported to Albania or displaced to Smrekovnica/Smrekonicë and Dobra Luka/Dobërllukë. This will be discussed in further detail later in this Judgement.

6. Smrekovnica/Smrekonicë prison

1210. The men sent in trucks from the Agricultural Cooperative to the Smrekovnica/Smrekonicë prison had their identification documents checked on their arrival at the prison. This was done by persons wearing civilian clothes, who were thought to be secret police. A witness recognised Duško Janić, chief of the secret police in Vučitrn/Vushtrri, and the deputy police commander, Simić, who were supervising the registration.[4631]

1211. As they walked inside the prison, the detainees were ordered to hold their hands behind their necks and they were beaten with sticks and guns by police.[4632] Sabit Kadriu was locked up in a cell, along with approximately 63 other men, for approximately 20 days. The cell was very crowded. There was no space to sit or lie down.[4633] Some of the men were kept in the prison's corridors.[4634] During their first two days of detention, the men were not given any food. On the third day, they were given water and bread. The water was dirty and most men became sick. A man who asked for medication was taken outside and he was heard screaming. After the third day of detention, every evening, the men were taken to a dining hall to eat. On their way there and back, they were beaten with sticks by policemen.[4635]

1212. Around 17 May 1999, after 12 or 14 days of detention, the detainees were taken to the office of the prison's supervisor. On their way they were beaten with sticks.[4636] They were taken inside the supervisor's office in groups of two or three. Two Serbian men wearing civilian clothes questioned them. One witness described his experience of this questioning. He was asked whether he was a member of the KLA and was then forced to sign a confession that he belonged to group of terrorists acting against the Serbian government.[4637]

1213. The following day, around 18 May 1999, men from the convoy were taken in groups of seven or eight to the basement of a small building located in the prison's yard by policemen wearing blue camouflage uniforms. The Chamber is satisfied that these policemen were members of the regular MUP. Other groups of detainees were taken by prison guards. Soon after the

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[4630] Shukri Gerxhaliu, Exhibit P513 (*Milutinović* transcript), T 2564, 2580, 2581.
[4631] Sabit Kadriu, Exhibit P515, p 18.
[4632] Sabit Kadriu, Exhibit P515, p 18.
[4633] Sabit Kadriu, Exhibit P516 (*Milutinović* transcript), T 5075; Sabit Kadriu, Exhibit P515, p 18.
[4634] Sabit Kadriu, Exhibit P515, p 18.
[4635] Sabit Kadriu, Exhibit P515, p 18; Exhibit P518.
[4636] Sabit Kadriu, Exhibit P515, p 18.
[4637] Sabit Kadriu, Exhibit P515, p 19.

detainees had entered the basement, screams were heard.[4638] This became a usual occurrence. Detainees were taken to the basement on a daily basis and then screams were heard from the basement. On one occasion, a detainee was heard to be screaming from the basement and then, police came back up the stairs, without the detainee. One of the policemen present was identified as Saša Manojlović. He wore a green camouflage uniform.[4639] Based on the evidence dealing with uniforms discussed earlier, the Chamber is satisfied that this man was a member of the SAJ of the MUP, who acted in coordination with local police in this operation. The following morning, a policeman brought three or four men, also thought to be police, and one man in civilian clothes to the prison yard. Shortly after, four policemen came out of the basement, carrying a body concealed under a blanket.[4640]

1214. A few days later, half of the detainees from the convoy were taken to a technical school by policemen.[4641] There, the men were made to kneel down with their hands up and three or four policemen beat them with sticks. Other policemen then took over and the beatings continued. Later, some civilians were brought in and they beat the prisoners with iron bars. The men were questioned individually about their ties to the KLA and to the OSCE.[4642] The other half of the men were taken to the medical school in Kosovska Mitrovica/Mitrovicë town. When they were brought back to the prison, at approximately 1500 hours that day, both groups of men (those from the technical school and those from the medical school) were covered in blood.[4643]

7. Dobra Luka/Dobërllukë

1215. On 15 May or 16 May 1999, at around 0800 hours, Serbian forces, some wearing blue camouflage uniforms and other forces wearing green camouflage uniforms, entered the village of Dobra Luka/Dobërllukë. They fired their guns in the air.[4644] They were accompanied by VJ tanks. There were also Serbian forces on foot who ordered residents to get out of their houses.[4645] In the Chamber's finding, based on other evidence which is discussed in the earlier section of this Judgement dealing with uniforms, the tanks and their crews were VJ, and the men in green camouflage uniforms were VJ or SAJ of the MUP and the men in blue camouflage uniforms were MUP.[4646] A witness recognized one of the policemen, as one of those policemen who had beaten

[4638] Sabit Kadriu, Exhibit P515, p 19.
[4639] The SAJ of the MUP wore such uniforms.
[4640] Sabit Kadriu, Exhibit P515, p 19.
[4641] Sabit Kadriu, Exhibit P515, pp 19-20. The Serbian forces are described as policemen wearing blue camouflage uniforms. Regular MUP wore such uniforms, *See supra*, paras 53-54.
[4642] Sabit Kadriu, Exhibit P515, pp 19-20.
[4643] Sabit Kadriu, Exhibit P515, p 20.
[4644] Fedrije Xhafa, Exhibit P510, para 15.
[4645] Fedrije Xhafa, T 3057; Fedrije Xhafa, Exhibit P510, para 12.
[4646] *See supra*, paras 53-54, 162.

people in the convoy on 2 May 1999.[4647] The men of the village were separated from the women and the children.[4648] The men were then made to hand over their money and were taken to Smrekovnica/Smrekonicë prison, where they were detained for several days and tortured before being sent to Albania.[4649]

1216. Meanwhile, the women and children from the village were ordered to go to a hospital in Smrekovnica/Smrekonicë in order to register.[4650] At the hospital, the women were given blue identity cards bearing a "Republic of Serbia" stamp and listing the personal details of the card holder. The cards were signed by Snjezana Bogunović, the wife of a reserve policeman named Boza. The hospital area was guarded by police wearing blue uniforms. After the women were given cards, a man identified as Simić, the deputy police commander of Vučitrn/Vushtrri, ordered the women to return to their houses. Simić announced that anybody assisting the KLA would be killed.[4651]

8. From Smrekovnica/Smrekonicë prison en route to the Albanian border

1217. On 23 May 1999, at around 0900 hours, a few dozen of the men detained in Smrekovnica/Smrekonicë were called to the prison yard and moved into four buses. At the buses, policemen demanded money from the detainees.[4652] The buses with the detainees then drove off. As the buses drove through Vučitrn/Vushtrri, many houses could be seen burning.[4653] When the buses reached the municipality of Štimlje/Shtime, three trucks carrying men with long hair, beards and wearing different kinds of bandannas escorted the buses. The buses stopped at the village of Žur/Zhur, in Prizren municipality, situated near the Albanian border-crossing of Vrbnica/Vërmicë. Police ordered the detainees to get off the buses, made them stand in line and beat them. The detainees were then ordered to run on the main road to the Albanian border, with their hands behind their neck. There were Serbian forces in bunkers on both sides of that main road. As they ran, they could see NATO planes flying over head and bombing the area. At the border crossing, six or seven police and men in green uniforms took the detainees' identification documents before they forced them to cross the border to Albania.[4654]

[4647] Fedrije Xhafa, Exhibit P510, para 12.
[4648] Fedrije Xhafa, T 3057; Fedrije Xhafa, Exhibit P510, para 12.
[4649] Fedrije Xhafa, T 3057, 3061; Fedrije Xhafa, Exhibit P510, paras 12, 14.
[4650] Fedrije Xhafa, Exhibit P510, para 13.
[4651] Fedrije Xhafa, Exhibit P510, para 13; Fedrije Xhafa, T 3056. The Defence argues that this card was a "remedial measure" that did not show the identity of the holder and was intended at keeping track of population movements.
[4652] Sabit Kadriu, Exhibit P515, p 20. A witness paid some money.
[4653] Sabit Kadriu, Exhibit P515, p 20.
[4654] Sabit Kadriu, Exhibit P515, p 20.

9. Incidents in Vučitrn/Vushtrri's cemetery, Gornja Sudimlja/Studimja-e-Epërme and Donja Sudimlja/Studime-e-Poshtme

1218. There is some evidence that early in the morning on 2 May 1999, police and VJ entered Vučitrn/Vushtrri town.[4655] VJ entered the eastern part of town, while police and paramilitary entered the western part.[4656] The police and paramilitaries expelled approximately 20,000 people from their homes and sent them towards the town cemetery which they had surrounded.[4657] On the way to the cemetery, some people were separated from their families and lined up against a wall. Some were then shot.[4658] The bodies of 74 people were later loaded onto trucks. There is evidence that the bodies were recovered from mass graves at Batajnica SAJ Centre, near Belgrade in Serbia over two years later and that they were later transferred to Kosovo and reburied.[4659] The three men in charge of the Serbian forces were Vucina Janicević, Dragan Petrović and Ljubiša Simić, who was the deputy police commander of Vučitrn/Vushtrri.[4660] At the cemetery, the men expelled from their homes were separated from the women and children. They were sent to the sports hall in Vučitrn/Vushtrri and the next day, to Smrekovnica/Smrekonicë prison.[4661] The rest were allowed to return to their homes.[4662]

1219. There is hearsay evidence that in a separate incident, on 24 May 1999, in the village of Gornja Sudimlja/Studimja-e-Epërme, eight women and girls were killed by Serbian forces and that their bodies were mutilated but the evidence does not enable a positive finding of these matters.[4663]

1220. On 31 May 1999, in the morning, Shukri Gerxhaliu heard shouting in Serbian followed by two or three shots coming from a house in Donja Sudimlja/Studime-e-Poshtme.[4664] The bodies of the owner of this house and of two other men were found shortly after, on the road by the house.[4665] There is evidence that shortly after this incident, seven policemen were seen walking nearby.[4666] Sometime later, the bodies of nine of Shukri Gerxhaliu's relatives, including children, were found

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[4655] Sabit Kadriu, Exhibit P515, p 24; Sabit Kadriu, T 3219. Serbian forces are described as policemen wearing blue camouflage uniforms and VJ wearing green camouflage uniforms with vests and helmets.
[4656] Sabit Kadriu, Exhibit P515, p 24; Sabit Kadriu, T 3181, 3218-3220.
[4657] Sabit Kadriu, Exhibit P515, p 24; Sabit Kadriu, T 3219.
[4658] Sabit Kadriu, Exhibit P515, p 24, Sabit Kadriu, T 3219-3220.
[4659] Sabit Kadriu, T 3182-3219; Sabit Kadriu, Exhibit P516 (*Milutinović* transcript) T 5087; Sabit Kadriu, Exhibit P515, pp 25-30. None of the 74 names provided by Sabit Kadriu are listed in the Indictment and there is no forensic evidence concerning them.
[4660] Sabit Kadriu, T 3219; Fedrije Xhafa, Exhibit P510, para 10.
[4661] Sabit Kadriu, T 3219; Sabit Kadriu, Exhibit P515, p 25.
[4662] Sabit Kadriu, Exhibit P515, p 25.
[4663] Sabit Kadriu, Exhibit P515, pp 31-32.
[4664] Shukri Gerxhaliu, Exhibit P512, paras 28-29.
[4665] Shukri Gerxhaliu, Exhibit P512, paras 30-31; Shukri Gerxhaliu, Exhibit P513 (*Milutinović* transcript), T 2520-2522, 2610-2612; The bodies were dressed in civilian clothes and they were unarmed. One of the bodies had bullet wounds in the hands and stomach. The second body's arms were severed and it had bullet wounds in the neck. The third body had bullet wounds in the right eye and forehead.
[4666] Shukri Gerxhaliu, Exhibit P512, para 30.

in the house of Seladin Gerxhaliu in Donja Sudimlja/Studime-e-Poshtme.[4667] While the killings were investigated, there is no evidence as to the outcome of this investigation.[4668] Two or three days following this event, the remaining members of the Gerxhaliu family, including Shukri Gerxhaliu, fearing for their lives, left Donja Sudimlja/Studime-e-Poshtme for Montenegro. At police checkpoints along the way, they were asked for money and in Kosovska Mitrovica/Mitrovicë, the police collected all their identification documents and destroyed them.[4669]

1221. The evidence concerning these killings is not direct, and there are no specific charges in the Indictment arising from them. In these circumstances, the Chamber will not make any specific finding or deal any further with these matters.

N. Podujevo/Podujevë municipality

1. Background

1222. The municipality and the town bear the same name - Podujevo/Podujevë. The municipalities of Podujevo/Podujevë is within the area of the SUP of Priština/Prishtinë. It lies in the most northeastern corner of Kosovo, close to the internal border. At the time dealt with in the Indictment it separated the province of Kosovo from Serbia proper. Podujevo/Podujevë was the largest town within a geographical area referred to as "Malo Kosovo", a known stronghold of KLA forces in 1998 and early 1999.[4670] The area, and especially the road passing through Podujevo/Podujevë, was an important transport route connecting Niš in Serbia proper with Kosovo's capital, Priština/Prishtinë;[4671] British General Karol John Drewienkiewicz described this road as the "lifeline" to the rest of Serbia.[4672] In early 1999, the KLA launched attacks on this road from their positions in the Bajgora area to the west of Podujevo/Podujevë, another known KLA stronghold.[4673] In early 1999, this area became increasingly important from a strategic point of view for the Serbian forces and government; it served as a route for military reinforcement from Niš

[4667] Shukri Gerxhaliu, Exhibit P512, para 32; Shukri Gerxhaliu, Exhibit P513 (*Milutinović* transcript), T 2520-2522. The victims had gunshot wounds and were piled up in a single room of the house. They were Fexhrije Gerxhaliu, born in 1954, Muharrem Gerxhaliu, born in 1985, Mexhit Gerxhaliu, born in 1987, Abdurrahman Gerxhaliu, born in 1989, Mybera Gerxhaliu, born in 1988, Sabahudin Gerxhaliu, born in 1992, Salihe Gerxhaliu, born in 1918, Sofije Gerxhaliu, born in 1963 and Safer Gerxhaliu, born in 1988. None of these victims are listed in Schedule I of the Indictment.

[4668] Shukri Gerxhaliu, Exhibit P513 (*Milutinović* transcript), T 2516, 2520, 2523, 2615; Shukri Gerxhaliu, Exhibit P512, para 31.

[4669] Shukri Gerxhaliu, Exhibit P512, para 35; Shukri Gerxhaliu, T 3117.

[4670] Bislim Zyrapi, T 2490-2491; Shaun Byrnes, T 8234-8236; Shaun Byrnes, Exhibit P1214 (*Milutinović* transcript), T 12192-12196; Karol John Drewienkiewicz, Exhibit P996, paras 76, 77; Karol John Drewienkiewicz, T 6506; *see* also Richard Ciaglinski, Exhibit P834 (*Milutinović* transcript), T 6911; *See infra,* para 1554.

[4671] Shaun Byrnes, T 8193-8195, 8246-8248; Exhibit P1247; Richard Ciaglinski, Exhibit P834 (*Milutinović* transcript), T 6823.

[4672] Karol John Drewienkiewicz, T 6351-6352; Karol John Drewienkiewicz, Exhibit P996, para 76; Karol John Drewienkiewicz, Exhibit P997 (*Milutinović* transcript), T 7878.

[4673] John Crosland, Exhibit P1400, paras 68, 71.

into Kosovo,[4674] and the military control of it was most critical in the defensive preparation for an anticipated invasion by NATO land forces.[4675]

1223. As a result of the strong KLA presence in "Malo Kosovo", there were severe clashes between Serbian forces and the KLA in this area. These intensified towards the end of 1998 and into early 1999. These activities are described in more detail elsewhere in this Judgement.[4676] The "Malo Kosovo" area was included in the planning for a large scale, joint VJ and MUP offensive executed in several areas throughout Kosovo in the spring of 1999.[4677] Dispatches issued by the Accused in February and in March of 1999 ordered the deployment of PJP detachments, including, *inter alia,* members of the 36th and 86th detachments, to the Podujevo/Podujevë OUP.[4678] By the end of February and early March 1999, a large contingent of Serbian forces had built up in Podujevo/Podujevë municipality, and in other parts of Kosovo.[4679]

1224. Clashes between Serbian forces and the KLA continued into March of 1999.[4680] The KVM reported heavy fighting in the villages west of Podujevo/Podujevë town on 20 March 1999 as well as VJ shelling of the general vicinity of Podujevo/Podujevë on 21 March 1999.[4681] On or about 24 March 1999, joint VJ and MUP forces launched attacks against several villages surrounding

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4674 Shaun Byrnes, T 8246-8248; *see* also Shaun Byrnes, Exhibit P1214 (*Milutinović* transcript), T 12164.

4675 Milan Đaković, T 7940, 8063-8064. The Chamber notes that at a VJ Collegium meeting on 4 March 1999, the build up of terrorists, *inter alia,* in Podujevo/Podujevë was discussed with an assessment that "...they might be doing this in order to prevent us from bringing our forces from Serbia proper in the event that NATO forces intervene and also to secure communication with NATO forces in Macedonia" (Exhibit P1335, p 8); Vlastimir Đorđević, T 9678-9679, with respect to the "mopping up" operations planned at the MUP Staff meeting on 17 February 1999 (Exhibit P85).

4676 *See supra,* para 389.

4677 Exhibit P85, a record of a MUP Staff meeting held on 17 February 1999 where the head of the MUP Staff, Sreten Lukić, reported to those present, including the Accused, on a plan to carry out three "mopping up" operations, one of which was to be carried out in the Podujevo/Podujevë area. *See* also Exhibit P889, a Priština Corps Command order dated 16 February 1999 details a plan for anti-terrorist actions by the VJ, and the SAJ and PJP of the MUP in several villages in Podujevo/Podujevë municipality, including in villages just to the north, west, and south of Podujevo/Podujevë town such as Krpimej/Kërpimeh, Dobrotin/Dobratin, Obrandža/Obrançë, Gornja Dubnica/Dumnicë-e-Epërme, Donja Lapaštica/Llapashticë-e-Epërme, and Penduha/Penuhë village. The operations envisioned in this plan originally were to last for "three to five days" (Exhibit P889, pp 5-6). This plan was implemented through a Joint Command Order dated 22 March 1999 (Exhibit D105). *See* also Milan Đaković, who was aware of army carrying out activities in this area (*see* T 7938-7939); *see* also Exhibit P924, a letter by VJ Priština Corps Command to 3rd Army Command dated 18 March 1999 which relays the idea of an operation to target additional villages to the south of Podujevo/Podujevë town "in accordance with your general idea and particular plans."

4678 *See* Exhibit P139. These PJP members were sent to replace already present PJP members in the Podujevo/Podujevë OUP whose term of duty was to end on 23 February 1999. The dispatch details that the members of the 36th and 86th Detachments would remain on mission for a period of 40 days (Exhibit P139, pp 1-2). *See* also Exhibit P1491, a report confirming implementation of Exhibit P139. *See* also Exhibit P712. On 21 March 1999, a further dispatch signed by Vlastimir Đorđević called for the further deployment of one company of the 22nd PJP detachment to the Podujevo/Podujevë OUP (*see* Exhibit P346; *see* also Exhibit P714, report on the implementation of Exhibit P346).

4679 Exhibit P85; Exhibit P924.

4680 *See supra,* para 437.

4681 Exhibit P1029, pp 115 and 123 in e-court.

Podujevo/Podujevë town; the operation was anticipated to take two to three days.[4682] In this operation, the VJ was to support MUP forces "in the blockage of Podujevo on the north side" with the aim of securing the main road leading out of Podujevo/Podujevë municipality into Serbia proper, and securing combat control of the territory.[4683] The evidence demonstrates that both the Belgrade and Priština/Prishtinë units of the SAJ of the MUP arrived in the Podujevo/Podujevë area on 23 March 1999, to participate in the operations planned for several villages of the "Malo Kosovo" area, which took place on or about 24-27 March 1999.[4684] Radislav Stalević, Commander of the SAJ in Priština/Prishtinë, confirmed that the SAJ were in Podujevo/Podujevë town on 27 March 1999, having returned there from an operation in Bradaš/Bradash village in the north of the municipality. He testified that "Podujevo was part of our plan that we received with the extract from the topographic map, which contained this particular axis, and this is where I was supposed to go".[4685] The SAJ moved on to Kosovo Polje/Fushë Kosovë on the afternoon of 28 March 1999 to continue operations.[4686]

1225. By 27 March 1999, the 211th armoured brigade of the VJ Priština/Prishtinë Corps was stationed in Podujevo/Podujevë town, where it had been sent to "protect the Serbian population", and to "guard the Prepolac pass and the Merdare pass", in coordination with the MUP.[4687]

2. Preliminary observations

1226. The Chamber has heard the evidence of two witnesses, Fatos Bogujevci and his cousin Saranda Bogujevci, aged 12 and 13 respectively at the time of the alleged offences, in relation to events in Podujevo/Podujevë towards the end of March 1999 as charged in the Indictment.[4688] Despite their young age at the time of the events, as well as the passage of time, the Chamber is satisfied that the evidence of these two witnesses was reliable and provided with their best effort to

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[4682] Exhibit D105, a Joint Command Order dated 22 March 1999 calling for VJ support of MUP forces in "breaking up and destroying the ŠTS forces in the area of Malo Kosovo"; *see* also Exhibit D104 and Milan Đaković, T 8066-8068.

[4683] Exhibit D105, p 4, "Task: Support the MUP forces in the blockade of Podujevo on the north side, secure the following communications: Prepolac – Podujevo and the village of Merdare – Podujevo, and assume the combat control of the territory".

[4684] Živko Trajković, T 9085, 9088-9099; Radislav Stalević, T 13832-13833; Zoran Simović, T 13780; *see* also Exhibit P889. The Chamber notes that a request "[t]hat parts of the special forces for anti-terrorist activities be stationed in Podujevo in order to disperse the terrorist gangs" was contained in a letter written by the President of the Podujevo/Podujevë Municipal Assembly dated 11 December 1998, addressed to, *inter alia,* President of the FRY Slobodan Milošević, President of the Republic of Serbia Milan Milutinović, Minister of the Interior Vlajko Stojiljković, and General Sreten Lukić. This letter specified the increased security situation in Podujevo/Podujevë municipality and detailed the actions of Kosovo Albanian terrorists in the area, including in Podujevo/Podujevë town, Exhibit D351.

[4685] Radislav Stalević, T 13917-13918, 13780. Stalević testified that when his unit was tasked with an assignment, he only received extracts from topographic maps, and never saw a written order, Radislav Stalević, T 13830-13831. See also Exhibit P889, p 6.

[4686] Radislav Stalević, T 13917-13918.

[4687] Momir Stojanović, T 11777; Exhibit P896, pp 2-3.

convey their stories truthfully. There are minor factual discrepancies in their evidence, but the Chamber does not consider that any of these discrepancies go to matters material to the allegations, nor do they affect the overall reliability or honesty of the accounts of these witnesses.

1227. Both victims, in describing the Serbian forces they observed on the critical day of 28 March 1999, for the most part refer loosely to "soldiers". Upon a close review of their evidence, however, it is clear that the term "soldiers" is not restricted to members of the VJ.[4689] It is for this reason that save for more specific descriptions of forces observed during particular events throughout the morning of 28 March 1999, the Chamber has kept these references to "soldiers" in quotation marks. Where possible, it has made specific findings as to the forces involved, based principally on the uniforms they were wearing.

1228. Besides these two victim witnesses, the Chamber has also heard the evidence of several members of the Serbian forces who were directly involved in the operation in Podujevo/Podujevë town on 28 March 1999: prosecution witness Goran Stoparić, a former member of the Scorpions paramilitary unit, who at the relevant time was the commander of a reconnaissance platoon within that unit,[4690] and Defence witnesses Zoran Simović and Radislav Stalević, the commanders of the Belgrade and Priština/Prishtinë SAJ, respectively. The Chamber has approached the evidence of each of these witnesses with caution. With respect to Goran Stoparić, the Chamber concluded that his testimony was coloured by an effort on his part to minimise his own role in the events, to limit the responsibility for the shooting to specific individuals and not to implicate others. It notes, however, that despite these issues, other aspects of his evidence are reliable. In particular, it serves to confirm and better develop the account of events involving the killings that occurred in the courtyard on 28 March 1999 as described by the victims, Saranda and Fatos Bogujevci, including the identification of forces involved in these killings.

1229. With respect to Defence witnesses Simović and Stalević, it was also clear to the Chamber that much of their evidence about the events on this day could not be accepted as truthful, as, in the Chamber's view, it was contrived to distance themselves from the crimes and from any

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[4688] Saranda Bogujevci, Exhibit P373, para 9; Fatos Bogujevci, Exhibit P383, para 9.

[4689] *See* Saranda Bogujevci, Exhibit P373, para 40, where the witness explains that the individuals she describes as "soldiers" wore green camouflage uniforms, but that these uniforms were different from the uniforms worn by the soldiers she had observed before the conflict, at the military barracks. Fatos Bogujevci testified that when he refers to soldiers, he is "not referring to just regular army soldiers, nor am I referring to just regular police officers". He explains that for the most part (with the exception of uniforms worn by some "regular army" and the "light green camouflage uniforms" which were, "in the main, worn by the forces in the courtyard "at a later stage" that day (Fatos Bogujevci, Exhibit P383, paras 29, 37), the uniforms he observed on 28 March 1999 were green and brown camouflage (Fatos Bogujevci, Exhibit P373, paras 29, 32).

[4690] Goran Stoparić, Exhibit P493, paras 8, 14, 17. Goran Stoparić initially joined the Scorpions in 1991, when he met Slobodan Medić for the first time. In 1993, he provided security to the oil industry in the Krajina in a unit led by Medić (Goran Stoparić, Exhibit P493, paras 7-8; Goran Stoparić, T 2880).

responsibility for them. The Chamber therefore has only relied on their evidence concerning the events in Podujevo/Podujevë town on 28 March 1999 to the extent that this was confirmed in some material way by other evidence accepted by the Chamber, or which is uncontroversial.

1230. The Chamber notes here that much evidence is devoted to the issue whether the men sent to Podujevo/Podujevë town on 28 March 1999, as described in the Chamber's findings below, were reservists recruited by the MUP in accordance with established procedures, or were a self-contained paramilitary unit which was to be deployed under its own leaders to fulfil assigned duties. There is also an issue whether these men were to be assigned to serve with the SAJ, and if so, whether that had already occurred at the time of the material events that day in Podujevo/Podujevë. The Chamber will deal with these matters in detail in Chapter XII, relating to the Accused's responsibility, and in particular, the role played by him in deploying these forces to Podujevo/Podujevë in March of 1999. For the purposes of the findings in this Chapter, the Chamber considers it sufficient to state its finding, made elsewhere in this Judgement,[4691] that the men sent to Podujevo/Podujevë town on 28 March 1999, at the intervention of the Accused, comprised a paramilitary unit known as the Scorpions, and had been attached to the SAJ of the MUP, although not in accordance with normal procedure, for the purpose of assisting the SAJ with carrying out anti-terrorist operations in the Podujevo/Podujevë area at the time of the events alleged in the Indictment.

3. Findings

(a) Events on 28 March 1999

1231. In the context of the above, the Chamber now turns to the specific allegations in the Indictment with respect to the murder of 14 women and children of the Bogujevci, Llugaliu and Duriqi families in Podujevo/Podujevë town on 28 March 1999.[4692]

1232. In the period of about a month leading up to the start of the NATO air campaign,[4693] as a result of fighting between the KLA and Serbian forces comprising mainly VJ and police[4694] in the hills and the surrounding villages as described above, many Kosovo Albanian families came to

[4691] *See infra*, paras 1930-1966.
[4692] Indictment, para 77(b).
[4693] 24 March 1999.
[4694] The Chamber notes that in his statement, Fatos Bogujevci refers to the "police or military" in this context (*see* Exhibit P373, para 22). In cross-examination, he confirms that Kosovo Albanians from rural areas moved to Podujevo/Podujevë town because of fighting between the KLA "and the police and army" in the villages and hills (Fatos Bogujevci, T 1950).

Podujevo/Podujevë town where they felt safer.[4695] Hence, Kosovo Albanian households in the town accommodating these people became very crowded.[4696]

1233. The Bogujevci family compound was situated in the centre of Podujevo/Podujevë town, in the vicinity of the police station, and in a predominantly Albanian neighbourhood.[4697] The police station, which was three to four storeys high, overlooked parts of the family's compound,[4698] which had high walls on all four sides with a large gate providing access to the main street.[4699] At the time of the events alleged in the Indictment, Fatos Bogujevci and Saranda Bogujevci lived in one of the three houses in this compound, together with Fatos Bogujevci's father Selatin, his mother Shefkate, his brother Genc (born in 1993), his sisters Nora, Jehona and Lirije (born in 1984, 1988 and 1990, respectively), as well as his uncle on his father's side –Saranda Bogujevci's father– Safet, Saranda's mother Sala, her two younger brothers Shpend and Shpetim (born in1986 and 1989 respectively) and their paternal grandmother Shehide Bogujevci.[4700] In addition, Selatin's and Safet's aunt Nefise Llugaliu and her daughter-in-law Fezrije Llugaliu from a nearby village had come to stay with the family because at the time they felt it was too dangerous for them to remain in their village.[4701] The second house on the compound was inhabited by one of their father's cousins.[4702]

1234. In the weeks prior to the commencement of the NATO air campaign, Serbian military and police vehicles, including tanks, passed regularly through the town centre and on the street in front of the Bogujevci family home, on their way into Kosovo.[4703] On or about 22 March 1999, the family heard that a neighbour who lived two or three compounds away was shot and killed by

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[4695] Fatos Bogujevci, Exhibit P383, para 22; Fatos Bogujevci, T 1950-1951. Saranda Bogujevci testified that Kosovo Albanians started to move to Podujevo/Podujevë town fearing for their safety; she adds that it was her understanding that they were coming to town because Serbian forces were burning houses and killing people in these village (Saranda Bogujevci, Exhibit P373, para 18). Given the evidence of the presence of both the KLA and the Serbian forces in the area (*See supra,* paras 1224-1225), and as is the testimony of Fatos Bogujevci, the Chamber considers that the fighting between the KLA and Serbian forces in the area is the apparent reason for many Kosovo Albanian families to move to Podujevo/Podujevë town around this time.

[4696] Fatos Bogujevci, Exhibit P383, para 22; Saranda Bogujevci, Exhibit P373, para 18.

[4697] Saranda Bogujevci, Exhibit P373, paras 11, 15; Fatos Bogujevci, Exhibit P383, paras 11, 15.

[4698] Saranda Bogujevci, Exhibit P373, paras 10, 11; Exhibit P377 (aerial photograph with a red circle around the police station); Fatos Bogujevci, Exhibit P383, paras 10, 11, 13; Exhibit P384 (circled number 6 marking the location of the police station).

[4699] Saranda Bogujevci, Exhibit P373, para 11; Fatos Bogujevci, Exhibit P383, para 11.

[4700] Saranda Bogujevci, Exhibit P373, paras 3-5, 10; Fatos Bogujevci, Exhibit P383, paras 3-5, 10; Fatos Bogujevci, T 1924-1925, 1941; Exhibit P384 (sketch marked by Fatos Bogujevci, number "1" indicating the family home located within the compound).

[4701] Fatos Bogujevci, Exhibit P383, para 25; Fatos Bogujevci, T 1925-1927; Saranda Bogujevci, Exhibit P373, para 22; Saranda Bogujevci, T 1881.

[4702] Saranda Bogujevci, Exhibit P373, para 10; Fatos Bogujevci, Exhibit P383, para 10; Exhibit P384 (number "2" marking the house of their fathers' cousin).

[4703] Fatos Bogujevci, T 1956-1957; Fatos Bogujevci, Exhibit P383, para 21; Fatos Bogujevci, T 1953-1954; *see* also Saranda Bogujevci, T 1879, 1910. The Chamber notes the testimony of Fatos Bogujevci that while Podujevo/Podujevë is outside of the area of the main road that leads from Niš and Merdare in Serbiania proper to

Serbian forces and had been buried in his own compound.[4704] It was rumoured that men of fighting age were being removed from their homes as suspected KLA members. So as not to give the Serbian forces[4705] a reason to search their property, and believing that they would not be targeted if only the women and children stayed behind, Fatos's and Saranda's fathers left the family home and went to stay elsewhere in Podujevo/Podujevë town, returning to visit their families from time to time.[4706]

1235. Shortly after the start of the NATO campaign, the electricity and water supply in Podujevo/Podujevë town was cut off,[4707] and shooting could be heard in town throughout the night.[4708] The number of Serbian forces on the streets of Podujevo/Podujevë town increased.[4709] Fatos Bogujevci heard that people in town were being shot on the streets.[4710] Saranda Bogujevci observed "soldiers" entering the house of their neighbour and leaving a short time later.[4711] Fearing for their lives, the family confined themselves to their home during these days.[4712]

1236. At this time, the Duriqi family, like many other Kosovo Albanian families who fled surrounding villages to seek refuge in town as described above, sought refuge with the Bogujevci family and came to stay in the third house on the family compound.[4713] The family members staying in this household consisted of Enver Duriqi's wife Fitnete, their four young children Dafina, Arber, Mimoza, and Albijon (at the time of the Indictment, nine, seven, five and two years old respectively), Enver Duriqi's mother Esma and Enver's father, 70 year old Hamdi Duriqi, the only man staying with the family.[4714] Bordering the Bogujevci family compound on one side was the compound of Selmon Gashi, approximately 60 years old at the material time, who lived there

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Priština/Prishtinë in Kosovo, a local road leading from Serbia to Priština/Prishtinë passes through Podujevo/Podujevë town (Fatos Bogujevci, T 1954).

4704 Fatos Bogujevci, Exhibit P383, para 17.

4705 The Chamber notes that Fatos Bogujevci refers to "police and military" in this context without providing a more specific description, Fatos Bogujevci, Exhibit P383, para 18. Saranda Bogujevci simply refers to "Serb forces" targeting and killing men, leading to the decision of their fathers to leave the family home, Sandra Bogujevci, Exhibit P373, para 19; Saranda Bogujevci, T 1879-1880.

4706 Fatos Bogujevci, Exhibit P383, para 18; Saranda Bogujevci, Exhibit P373, para 19; Saranda Bogujevci, T 1879-1880; Saranda Bogujevci, Exhibit P375, pp 1-2.

4707 Saranda Bogujevci, Exhibit P373, para 20; Saranda Bogujevci, T 1912; Fatos Bogujevci, Exhibit P383, para 20.

4708 Saranda Bogujevci, Exhibit P373, para 20. Fatos Bogujevci testified that there was a "vehicle" parked further up the street passing by their home which fired constantly during the night, Fatos Bogujevci, T 1956-1957.

4709 Saranda Bogujevci, Exhibit P373, para 17; Saranda Bogujevci, T 1879.

4710 Fatos Bogujevci, Exhibit P383, para 22.

4711 Saranda Bogujevci, Exhibit P373, para 21.

4712 Saranda Bogujevci, Exhibit P373, para 20; Fatos Bogujevci, Exhibit P383, para 17.

4713 Saranda Bogujevci, Exhibit P373, paras 10, 16, 18; Fatos Bogujevci, Exhibit P383, paras 10, 16; Fatos Bogujevci, T 1922, 1925, 1928-1929, 1950; Exhibit P384, number "3" marking the house inhabited by the members of the Duriqi family. The Chamber notes that Saranda Bogujevci gave evidence in her statement that the fighting between the KLA and the Serbia forces had caused the Duriqi family to come to Podujevo/Podujevë (Saranda Bogujevci, Exhibit P373, para 16). During her *viva voce* testimony, she states that she does not remember having ever said this, and explained that she could not have known anything about this; she clarifies what she had said was that they came to town because they feared for their life in their villages, Sandra Bogujevci, T 1908.

4714 Saranda Bogujevci, Exhibit P373, para 26; Fatos Bogujevci, Exhibit P383, para 27.

together with his family.[4715] To the rear of the Bogujevci and Gashi family compounds was a third compound from which it was possible to gain access to the street in which the police station was located.[4716] To the other side of the Bogujevci family compound was a compound that belonged to Fatos's and Saranda's aunt Fahrije, who at the time was staying in Priština/Prishtinë.[4717]

1237. On the night of 26 March 1999, two nights after the commencement of the NATO air campaign, due to the increase of Serbian forces in town, the women and children staying in the home decided it would be safer to move to the unoccupied house belonging to their aunt in a compound bordering that of the Bogujevci family which was not as exposed to the main road.[4718] They collected their bags and walked through their backyard to a gap in the wall that divided the two properties. Having reached the gap, Fatos Bogujevci heard and saw gun-shots coming from the roof of the police station, although the shots were not hitting them or the buildings close to them.[4719] He did not see who was firing because it was dark.[4720] That evening, Saranda's and Fatos's fathers visited them at their aunt's house.[4721] The women and children remained in this house throughout the next day, 27 March 1999; in the evening, the doorbell rang but there was nobody at the door.[4722] A little later, the telephone rang but nobody spoke when it was answered.[4723] Because of these events, out of fear, the family returned to their own home that same evening.[4724]

1238. Several witnesses gave evidence of the arrival in Podujevo/Podujevë town, early in the morning of 28 March 1999, by bus, of a group of armed men known in this trial as the Scorpions.[4725] As discussed elsewhere in this Judgement, the Chamber is satisfied that this group of

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[4715] Saranda Bogujevci, Exhibit P373, para 13; Fatos Bogujevci, Exhibit P383, para 13; Fatos Bogujevci, T 1956; Exhibit P384 (sketch with a circled number 5 indicating location of the house of neighbor Selmon Gashi).

[4716] Saranda Bogujevci, Exhibit P373, para 13; Fatos Bogujevci, Exhibit P383, para 13.

[4717] Saranda Bogujevci, Exhibit P373, para 14; Fatos Bogujevci, Exhibit P383, para 14; Exhibit P384 (sketch with a circled number 4 indicating the unoccupied house of their aunt Fahrije).

[4718] Saranda Bogujevci, Exhibit P373, para 22; Fatos Bogujevci, Exhibit P383, para 23; Fatos Bogujevci, T 1925-1926, 1928; Exhibit P384 (circled "4" marking the house belonging to their aunt Fahrije). Saranda Bogujevci specifically remembers their father's visiting them at their aunt's house on the evening of 26 March 1999 (Sandra Bogujevci, Exhibit P373, para 23). The Chamber notes that the evidence of Fatos Bogujevci differs from that of his cousin Saranda in that he testified that the moving from their family home to their aunt Fahrije's unoccupied home (and later returning to their own home) all took place in the early hours of 28 March 1999. The Chamber is of the view, however, that the sequence and description of events described by Fatos in this respect, save for the dates concerned, correspond to those provided by his cousin Saranda, and that, moreover, the timing of these events is not crucial to the charges alleged in the Indictment.

[4719] Fatos Bogujevci, Exhibit P373, para 23; Fatos Bogujevci, T 1926; Exhibit P384 (number "6" marking the police station).

[4720] Fatos Boguejevci, T 1926.

[4721] Saranda Bogujevci, Exhibit P373, para 23.

[4722] Saranda Bogujevci, Exhibit P373, paras 23, 24; Fatos Bogujevci, Exhibit P383, para 24.

[4723] Fatos Bogujevci, Exhibit P383, para 24.

[4724] Saranda Bogujevci, Exhibit P373, para 24; Fatos Bogujevci, Exhibit P383, para 24.

[4725] While it is not entirely clear from Goran Stoparić's evidence whether the men arrived in Podujevo/Podujevë on 27 or 28 March 1999, according to his testimony, the volunteers stayed in Prolom Banja, where they arrived on 26 March 1999, for two days before heading to Podujevo/Podujevë. This suggests they arrived in Podujevo/Podujevë on 28 March 1999. This is consistent with a report compiled by Živko Trajković dated

men identified as the Scorpions included both former members of a previously constituted paramilitary unit, the Scorpions, which was disbanded in 1996, as well as others who had more recently joined this re-formed unit.[4726] En route from Prolom Banja where the group had been quartered for two days, they were instructed that their task was to "clear up" the half of Podujevo/Podujevë town which was not yet under Serbian control.[4727]

1239. In addition to the presence in Podujevo/Podujevë town on 28 March 1999 of local police officers, and the SAJ with the men of the Scorpions unit, the evidence of Stoparić, Simović and Stalević confirms that there were also PJP units[4728] in the town at this time.[4729] It is the evidence of Stalević, further, that the VJ had also take part in the action in Podujevo/Podujevë town together with the SAJ, PJP and the local police officers.[4730] Documentary evidence confirms this.[4731]

1240. At around 0700 hours on the morning of 28 March 1999, Fatos Bogujevci heard activity in the street outside their compound. Looking out at the street from behind the curtains of a window of his house, he observed what he described as "soldiers or police"[4732] and a dark blue armored personnel police vehicle with grey material covering it.[4733] These forces were entering houses and shops.[4734] Believing once again that it would be safer to move further away from the street-side of the family compound, the women and children who were staying in the house at this time[4735] packed some food and clothes and moved to the house belonging to Saranda's and Fatos's uncle situated in the back of the compound with the Duriqi family.[4736] That morning they were visited by the son of their neighbour Selmon Gashi, who told them that "the soldiers" were taking people out of their houses.[4737]

1241. After about an hour inside their uncle's house, at approximately 0900 hours, Saranda Bogujevci saw four or five armed men she refers to as "soldiers" entering their compound from the neighbouring compound belonging to Selmon Gashi, and in doing so, demolishing a fence dividing

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13 May 1999 in which he records the arrival of the members of the reserve force in Podujevo as 28 March 1999 (*see* Živko Trajković, T 9106-9107; Exhibit D442; Zoran Simović, T 13587; Radislav Stalević, T 13783).

4726 *See infra,* para 1934.

4727 Goran Stoparić, Exhibit P493, paras 7, 45-46.

4728 The deployment of the PJP to the Podujevo/Podujevë OUP is confirmed by several dispatches signed by the Accused as discussed above, *see supra,* para 1223.

4729 Goran Stoparić, Exhibit P493, para 49; Zoran Simović, T 13584; Radislav Stalević, T 13917.

4730 Radislav Stalević, T 13917.

4731 *See supra,* para 1225; *see* also Exhibit P896, pp 2-3.

4732 *See supra,* para 1227.

4733 Fatos Bogujevci, Exhibit P383, para 26; Fatos Bogujevci, T 1927.

4734 Fatos Bogujevci, Exhibit P383, para 26.

4735 Fatos Bogujevci, Exhibit P383, para 25.

4736 Saranda Bogujevci, Exhibit P373, paras 26; Saranda Bogujevci, T 1880-1881; Exhibit P374, p 46; Exhibit P375, pp 2, 3; Fatos Bogujevci, Exhibit P383, para 27; Fatos Bogujevci, T 1928; Exhibit P384, circled "3" marking the house of their uncle; Exhibit P382, p 37.

4737 Saranda Bogujevci, Exhibit P373, para 27; Saranda Bogujevci, T 1882.

the two properties.[4738] At around the same time, Fatos Bogujevci heard the sound of shooting and glass breaking.[4739] These "soldiers" wore camouflage uniforms with different shades of green. These uniforms were different from the ones Saranda Bogujevci had seen regular soldiers wearing. These men entered and searched their home.[4740] Fatos Bogujevci saw "regular army soldiers" in Selmon Gashi's compound. They were wearing what he described as a brownish uniform with small caps. Other "soldiers" closer to their home, wore what he described as green and brown camouflage uniforms.[4741] He thought they were neither regular army nor regular police.[4742] The descriptions of these uniforms are consistent with other evidence in this case, as to the uniforms worn at that time by the SAJ, the PJP and the VJ.[4743] The Chamber notes that the evidence of Stoparić, Stalević and Simović is that each of these elements of the Serbian forces was present in the town that day.[4744]

1242. Observing what was going on in their immediate neighbourhood and fearing that the forces they observed were going from house to house, the women and children of the Bogujevci and Duriqi families, including the elderly Hamdi Duriqi and the two women from the Llugaliu family, gathered their bags with the intention of leaving the house to join other people of the neighbourhood who, at this time, had started to gather in the street.[4745]

1243. Immediately upon the Kosovo Albanians leaving the house, the forces described by Fatos and Saranda Bogujevci, entered the courtyard and ordered the members of the Bogujevci and the Duriqi families to stop and go back.[4746] The group was instructed to put their hands in the air and set down their belongings. The forces proceeded to search their house.[4747] The group of women, children and Hamdi Duriqi were then directed through the garden of their neighbour Selmon Gashi to another compound at the rear of the Bogujevci family compound.[4748] Fatos Bogujevci recalls the

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[4738] Saranda Bogujevci, Exhibit P373, para 28; Saranda Bogujevci, T 1882.
[4739] Fatos Bogujevci, Exhibit P383, para 28; Saranda Bogujevci, T 1882.
[4740] Saranda Bogujevci, Exhibit 373, para 40; Saranda Bogujevci, T 1883; *see* also Exhibit P375, p 2.
[4741] Fatos Bogujevci, Exhibit P383, paras 29, 30; *see* also Exhibit P381, p 4.
[4742] Fatos Bogujevci, Exhibit P383, para 29.
[4743] *See supra,* paras 64, 65, 66, 76, 77, 162. In 1999, the SAJ wore green and brown tiger stripe camouflage uniforms. The PJP wore green camouflage uniforms, as did the VJ; The Chamber further notes the evidence of Radislav Stalević that the Priština/Prishtinë SAJ unit wore a "NATO camouflage uniform with a green-brown patch" (Radislav Stalević, T 13864). The witness further testified that the uniforms worn by the members of his SAJ unit had a patch on one of the sleeves with the letters "SAJ". On the other sleeve, there was a patch with a double-headed eagle, with a red shield, as well as a sword and a snake on a metallic grey background (see Radislav Stalević, T 13864).
[4744] Goran Stoparić, Exhibit P493, para 49; Zoran Simović, T 13584; Radislav Stalević, T 13917.
[4745] Fatos Bogujevci, Exhibit P383, para 28; Fatos Bogujevci, T 1929; Saranda Bogujevci, Exhibit P373, para 29; Saranda Bogujevci, T 1882; *see* also Exhibit P375, p 2.
[4746] Saranda Bogujevci, Exhibit P373, para 29; Saranda Bogujevci, T 1882-1883; Fatos Bogujevci, Exhibit P383, para 30; Fatos Bogujevci, T 1929; *see* also Exhibit P382, p 38.
[4747] Saranda Bogujevci, Exhibit P373, para 29; Saranda Bogujevci, T 1882-1883; *see* also Exhibit P374, p 46 as stamped on the page; Fatos Bogujevci, Exhibit P383, para 30; Fatos Bogujevci, T 1929.
[4748] Saranda Bogujevci, Exhibit P373, para 29; Saranda Bogujevci, T 1883-1884; *see* also Exhibit P374, p 46 as stamped on the page; *see* also Exhibit P375, p 3; Fatos Bogujevci, Exhibit P383, para 31.

first floor windows of their neighbour's house smashing and "soldiers"[4749] jumping down from them onto the ground.[4750] Saranda Bogujevci had put her hands in her pockets because she was cold, upon which her pockets and the area around her legs was searched by Serbian forces.[4751] Hamdi Duriqi was then singled out; his belongings were removed from his pockets, as well as his traditional white Albanian cap, a *plis*. Members of the Serbian forces shouted at him when he tried to pick his belongings up.[4752] Some women and children were also searched, their money taken from them and their personal belongings thrown on the ground.[4753] Women wearing headscarves were told to take them off.[4754] Fatos Bogujevci testified that one of the men, who took part in searching family members, and who was wearing a green and brown camouflage uniform and a camouflage cap, was at one point told by someone to stop.[4755] Also present was a man who was unshaven and wearing a helmet. Another man present in the compound, wearing no helmet or cap, but carrying several weapons including a belt with a number of knives, appeared to Fatos Bogujevci to be the leader, as he was giving orders.[4756] Fatos Bogujevci saw this man separate his mother Shefkate from the group.[4757] Shefkate Bogujevci was then taken by several soldiers to a shed behind where the group was standing.[4758] The men were laughing, and from the little Serbian that Saranda Bogujevci understood, she could make out that they were saying "We took your mother away".[4759]

1244. Stoparić confirms much of these events. He testified that upon entering Podujevo/Podujevë town, Stoparić and Milovan Tomić, who each headed one of two squads of the Scorpions' reconnaissance platoon,[4760] had found accommodation for themselves in one of the unoccupied

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[4749] The Chamber reiterates Fatos Bogujevci's evidence that when he refers to "soldiers", he is not referring to regular army or regular police officers, explaining that while there were some regular army forces present in Selmon Gashi's compound, wearing a brownish uniform with small caps, the forces closer to their home wore green and brown camouflage uniforms (Exhibit P383, para 29).

[4750] Fatos Bogujevci, Exhibit P383, paras 31, 34; *see* also Exhibit P382, p 38.

[4751] Saranda Bogujevci, Exhibit P373, para 30; *see* also Exhibit P374, p 46.

[4752] Saranda Bogujevci, Exhibit P373, paras 32-33; *see* also Exhibit P374, p 46; *see* also Exhibit P375, p 3. The Chamber notes that it is the evidence of Fatos Bogujevci that Hamdi Duriqi as well as some of the other individuals in the group were physically searched before the group was directed to the compound at the rear of the Bogujevci family compound and the compound of Selmon Gashi (Exhibit P383, paras 30-31). The Chamber takes note of this discrepancy but does not attribute a great deal of significance to it. The events on the morning of 28 March 1999 no doubt were chaotic. The description and sequence of events as described by Fatos Bogujevci corresponds generally to the description and sequence of events as testified to by Saranda Bogujevci and as such are sufficiently corroborative accounts.

[4753] Saranda Bogujevci, Exhibit P373, paras 34, 36; *see* also Exhibit P374, p 47; *see* also Exhibit P375, p 3.

[4754] Saranda Bogujevci, Exhibit P373, para 35; *see* also Exhibit P374, p 47; *see* also Exhibit P375, p 8.

[4755] Fatos Bogujevci, Exhibit P383, paras 31-32. *See* also Exhibit P382, p 38.

[4756] Fatos Bogujevci, Exhibit P383, para 33.

[4757] Fatos Bogujevci, Exhibit P383, paras 33, 35; Fatos Bogujevci, T 1929-1930; Saranda Bogujevci, T 1892; Exhibit P376 (aerial photograph, courtyard to the right of the red arrow Saranda Bogujevci has marked indicating the location where Shefkate Bogujevci was separated from the group).

[4758] Saranda Bogujevci, Exhibit P373, para 37; Exhibit P374, p 47; Exhibit P375, pp 3, 5.

[4759] Saranda Bogujevci, Exhibit P373, para 38.

[4760] Goran Stoparić, Exhibit P493, paras 8, 14, 17. The reconnaissance platoon of the Scorpions numbered up to 30 men and was divided into two squads. One was headed by Goran Stoparić and the other by Milovan Tomić (T 2856).

houses in town.[4761] It is his testimony that shortly after, from the back room of this house, he saw a number of Scorpions, as well as "other men", direct a group of Kosovo Albanian civilians to the courtyard of "the" house. These civilians were being pushed at gunpoint and shouted at by a Scorpions member, Saša Cvetan.[4762] Stoparić went outside to see what was happening and saw approximately 19 Albanian civilians, including women, children and one elderly man wearing a traditional white Albanian cap, looking terrified. The youngest member of the Scorpions searched the elderly man. Stoparić testified that he stopped the young man from searching the women, confirming the evidence of Fatos Bogujevci that someone told one of the men to stop searching.[4763]

1245. Shefkate Bogujevci was still being held in the shed. From the courtyard of the compound in which they were searched, the other women, children and elderly Hamdi Duriqi were then sent by Stoparić and Milovan Tomić out to the street near the police station where the Scorpions leader, Slobodan Medić aka "Boca", was at the time. There they were told to line up.[4764] Stoparić testified that he sent the civilians out to the street because he was concerned with what Scorpions member Saša Cvetan and the others intended to do with them.[4765] The street was full of mixed Serbian forces,[4766] in camouflage.[4767] Among these were police in blue camouflage uniforms, as well as individuals described by Fatos Bogujevci as wearing "regular shirts and police trousers as well as the other way around"[4768] and by Saranda Bogujevci as wearing "police trousers and military shirts".[4769] Stoparić testified that at this point, he and Tomić were standing approximately 50-60 metres away from the Albanian civilians who had come from the compound.[4770] Stoparić confirms that present on the street were policemen[4771] as well as individuals wearing "NATO-patterned uniforms"[4772] which he said could have been the Scorpions, the SAJ, "and perhaps members of the

[4761] Goran Stoparić, Exhibit P493, paras 47, 50; Exhibit 496 (number "1" marking this house); *see* also Zoran Simović, T 13741-13745, 13757.
[4762] Goran Stoparić, Exhibit P493, para 50; Goran Stoparić, T 2825.
[4763] Goran Stoparić, Exhibit P493, para 52; Goran Stoparić, T 2826.
[4764] Saranda Bogujevci, Exhibit P373, para 39; Saranda Bogujevci, T 1884, 1892-1893; Exhibit P367 (courtyard to the right of where the witness has drawn a red arrow indicates the location from where the group was then taken out to the street); Exhibit P375, pp 3, 7; Fatos Bogujevci, Exhibit P383, para 35; Fatos Bogujevci, T 1929-1930; Exhibit P384 (uncircled "2" marking location where the group was standing on the street; Goran Stoparić, Exhibit P493, para 52).
[4765] Goran Stoparić, Exhibit P493, para 52.
[4766] Saranda Bogujevci, T 1884; Exhibit P374, pp 47-48; Fatos Bogujevci, Exhibit P383, para 35.
[4767] Saranda Bogujevci, Exhibit P373, para 40; Saranda Bogujevci, T 1883-1884; Fatos Bogujevci, Exhibit P383, paras 29, 36.
[4768] Fatos Bogujevci, Exhibit P383, para 35.
[4769] Saranda Bogujevci T 1884; Saranda Bogujevci, Exhibit P373, paras 41, 62.
[4770] Goran Stoparić, Exhibit P493, para 54; Goran Stoparić, T 2828.
[4771] Goran Stoparić, Exhibit P493, para 52; Goran Stoparić, T 2827; Exhibit P496 (policemen marked with blue dots on the street).
[4772] Goran Stoparić,T 2827. Radislav Stalević describes that the SAJ wore a "NATO camouflage uniforms which has a green-brown patch", Radislav Stalević, T 13864.

PJP, if any".[4773] These forces were laughing, cursing and shouting at the Albanian civilians, and breaking shop windows.[4774]

1246. One of the "soldiers", wearing a brown civilian shirt and blue police trousers, shouted something at Hamdi Duriqi, who was one of the Albanian civilians lined up on the street, and slapped him.[4775] At this time, elderly Selmon Gashi, who was not part of the Albanian civilians who had been lined up on the street, was standing near a coffee shop not far away from the other Albanian civilians.[4776] A "soldier" took off Selmon Gashi's traditional white Albanian cap and, along with other "soldiers", was teasing and playing around with him.[4777] Fatos and Saranda testified that Selmon Gashi and Hamdi Duriqi were then taken into the coffee shop.[4778] Shortly after both Saranda and Fatos Bogujevci heard two shots; the two men were never seen alive again.[4779] The shooting of at least one of the two elderly men is also confirmed in some respects by Goran Stoparić, who testified that some of the policemen took an elderly man from the group of civilians and took him to a catering facility, which he later found was a tea-house.[4780] Soon after, Stoparić heard gunfire of a machine-gun coming from the tea-house.[4781] The Chamber accepts that the elderly man described by Goran Stoparić was Hamdi Duriqi, and that the location Hamdi Duriqi was taken to by the men on the street is that described by Saranda and Fatos Bogujevci as the "coffee-shop". As discussed in more detail elsewhere in this Judgement, the remains of these two elderly men, Hamdi Duriqi and Selmon Gashi, who were also killed that day in a coffee-shop were identified amongst the 19 bodies exhumed by the OSCE from the Podujevo/Podujevë cemetery on

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[4773] Goran Stoparić, T 2827; Exhibit P496, green dots indicating those individuals wearing "NATO-style uniforms" which the witness states could have been Scorpions, SAJ and perhaps PJP members "if any". He explains that at the time, he only distinguished between the two types of uniforms of those worn on the street being police uniforms and NATO-style uniforms (Goran Stoparić, T 2827). The Chamber notes the testimony of Aleksandar Vasiljević, who was present at a meeting between Ojdanić and Pavković held on 16 May 1999, at which Pavković discussed the crimes committed in Podujevo/Podujevë, and told those present that he had personally seen "Boca" at Prolom Banja wearing "a NATO-style Uniform" with SAJ insignia (Aleksandar Vasiljević, T 5673-5674).

[4774] Saranda Bogujevci, Exhibit P373, para 42; Saranda Bogujevci, T 1884; *see* also Exhibit P374, p 48; *see* also Exhibit P375, p 3; Fatos Bogujevci, Exhibit P383, para 36.

[4775] Fatos Bogujevci, Exhibit P383, para 36; Fatos Bogujevci, T 1931; *see* also Exhibit P382, page 40; s*ee* also Saranda Bogujevci, Exhibit P373, para 42; Saranda Bogujevci, T 1885; Exhibit P375, p 3.

[4776] Saranda Bogujevci, Exhibit P373, para 43; Saranda Bogujevci, T 1885; Fatos Bogujevci, Exhibit P383, para 35; Fatos Bogujevci, T 1930; Exhibit P384, circled number "7" marking location of the coffee shop.

[4777] Saranda Bogujevci, Exhibit P373, para 43; Saranda Bogujevci, T 1885.

[4778] Saranda Bogujevci, Exhibit P373, para 43; Saranda Bogujevci, T 1885; Fatos Bogujevci, Exhibit P383, para 36; Fatos Bogujevci, T 1931.

[4779] Saranda Bogujevci, Exhibit P373, para 43; Saranda Bogujevci, T 1885; *see* also Exhibit P374, p 48; Exhibit P375, p 3; Fatos Bogujevci, Exhibit P383, para 36; Fatos Bogujevci, T 1931; Exhibit P381, p 2; Exhibit P382, p 42.

[4780] Goran Stoparić, Exhibit P493, para 54; Goran Stoparić, T 2811, 2827-2829; Exhibit P496, "x" marking the location where the man was taken after being separated from the group of civilians. The Chamber notes that in his statement, the witness had said that he heard later that the man was killed in a nearby tea-house – it is unclear whether "heard" refers to hearing the sound of gun-fire, or hearing from others that this man was killed, Goran Stoparić, Exhibit P493, para 54; Goran Stoparić, T 2828-2829.

[4781] Goran Stoparić, Exhibit P493, para 54; Goran Stoparić, T 2811, 2827-2829.

19 July 1999.[4782] Although these two men were not listed in the Schedule to the Indictment amongst those known by name, on the basis of eyewitness accounts and forensics evidence, the Chamber is satisfied that these two individuals were killed in a coffee-shop in the street in front of the courtyard, by Serbian forces. They were elderly civilians and the Chamber accepts that they were targeted because they were Kosovo Albanians. They are listed in the Victim Chart, related to Podujevo/Podujevë, annexed to this Judgement.

1247. Saranda and Fatos Bogujevci testified that the Albanian civilians, being women and children, were then directed back into the courtyard while the "soldiers" continued to shout at them.[4783] The man who directed them into the courtyard was the same individual earlier identified as the leader of the group.[4784] It is the evidence of Goran Stoparić that the remainder of the Albanian civilians, now comprising of only women and children, walked back into the courtyard of the compound which Goran Stoparić had just left and in which were Scorpion members Saša Cvetan and his group.[4785] It is the testimony of Stoparić that the group of women and children walked into the courtyard on their own, and were not escorted or followed.[4786] In view of the evidence of Saranda and Fatos as well as the context of the situation, the Chamber does not accept the evidence of Stoparić in this respect.

1248. Back in the courtyard, there were about 10 or more "soldiers". Others were going in and out.[4787] Fatos Bogujevci describes the individuals in the courtyard wearing mainly "light green camouflage uniforms", and stated that they were "standing all over the place, including on the walls".[4788] His description of uniforms worn by the armed men in the courtyard differs from his description of the forces he observed elsewhere throughout the morning. The forces he observed elsewhere, with the exception of a group of individuals wearing "brownish" uniforms near Selmon Gashi's house, he described as wearing uniforms of a green and brown camouflage pattern.[4789] Saranda Bogujevci described all of the "soldiers" she saw that day, including the men in the courtyard, as wearing camouflage uniforms containing different shades of green.[4790] Earlier, she

[4782] *See infra,* para 1454. Forensic evidence related to these victims is discussed later in this Judgement, *see infra,* paras 1454-1458.
[4783] Saranda Bogujevci, Exhibit P373, para 44; Saranda Bogujevci, T 1885-1887, 1891-1892; Exhibit P376, aerial photograph of the courtyard with an arrow indicating the passage-way through which they entered the courtyard from the street; Fatos Bogujevci, Exhibit P383, para 37; Fatos Bogujevci, T 1932-1933; Exhibit P384, uncircled number "3" marking the courtyard to which the group was directed from the street.
[4784] Fatos Bogujevci, T 1932-1933. He describes this uniform as the same uniform as that worn by "the others" who had been in their courtyard when they left their house. *See supra,* para 1243.
[4785] Goran Stoparić, Exhibit P493, para 54; Goran Stoparić, T 2828-2830; Exhibit P496, number "3" marking the location where the witness was standing at that point.
[4786] Goran Stoparić, T 2830.
[4787] Saranda Bogujevci, Exhibit P373, para 47; Saranda Bogujevci, T 1888; Fatos Bogujevci, Exhibit P383, para 37.
[4788] Fatos Bogujevci, Exhibit P383, para 37; *see* also Exhibit P382, pp 39-40.
[4789] Fatos Bogujevci, Exhibit P383, paras 29, 32.
[4790] Saranda Bogujevci, Exhibit P383, para 40; *see* also Exhibit P375, p 2.

described a number of the men in the courtyard at the time of the shooting as wearing an insignia on their shoulder with a two-headed eagle, containing many colours.[4791] The Chamber notes that at the time, both the VJ and the SAJ wore insignia with a double-headed eagle on their shoulder.[4792] On the basis alone of the description provided by both Fatos and Saranda Bogujevci the Chamber is not able to determine conclusively which forces were present and involved in the shooting.[4793] When taken together with the evidence of Stoparić, Simović and Stalević, however, the Chamber is satisfied that the forces present in the courtyard at the time of the killing included members of the Scorpions unit, wearing SAJ uniforms which had been provided to them prior to their arrival in town,[4794] at least one member of the local police, as well as possibly other members of the SAJ.

1249. One of the soldiers addressed the group in Serbian, and when Fezrije Llugaliu told him that they did not understand the language, he threatened her with a knife and hit her on the back of her head.[4795] Fatos and Saranda then saw Shefkate Bogujevci, Fatos's mother, across the courtyard at a distance of about 10 metres being taken out of the shed; she was crying.[4796] One of the soldiers grabbed Shefkate by her shirt. Fatos and Saranda Bogujevci heard her say "they are only children".[4797] The soldier then directed her further away but still within the courtyard, and shot her twice in the back.[4798] Upon seeing this, Fatos screamed.[4799] He describes the man who shot his mother as tall, about 30 years old, and unshaven, but does not provide a specific description of his uniform.[4800]

1250. After the shooting of Shefkate Bogujevci, the remainder of the group was directed to line up against one of the walls of the courtyard.[4801] The same soldier who shot Shefkate Bogujevci then armed himself with a new weapon and started shooting at the group lined up against the wall.[4802]

[4791] Exhibit P375, pp 6-7.
[4792] *See supra,* paras 76, 162.
[4793] While the PJP wore green camouflage uniforms, including lighter shades of green, this uniform also included shades of brown. The VJ uniform was of a darker green shade, while the uniforms worn by the SAJ included both green and brown, *see supra,* paras 64, 65, 162.
[4794] *See infra,* para 1937.
[4795] Saranda Bogujevci, Exhibit P373, para 44; Fatos Bogujevci, Exhibit P383, para 38.
[4796] Fatos Bogujevci, Exhibit P383, para 39; Fatos Bogujevci, T 1933; Exhibit P384, number "4" marking the location of the shed; Saranda Bogujevci, Exhibit P373, para 46; Saranda Bogujevci, T 1885-1886.
[4797] Fatos Bogujevci, Exhibit P383, para 39; Exhibit P382, p 39; Saranda Bogujevci, Exhibit P373, para 46; Saranda Bogujevci, T 1885-1886; Exhibit P375, p 4.
[4798] Fatos Bogujevci, Exhibit P383, para 40; Fatos Bogujevci, T 1933; Exhibit P381, p 2. Saranda Bogujevci testified that the soldier pushed Shefkate Bogujevci as she walked to the back of the house and shot her in the back. After she fell on the ground, the soldier shot her again in her upper body, Sandra Bogujevci, Exhibit P373, para 46; Saranda Bogujevci, T 1885; Exhibit P374, p 48; Exhibit P375, p 4.
[4799] Fatos Bogujevci, Exhibit P383, para 40; Fatos Bogujevci, T 1933; Saranda Bogujevci, Exhibit P373, para 46.
[4800] Fatos Bogujevci, Exhibit P383, para 41; Exhibit P382, p 43.
[4801] Fatos Bogujevci, Exhibit P383, para 42; Fatos Bogujevci, T 1933-1934; Exhibit P384; Saranda Bogujevci, Exhibit P373, para 48.
[4802] Saranda Bogujevci, Exhibit P373, paras 47, 48; Saranda Bogujevci, T 1885-1887, 1890-1891, 1894; Exhibit P376; Exhibit P378; Exhibit P374, pp 49-51; Exhibit P375, p 7.

The group of women and children fell over each other, onto the ground.[4803] Saranda Bogujevci was leaning against the wall in the middle of the group, and as she slid down into a sitting position, bullets hit her twice in the leg. After a short pause a second round of fire hit her in the arm and in her back.[4804] Five or six shots hit Fatos Bogujevci, wounding him in both legs.[4805] The injuries he sustained caused Fatos Bogujevci to believe that shots were coming from at least two directions within the courtyard.[4806] While Saranda Bogujevci only saw one man actually shooting *i.e.,* the one who shot Shefkate Bogujevci and then at the group, Saranda Bogujevci believed that there was more than one man shooting because, after being hit in the arm and legs, she was then also hit in her back, which caused her to conclude that at least one bullet had come from a different direction.[4807] The Chamber accepts that there was more than one person firing at the group of women and children in the courtyard. Moreover, this is supported by forensic evidence obtained when victims of these shootings were exhumed. There were two types of bullets retrieved from the victims of this shooting.[4808] The Chamber is, however, unable to determine the exact number of Serbian "soldiers" shooting in the courtyard that day. It is satisfied that members of the Scorpions unit attached to the SAJ were involved in the killing of these 14 women and children. Members of other Serbian forces were present in the courtyard at the time of the killings and the preceding events, but the evidence does not establish that they actually joined in the shooting.

1251. When he was shot, Fatos Bogujevci closed his eyes and pretended to be dead.[4809] He heard a male voice coming from the personal radio (a walkie-talkie) of one of the soldiers giving a message to stop shooting, upon which the shooting ceased.[4810] The soldiers started to shout at each other and soon after left the courtyard. Their departure was followed by silence for about five minutes.[4811] No longer hearing the "soldiers" present in the courtyard, Saranda Bogujevci lifted her head and looked around. She saw the body of her younger brother Shpetim, who had been shot in the head and was dead, lying face down on the ground near her legs. Arber Duriqi had also been shot in the face. She saw the bodies of their grandmother Shehide, who had her eyes wide open, and of Fezrije Llugaliu, which had a dark-blue colour.[4812] Saranda realized that Fatos, lying in front

[4803] Fatos Bogujevci, Exhibit P383, paras 42, 43; Fatos Bogujevci, T 1934; *see* also Exhibit P382, p 41.
[4804] Saranda Bogujevci, Exhibit P373, paras 48, 60; Saranda Bogujevci, T 1887-1889; Exhibit P374, pp 48-51; Exhibit P375, pp 4, 7.
[4805] Fatos Bogujevci, Exhibit P383, para 44; Fatos Bogujevci, T 1934-1935. The witness believes that there were shots coming from two directions as his back was against the wall, Exhibit P382, p 41.
[4806] Fatos Bogujevci, Exhibit P383, para 44; Fatos Bogujevci, T 1934-1935. The witness explains that his back was against the wall, so that unless one shooter had moved from one side of the courtyard to the other, there must have been more shooters, Exhibit P382, p 41.
[4807] Saranda Bogujevci, Exhibit P373, paras 59, 60; Saranda Bogujevci,T 1888-1889.
[4808] *See* Exhibit P1142; *See infra,* para 1457.
[4809] Fatos Bogujevci, Exhibit P383, para 44; Fatos Bogujevci, T 1934; Exhibit P381, p 2.
[4810] Fatos Bogujevci, Exhibit P383, para 45; Exhibit P381, p 2; Exhibit P382, p 39.
[4811] Fatos Bogujevci, Exhibit P383, para 45.
[4812] Saranda Bogujevci, Exhibit P373, paras 49-50; Saranda Bogujevci, T 1887-1888; Exhibit P374, p 49.

of her, was still alive, having been shot in the leg. Her cousin Genc, lying close to Fezrije Llugaliu's body, lifted his head and said "Saranda, look what they did to Shpetim".[4813]

1252. While, as expressed earlier, the Chamber does not accept the passive role Stoparić has ascribed to himself in the events, his evidence does confirm the shooting of the women and children in the courtyard. He stated that after he saw the group of women and children returning to the courtyard having left the street, he and Milovan Tomić had moved away into an alley leading to an adjacent street. Soon after, he heard the sound of one, and then more, automatic rifles shooting continuously for about one to one and a half minutes.[4814] It is Stoparić's evidence that upon having heard the shots, he and Tomić ran back through the alley towards the house where he had seen the women and children.[4815] At the end of the alley, he says, Tomić tried to stop him and told him "[s]tand there, you fool. Don't get blood on your hands".[4816] However, he says he ran in the direction of an open area surrounded by houses from which he had heard the gunfire.[4817] The shooting had stopped. Goran Stoparić saw Scorpion members Saša Cvetan, Dragan Borogjević, Dragan Medić (Slobodan Medić's brother) and Dejan Demirović standing three to four metres away from the wall of a house.[4818] Standing behind these men were Scorpions member Miodrag Solaja, also known as "Zicko,"[4819] and a local policeman.[4820] On the balcony overlooking the scene stood Zdravko Smiljić and Saša Dabić, two other members of the Scorpions.[4821] At the base of the wall, Stoparić saw the bodies of the Albanian women and children he had seen earlier; they appeared to be dead.[4822] It was his testimony that soon after, Dr Marković, attached to the SAJ, and an SAJ officer arrived at the scene and assisted the wounded.[4823]

1253. Stoparić's evidence of the arrival of a "medical team" is in line with that of Fatos Bogujevci, who testified that after the departure of the "soldiers" and the silence that followed, three to four individuals wearing blue police uniforms with white overcoats, "together with soldiers" came into the courtyard.[4824] These men administered first aid to those who were still alive. Fatos was given a

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[4813] Saranda Bogujevci, Exhibit P373, paras 49, 51; Saranda Bogujevci, T 1887-1888; Exhibit P375, p 4.
[4814] Goran Stoparić, Exhibit P493, para 55; Goran Stoparić, T 2831.
[4815] Goran Stoparić, Exhibit P493, para 55.
[4816] Goran Stoparić, T 2832; Exhibit P497 (number "1" marking location where they stopped).
[4817] Goran Stoparić, Exhibit P493, para 55; Goran Stoparić, T 2832; Exhibit 497 (number "2" marking location where they stood when they arrived at the scene).
[4818] Goran Stoparić, Exhibit P493, para 56; Goran Stoparić, T 2832-2834, 2838; Exhibit P497 (small numbers "1", "2", "3", "4" marking position of the members of the Scorpions at the scene); Exhibit P498.
[4819] Exhibit P1594, pp 3-4; Zoran Simović, T 13698, 13713-13715.
[4820] Goran Stoparić, T 2868; Exhibit P497 (numbers "5" and "6" marking the location of these two individuals); *see* also Exhibit P498.
[4821] Goran Stoparić, Exhibit P493, para 47; Goran Stoparić, T 2838.
[4822] Goran Stoparić, Exhibit P493, para 56; *see* also Zoran Simović, T 13588.
[4823] Goran Stoparić, Exhibit P493, para 59; Goran Stoparić, T 2840. Stalević and Simović give similar evidence (*see* also Radislav Stalević, T 13784; Zoran Simović, T 13588).
[4824] Fatos Bogujevci, Exhibit P383, para 46; Fatos Bogujevci, T 1937, 1944; *see* also Exhibit P381, p 2; *see* also Exhibit P382, p 39 as stamped on the page.

glass of water, wrapped in a blanket, and was taken to the police station where he was sat on the edge of a military vehicle he described as a "Pinzgauer".[4825] From this position, he observed "soldiers, police, people in civilian clothing, people in mixed uniforms" standing on the street talking to each other.[4826] People in civilian clothes armed with automatic rifles were removing property from shops. He recognized two of these people - one of whom he had seen prior to the incident in a police uniform in Podujevo/Podujevë town– as local Serbs.[4827]

1254. Saranda Bogujevci described two men who came and pulled her out of the group of dead and wounded in the courtyard, laid her on the ground, and checked her for wounds; these men spoke Serbian and wore the regular army uniform that she recognized from the army military barracks, different from the men who had shot at the group.[4828] In her video interview with the OTP in 2000, she stated that some of these men who came to the courtyard after the killings were policemen.[4829] Saranda was then placed in what she believed to be a military ambulance because it contained a lot of medicine and blankets.[4830]

1255. The Chamber is satisfied, on the basis of the above evidence, that men came into courtyard after the killings, administered first aid, and transported the wounded children out of the courtyard. These were members of the VJ and the regular police, and may have included some members of the SAJ who had not been present during the killings in the courtyard.

1256. In the Chamber's finding 19 Kosovo Albanian women and children were shot in the courtyard on 28 March 1999 by Serbian forces. Of these, 14 women and children were killed. It is accepted by the Chamber that these 14 women and children were killed because they were Kosovo Albanians. All of the following 14 victims were listed by name in the Schedule to the Indictment: Saranda Bogujevci's mother Sala Bogujevci (38 years old),[4831] Saranda's grandmother Shehide

[4825] Fatos Bogujevci, Exhibit P383, para 46; Fatos Bogujevci, T 1935, 1944.
[4826] Fatos Bogujevci, T 1935; *see* also Fatos Bogujevci, Exhibit P383, para 47. In his statement to the OTP, Fatos Bogujevci does not describe the "mixed uniforms" he saw on this occasion, referring simply to "the people wearing the mixed uniforms–both police and military" (*see* Fatos Bogujevci, Exhibit P373, para 47). Earlier in his statement, when describing the forces in the street when the group of women, children and elderly Hamdi Duriqi were lined up, he describes "mixed uniforms" as "regular shirts and blue police trousers as well as the other way around" (*see* Fatos Bogujevci, Exhibit P373, para 35).
[4827] Fatos Bogujevci, Exhibit P383, para 47; Fatos Bogujevci, T 1935-1936; *see* also Exhibit P381, p 6. The Chamber recalls, here, that the use of armed Serb civilians during anti-terrorist operations, *inter alia,* in the "Malo Kosovo" area was foreseen in a Priština Corps Command Order dated 16 February 1999, which was then implemented by a Joint Command Order on 23 March 1999 (*see* Exhibits P889 and D105).
[4828] Saranda Bogujevci, Exhibit P373, para 52; Saranda Bogujevci, T 1888, 1913-1914; *see* also Exhibit P374, p 49 as stamped on the page; *see* also Exhibit P375, pp 4, 6. In the transcript of her video interview on 22 May 2000, Saranda Bogujevci states that the pattern of the uniforms worn by those who collected her from the yard was mainly brown with some green (*see* Exhibit P375, p 6)
[4829] Exhibit P375, p 4.
[4830] Saranda Bogujevci, Exhibit, P373, para 53; Saranda Bogujevci, T 1914.
[4831] Saranda Bogujevci, T 1895; *see* also Exhibit P379, p 6.

Bogujevci (60 years old)[4832] and her two younger brothers Shpend and Shpetim,[4833] Fatos Bogujevci's mother Shefkate Bogujevci, his sister Nora, his father's aunt Nefise Llugaliu and Nefise's daughter-in-law Fezrije, as well as six members of the Duriqi family, namely, Fitnete, Esma, Dafina, Arber, Mimoza and Albijon Duriqi.[4834] Five of the children, Saranda, Fatos, Jehona, Lirije and Genc Bogujevci, some of whom were severley injured, survived the incident.[4835] Following the incident, these five surviving children were taken to the hospital in Priština/Prishtinë where they received some treatment.[4836] Fatos and Saranda remained at this hospital until June 1999 and were subsequently treated at a military hospital in Kosovo.[4837] In September 1999, together with their fathers Selatin and Safet and cousins Jehona and Genc, they moved to the United Kingdom.[4838] Lirije Bogujevci received further treatment in Belgrade and joined them later, in November of 1999.[4839]

1257. Fatos Bogujevci sustained three bullets in his left leg and two in his right leg.[4840] Saranda Bogujevci was shot in her arm 13 times, as well as twice in her leg and once in her back. She has limited movement in her arm and is unable to straighten her fingers and elbow or make a grip. She has trouble concentrating for long periods and is easily anxious.[4841] In addition, she suffered psychological injury from having witnessed the murder of so many members of her family.[4842] At the time of her testimony in this trial, 10 years after sustaining these injuries, she was also continuing to receive physiotherapy for her physical injuries.[4843]

1258. Directly following the killings, Simović informed both the Accused and the MUP Staff in Priština/Prishtinë that members of the Scorpions unit had fired on civilians.[4844] The bodies of those shot and killed in the courtyard remained there for a number of days until an on-site investigation

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[4832] Saranda Bogujevci, T 1895; *see* also Exhibit P379, p 7.
[4833] Saranda Bogujevci, T 1895; *see* also Exhibit P379, p 8.
[4834] Saranda Bogujevci, T 1899. These are Fitnete, Esma, Dafina, Arber, Mimoza, and Albijon Duriqi (*see* Exhibit 373, para 26). The witness testified that seven members of the Duriqi family were shot in the courtyard. It is clear from her evidence, however, that Hamdi Duriqi should be excluded from this number, as he and fellow villager Selmon Gashi were shot earlier in the coffee shop.
[4835] Saranda Bogujevci, T 1899; Fatos Bogujevci, Exhibit P383, para 51.
[4836] Fatos Bogujevci, Exhibit P383, paras 51; Fatos Bogujevci, T 1937; Saranda Bogujevci, Exhibit P373, para 57.
[4837] Saranda Bogujevci, Exhibit P373, paras 57, 64; Saranda Bogujevci, T 1900; Fatos Bogujevci, Exhibit P383, para 54.
[4838] Saranda Bogujevci, Exhibit P373, para 64; Saranda Bogujevci, T 1900; Fatos Bogujevci, Exhibit P383, para 54; Fatos Bogujevci, T 1937.
[4839] Saranda Bogujevci, Exhibit P373, para 64; Fatos Bogujevci, Exhibit P383, paras 54, 57.
[4840] Fatos Bogujevci, Exhibit P383, para 50; Fatos Bogujevci, T 1946.
[4841] Saranda Bogujevci, Exhibit P373, para 58; Saranda Bogujevci, T 1899-1900, 1916; *see* also Exhibit P374, p 50 as stamped on the page.
[4842] Saranda Bogujevci, Exhibit P373, para 58; *see* also Exhibit P374, p 50 as stamped on the page.
[4843] Saranda Bogujevci, Exhibit P373, para 58; Saranda Bogujevci, T 1900.
[4844] Zoran Simović, T 13588-13589, 13602, 13617-13618, 13654-13656; Živko Trajković, T 9094-9095; *see* also Vlastimir Đorđević, T 9703-9704.

was carried out on 30 March 1999.[4845] They were subsequently buried in a cemetery on the outskirts of Podujevo/Podujevë town.[4846] The adequacy and results of this on-site investigation and the measures taken to identify the perpetrators of these killings will be discussed later in this Judgement.[4847]

1259. As discussed in more detail elsewhere in this Judgement, on 19 July 1999, an OSCE team documented the exhumation from this same cemetery of 19 bodies alleged to have been killed on 28 March 1999. All of the bodies were identified on the basis of clothing and information provided by individuals who had assisted in the initial burial of the bodies. Following the identification of the bodies, they were then reburied in the cemetery. The remains of the 14 women and children killed in the courtyard were amongst these 19 bodies.[4848] In August 2000, a British Forensic Team exhumed and performed autopsies on eight of the women and children who were killed in the courtyard.[4849] It was established that these eight individuals died as a result of gunshot wounds. Two types of bullet wounds were identified in eight bodies. There were wounds to the chest, neck and head.[4850] The Chamber has not received any additional forensic evidence with respect to the remaining six bodies of the women and children the Chamber earlier found were killed in the courtyard. On the basis of eyewitness accounts and the above forensic evidence, the Chamber is satisfied that the earlier listed 14 women and children were all killed by Serbian forces in the courtyard on 28 March 1999.

(b) Živko Trajković

1260. In addition to the evidence of Stoparić, Stalević and Simović, there is also a hearsay account of the events in Podujevo/Podujevë on 28 March 1999 given by another witness, Živko Trajković, who was the overall commander of the SAJ during the time relevant to the Indictment. Živko Trajković was informed of these events by an officer who visited him in Priština/Prishtinë hospital, where he was being treated for injuries sustained when his vehicle drove over an anti-tank mine on the morning of 27 March 1999.[4851] He received similar information from several members of the

[4845] Vlastimir Đorđević, T 9706. Aleksandar Vasiljević learned later that the bodies remained in the courtyard for three days, because it was not possible for an investigative judge to get to the scene because of road conditions (*see* T 5736, 5916). Momir Stojanović testified that the investigative judge was afraid to carry out the investigation, but that he eventually did so, after two days (*see* T 11778); *see* also Exhibit D441.

[4846] Fatos Bogujevci, Exhibit P383, para 55.

[4847] *See infra,* paras 1956-1966.

[4848] The Chamber notes that in addition, there were the bodies of Idriz Tahir, Selim Tahir and Feriz Fazliu were identified. *See infra,* para 1454.

[4849] *See infra,* para 1455.

[4850] *See infra,* para 1457.

[4851] Živko Trajković, T 9091-9094; *see* also Zoran Simović, T 13853-13854, 13611. The explosion caused by the anti-tank mine wounded two others and killed Živko Trajković's driver, Radovan Aleksić (*see* Zoran Simović, T 13853-13854, 13611).

Scorpions when he later went to disarm them in Prolom Banja.[4852] He was told that upon arrival of the unit in Podujevo/Podujevë town, the members of the group were told to find accommodation. On the streets, some of the members of the group came across civilians, and were provoked by the police to "do away with these people" because their commander – ie Živko Trajković– had been injured.[4853] Something similar was said by Zoran Simović in a statement to the MUP in 2002.[4854] Živko Trajković was told that a shooting incident then ensued, and many people, all of them civilians, were killed.[4855] Trajković was also told that when word of the incident spread, the "commanding officers"[4856] ran out to see what had happened, and called an ambulance team. The doctor attached to Živko Trajković's SAJ unit, Dr Dragan Marković, was called to the scene where he offered first aid.[4857] He was also told that some victims were sent to Priština/Prishtinë hospital while, for many, it was too late.[4858] A report drafted by Živko Trajković on 13 May 1999, at the request of the Accused Vlastimir Đorđević, is consistent with this oral testimony about what he was told of the events that ensued on 28 March 1999.[4859] The Chamber notes that the hearsay account serves to confirm the killings of the women and children in the courtyard, and the fact that the few who survived the incident received medical care. It is, however, not prepared to rely on this account to establish the events leading up to these killings, as it has received more direct evidence on this matter, set out in its findings above.

(c) Results of VJ inquiry into the events

1261. Momir Stojanović, head of the Security Section of the Priština Corps Command, testified that he was told by the Chief of Security of the 211th Armored Brigade of the Priština Corps, who the Chamber has already found was stationed in Podujevo/Podujevë town on this day, that corpses had been observed in town on 28 March 1999.[4860] Upon hearing of this, he ordered an investigation into the incident.[4861] The Chamber notes that this investigation was a VJ inquiry into the events. It appears there was also an on-site investigation, which took place on 30 March 1999 and was carried

[4852] Živko Trajković, T 9093-9094, 9106-9107; *See infra,* para 1952.
[4853] Živko Trajković, T 9093-9094.
[4854] Zoran Simović, T 13669-13670; Exhibit P1590. Simović testified that while he signed this statement to the MUP in 2002, he does not remember having read it before he signed it, Zoran Simović, T 13661-13662.
[4855] Živko Trajković, T 9094.
[4856] Živko Trajković, T 9094. The witness does not specify who these "commanding officers" were. The Chamber accepts, on the basis of other evidence, that the commanding officers of the SAJ on the ground at the time included Zoran Simović and Radislav Stalević.
[4857] Živko Trajković, T 9094; Zoran Simović, T 13588, 13623, 13628-13630; Radislav Stalević, T 13784; *see* also Exhibit P1598.
[4858] Živko Trajković, T 9094.
[4859] Živko Trajković, T 9106-9107 and Exhibit P86, a report the witness wrote at Vlastimir Đorđević's request at the end of the war, addressed to the Accused, including an account of the killings in Podujevo/Podujevë; *see* also Vlastimir Đorđević, T 9712-9715 and Exhibit D442, which, according to the Defence, is a more complete version of the same report in evidence as Exhibit P86.
[4860] Momir Stojanović, T 11777.
[4861] Momir Stojanović, T 11777.

out by an investigative magistrate of the Prokuplje OUP, as detailed elsewhere in this Judgement.[4862] The information subsequently gathered by the security organs of the Priština Corps confirms the findings of the Chamber made above; it indicated that a reserve force of the MUP of Serbia arrived in Podujevo/Podujevë town by bus, and that when they came out of the bus, opened fire on a group of civilians, killings about 12 of them, including children.[4863] It was ascertained by the security organs of the Corps that the same unit was driven out of Kosovo the same day. Stojanović testified that from what he could have gathered from the media at a later stage, the entire group of MUP members involved were subsequently prosecuted.[4864] The Chamber shall deal with the investigations and prosecutions of the perpetrators in more detail elsewhere in this Judgement.[4865]

[4862] *See infra,* paras 1956-1966.

[4863] Momir Stojanović, T 11777-11778. Exhibit D210, a report of the Security Administration of the Supreme Command Staff, compiled on 13 May 1999 (a month and a half after the inquiry by the VJ into what occurred in Podujevo on 28 March 1999) states that according to operative date, a paramilitary group of some 100 volunteers under the command of Slobodan Medić aka "Boca", were sent to Podujevo/Podujevë town as reinforcements to MUP forces, after being welcomed in Prolom Banja and assigned with uniforms. The report records that upon arrival in Podujevo/Podujevë, although there were no combat actions in town that day, members of this group began searching houses of local Albanians and stealing various items. It is recorded that "on 31 March", they killed two elderly people and about 10 children of Albanian ethnicity. Because of their actions, this group was then expelled from the zone of combat operations by the commander of the 354th Brigade of the VJ, after which the group returned to Prolom Banja, and ultimately, returned to their "places of living" after some quarrels and interpersonal conflict. The report further states that according to "initial, as yet unconfirmed reports", Medić and a group of some 100 members returned to Kosovo subsequently, until 10 May 1999 (Exhibit D210). Aleksandar Vasiljević contests the reliability of this report, stating that he has not seen it before and that it contains inaccurate information (Aleksandar Vasiljević, T 5909-5913).

[4864] Momir Stojanović, T 11777-11778.

[4865] *See infra,* paras 1956-1966.