

DISTRICT COURT OF MITROVICA

P. nr. 45/2010

29 July 2011

IN THE NAME OF THE PEOPLE

THE DISTRICT COURT OF MITROVICA, in the trial panel composed of EULEX Judge Jonathan Welford-Carroll as Presiding Judge, and President Xhevdet Abazi and EULEX Judge Caroline Charpentier as panel members, with the participation of EULEX Legal Officer Tara Khan as Recording Officer in the criminal case against;

SABIT GECI charged according to the Indictment of SPRK Prosecutor PPS nr. 08/09 filed with the District Court of Mitrovica on 06 August 2010 and confirmed on 24 November 2010 by Ruling KA nr. 64/2010 with six counts of **War Crimes Against the Civilian Population** in violation of Article 142 of the Criminal Code of the Socialist Federal Republic of Yugoslavia (“CCSFRY”), also foreseen in Articles 120 and 121 of the Criminal Code of Kosovo (“CCK”), and in violation of Common Article 3 of the Geneva Conventions and Articles 4 and 5(1) of Additional Protocol II to the Geneva Conventions; and **Unauthorized Ownership, Control, Possession or Use of Weapon** in violation of Article 328(2) of the CCK;

RIZA ALIJA charged according to SPRK Indictment PPS nr. 08/09 filed on 06 August 2010 and confirmed on 24 November 2010 by Ruling KA nr. 64/2010 with three counts of **War Crimes Against the Civilian Population** in violation of Articles 22 and 142 of the CC SFRY, also foreseen in Articles 23 and 120 of the CCK, and in violation of Common Article 3 of the Geneva Conventions and Articles 4 and 5(1) of Additional Protocol II to the Geneva Conventions;

HAKI HAJDARI charged, according to SPRK Indictment PPS nr. 117/10 filed on 29 December 2010 and confirmed on 25 March 2011 by Ruling KA nr. 208/2010 and joined with case P nr. 45/2010 during the main trial hearing on 04 May 2011, with two counts of **War Crimes Against the Civilian Population** in violation of Articles 22 and 142 of the CC SFRY, also foreseen in Articles 23 and 120 of the CCK, and in violation

of Common Article 3 of the Geneva Conventions and Articles 4 and 5(1) of Additional Protocol II to the Geneva Conventions; and

SHABAN HOTI charged, according to SPRK Indictment PPS nr. 117/10 filed on 25 February 2011 and confirmed on 25 March 2011 by Ruling KA nr. 208/2010 and joined with case P nr. 45/2010 during the main trial hearing on 04 May 2011, with two counts of **War Crimes Against the Civilian Population** in violation of Articles 22 and 142 of the CC SFRY, also foreseen in Articles 23 and 120 of the CCK, and in violation of Common Article 3 of the Geneva Conventions and Articles 4 and 5(1) of Additional Protocol II to the Geneva Conventions;

After having held the main trial hearings open to the public on the following dates:

- 14, 16, 21, 23, 24, 28, 31 March 2011;
- 04, 06, 07 April 2011;
- 04, 05, 16, 19, 23, 25 May 2011;
- 02, 08, 09, 10, 20 June 2011;
- 18, 20, 21, 25, 29 July 2011;

All in the presence of SPRK Prosecutor Maurizio Salustro¹, defendant Sabit Geci and his defence counsel Mahmut Halimi and Haxhi Millaku, defendant Riza Alija and his defence counsel Gezim Kollqaku², and from 05 May 2011 onwards also in the presence of defendant Haki Hajdari and his defence counsel Gani Rexha³, and defendant Shaban Hoti and his defence counsel Agim Lushta;

After the Trial Panel's deliberations and voting on 29 July 2011, on the same day pursuant to Article 392 Paragraph (1) of the Kosovo Code of Criminal Procedure ("KCCP"), pronounced in public and in the presence of all the above-mentioned parties the following:

VERDICT

¹ With the exception of those days when he sent an authorized substitute.

² With the exception of those days when he sent an authorized substitute.

³ With the exception of those days when he sent an authorized substitute.

The Accused **SABIT GECI**, nicknamed “Qopa”, son of [REDACTED] Geci and [REDACTED] [REDACTED] born 20 August 1958 in Lausha Village, Skenderaj/Srbica Municipality, Kosovo-Albanian, currently residing at Mbreti Zugu nr. 9 in Pristina, married with four children, previously convicted of Attempted Extortion, Endangering Security and Causing General Danger, in detention on remand since 06 May 2010;

Is

FOUND GUILTY

Of (Count 1) War Crimes Against the Civilian Population

- because from on or about 18 May until 03 June 1999, during a time of internal armed conflict in Kosovo, the accused in his capacity as a member of the Kosovo Liberation Army (“KLA”) holding a command position in the improvised prison within a KLA military compound in the town of Kukes in the Republic of Albania, jointly together with other KLA members treated inhumanely (e.g. the filthy living conditions, lack of adequate sanitation, food and water) an undefined number of civilian prisoners, including Witness A, Witness B, Witness C, Witness D, Witness E, Witness F, Witness H and [REDACTED].

Of (Count 2) War Crimes Against the Civilian Population

- because on or about 19 May 1999, during a time of internal armed conflict in Kosovo, the accused in his capacity as a member of the KLA holding a command position in the prison in the KLA camp in Kukes, in co-perpetration with other KLA members, tortured civilian prisoners Witness A, Witness B, Witness C, Witness D, Witness E, Witness F, Witness H and [REDACTED] by attempting to obtain information and confessions from the victims while repeatedly using violence against them and ordering other KLA members to do the same.

Of (Count 3) War Crimes Against the Civilian Population

- because on several occasions from on or about 18 May until 03 June 1999, during a time of internal armed conflict in Kosovo, the accused in his capacity as a member of the Kosovo Liberation Army (“KLA”) holding a command position in the prison in the KLA camp in Kukes, the accused violated the bodily integrity of an undefined number of civilian prisoners including Witness A, Witness B, Witness C, Witness D, Witness E, Witness F, Witness H and [REDACTED] by means of severe ill-treatment and beatings which occurred inside the makeshift cells where such prisoners were detained.

Of (Count 5) War Crimes Against the Civilian Population

- because on or about 12 April 1999, during a time of internal armed conflict in Kosovo, the accused in his capacity as a member of the KLA, in co-perpetration with Riza Alija, violated the bodily integrity of [REDACTED], a civilian detained in an improvised prison in the KLA camp located in Cahan, Republic of Albania, by repeatedly and severely beating him with a crutch and a wooden stick.

By doing so, **Sabit Geci committed and is criminally liable for four counts of the criminal act of War Crimes against the Civilian Population** pursuant to Articles 22 and 142 of the CC SFRY in conjunction with Common Article 3 of the Geneva Conventions and Articles 4 and 5(1) of Additional Protocol II to the Geneva Conventions.

The Accused SABIT GECI is also

FOUND GUILTY

Of (Count 7) Unauthorized Possession of Weapon

- because on 06 May 2010 while being arrested in Pristina, the accused had in his personal possession a loaded semi-automatic weapon, specifically a Crvena Zastava M-57 Lux caliber 7.62x25mm pistol, without authorization.

By doing so, **Sabit Geci committed and is criminally liable for the criminal act of Unauthorized Ownership, Control, Possession or Use of Weapons** pursuant to Article 328 Paragraph (2) of the CCK.

The Accused SABIT GECI is

FOUND NOT GUILTY

Of (Count 4) War Crimes Against the Civilian Population

- because it was not proven that on or about 05 June 1999, during a time of internal armed conflict in Kosovo, the accused in his capacity as a member of the KLA holding a command position in the Kukes prison, in co-perpetration with Xh [REDACTED] K [REDACTED] and other unidentified KLA soldiers, participated in the killing of [REDACTED], a civilian held captive in Kukes who died as a result of a gun shot wound to the leg caused by a shot fired by an unidentified KLA soldier.

Of (Count 6) War Crimes Against the Civilian Population

- because it was not proven that on an unspecified date between 12 April and mid-June 1999, during a time of internal armed conflict in Kosovo, the accused in his capacity as a member of the KLA, in co-perpetration with Riza Alija, violated the bodily integrity of an undefined number of civilians including [REDACTED], Witness O, Witness K, Witness M, and Witness N detained in the Cahani detention center by ordering the direct perpetrator Riza Alija to use violence against them.

Therefore, pursuant to Article 390 Item (3) of the Kosovo Code of Criminal Procedure (“KCCP”) the accused **Sabit Geci is acquitted of the charges of (Count 4) and (Count 6) War Crimes Against the Civilian Population.**

The Accused **RIZA ALIJA**, nicknamed “Commander Hoxha”, son of I [REDACTED] Alija and [REDACTED], born 21 January 1960 in Ponoshec Village, Gjakove/Djakova Municipality, Kosovo-Albanian, currently residing in Ponoshec Village,

Gjakove/Djakova, married with four children, no known previous convictions, in detention on remand since 23 June 2010;

Is

FOUND GUILTY

Of (Count 2) War Crimes Against the Civilian Population

- because on or about 12 April 1999, during a time of internal armed conflict in Kosovo, the accused in his capacity as a member of the KLA, in co-perpetration with Sabit Geci, violated the bodily integrity of ██████████, a civilian detained in an improvised prison in the KLA camp located in Cahan, Republic of Albania, by repeatedly and severely beating him with a crutch and a wooden stick.

Of (Count 3) War Crimes Against the Civilian Population

- because during a time of internal armed conflict in Kosovo, the accused in his capacity as a member of the KLA, violated the bodily integrity of the following civilians detained in the prison in the KLA camp in Cahan:

- ██████████, by beating him in a number of ways including by striking him with a heavy-duty shoe on or about 14 April 1999, and by ordering other unidentified KLA soldiers to punch and kick ██████████ on an undefined number of occasions (especially when ██████████ was on his way from the cell where he was detained to the toilet) on unspecified dates between 12 April and mid-June 1999.

- Witness M, by repeatedly striking him on his back with an iron bar on or about 17 April 1999.

- Witness K, Witness M, Witness N, and Witness O by beating them in a number of ways, including by striking them with a wooden stick and by ordering other unidentified KLA soldiers to beat them, on unspecified dates between 12 April and mid-June 1999.

By doing so, **Riza Alija committed and is criminally liable for two counts of the criminal act of War Crimes against the Civilian Population** pursuant to Articles 22 and 142 of the CC SFRY and in conjunction with Common Article 3 of the Geneva Conventions and Articles 4 and 5(1) of Additional Protocol II to the Geneva Conventions.

The Accused RIZA ALIJA is

FOUND NOT GUILTY

Of (Count 1) War Crimes Against the Civilian Population

- because it was not proven that between April until mid-June 1999, during a time of internal armed conflict in Kosovo, the accused in his capacity as a member of the KLA, in co-perpetration with Haki Hajdari and other unidentified KLA soldiers, treated inhumanely (e.g. filthy living conditions, lack of adequate sanitation, food and water) an undefined number of civilian prisoners detained in the detention center in the KLA camp in Cahan.

Therefore, pursuant to Article 390 Item (3) of the KCCP, the accused **Riza Alija is acquitted of the charge of (Count 1) War Crimes Against the Civilian Population.**

The Accused **HAKI HAJDARI**, nicknamed “Haki Drenica”, son of [REDACTED] Hajdari and [REDACTED], born 19 May 1963 in Lower Kline, Skenderaj/Srbica Municipality, Kosovo-Albanian, currently residing in Lower Kline, no known previous convictions;

Is

FOUND GUILTY

Of (Count 2) War Crimes Against the Civilian Population

- because on or about 03 May 1999, during a time of internal armed conflict in Kosovo, the accused in his capacity as a member of the KLA, in co-perpetration with Shaban Hoti and other unidentified KLA soldiers, tortured Witness N, a Kosovo Albanian civilian detained in the Cahan detention center by attempting to obtain information and confessions from him while repeatedly beating him with wooden sticks.

By doing so, **Haki Hajdari committed and is criminally liable for the criminal act of War Crimes against the Civilian Population** pursuant to Articles 22 and 142 of the CC SFRY and in conjunction with Common Article 3 of the Geneva Conventions and Articles 4 and 5(1) of Additional Protocol II to the Geneva Conventions.

The Accused HAKI HAJDARI is

FOUND NOT GUILTY

Of (Count 1) War Crimes Against the Civilian Population

- because it was not proven that between April until mid-June 1999, during a time of internal armed conflict in Kosovo, the accused in his capacity as a member of the KLA holding a command position in the Cahan camp, in co-perpetration with Riza Alija and other unidentified KLA soldiers, treated inhumanely (e.g. filthy living conditions, lack of adequate sanitation, food and water) an undefined number of civilian prisoners detained in the detention center in the KLA camp in Cahan.

Therefore, pursuant to Article 390 Item (3) of the KCCP, the accused Haki Hajdari is acquitted of the charge of (Count 1) War Crimes Against the Civilian Population.

The Accused **SHABAN HOTI**, son of [REDACTED] Hoti and [REDACTED], born 24 September 1971 in Polac, Skenderaj/Srbica Municipality, Kosovo-Albanian, currently residing in Skenderaj/Srbica, no known previous convictions;

Is

FOUND GUILTY

Of (Count 1) War Crimes Against the Civilian Population

- because on or about 03 May 1999, during a time of internal armed conflict in Kosovo, the accused in his capacity as a member of the KLA, in co-perpetration with Haki Hajdari and other unidentified KLA soldiers, tortured Witness N, a Kosovo Albanian civilian detained in the Cahan detention center, by attempting to obtain information and confessions from his while repeatedly beating him with wooden sticks.

By doing so, **Shaban Hoti** committed and is criminally liable for the criminal act of **War Crimes against the Civilian Population** pursuant to Articles 22 and 142 of the CC SFRY and in conjunction with Common Article 3 of the Geneva Conventions and Articles 4 and 5(1) of Protocol II to the Geneva Conventions.

The Accused SHABAN HOTI is

FOUND NOT GUILTY

Of (Count 2) War Crimes Against the Civilian Population

- because it was not proven that on or about 09 May 1999, during a time of internal armed conflict in Kosovo, the accused in his capacity as a member of the KLA, in co-perpetration with another unidentified KLA soldier, tortured Witness N, a Kosovo-Albanian civilian detained in the Cahan detention center, by attempting to obtain information and confessions from Witness N while an unidentified KLA soldier beat him with a wooden stick on his hands and legs.

Therefore, pursuant to Article 390 Item (3) of the KCCP, the accused Shaban Hoti is acquitted of the charge of (Count 2) War Crimes Against the Civilian Population.

SABIT GECI is

SENTENCED

- to eight /8/ years of imprisonment for (Count 1) War Crimes Against the Civilian Population
- to twelve /12/ years of imprisonment for (Count 2) War Crimes Against the Civilian Population
- to nine /9/ years of imprisonment for (Count 3) War Crimes Against the Civilian Population
- to eight /8/ years of imprisonment for (Count 5) War Crimes Against the Civilian Population
- to a fine of 4,000.00 Euro for the criminal act of Unauthorized Ownership, Control, Possession or Use of Weapon

The aggregate punishment is determined in **fifteen /15/ years of imprisonment and a fine of 4,000.00 Euro**, pursuant to Article 48 Paragraph (2) Subparagraph (3) of the CC SFRY.

The time spent in detention on remand is to be credited pursuant to pursuant to Article 50 Paragraph (1) of the CC SFRY.

RIZA ALIJA is

SENTENCED

- to eight /8/ years of imprisonment for (Count 2) War Crimes Against the Civilian Population
- to nine /9/ years of imprisonment for (Count 3) War Crimes Against the Civilian Population

The aggregate punishment is determined in **twelve /12/ years of imprisonment** pursuant to Article 48 Paragraph (2) Subparagraph (3) of the CC SFRY.

The time spent in detention on remand is to be credited pursuant to Article 50 Paragraph (1) of the CC SFRY.

HAKI HAJDARI is

SENTENCED

- to six /6/ years of imprisonment for (Count 2) War Crimes Against the Civilian Population

SHABAN HOTI is

SENTENCED

- to seven /7/ years of imprisonment for (Count 1) War Crimes Against the Civilian Population

The weapon found in the personal possession of Sabit Geci, a semi-automatic Crvena Zastava M-57 Lux caliber 7.62x25mm pistol, is hereby confiscated pursuant to Article 60 Paragraph (1) of the CCK and Article 494 Paragraph (1) of the KCCP.

Each of the Accused shall reimburse their parts of the costs of criminal proceedings pursuant to Article 102 Paragraph (1) of the KCCP with the exception of the costs of interpretation and translation. The Accused Sabit Geci and the Accused Riza Alija shall reimburse the amount of 2,000.00 Euro each. The Accused Haki Hajdari and the Accused Shaban Hoti shall reimburse the amount of 500.00 Euro each.

The property claim of the Injured Party is referred for civil proceedings pursuant to Article 112 Paragraph (3) of the KCCP.

REASONING

I. PROCEDURAL HISTORY

1. On 06 August 2010, SPRK Prosecutor Robert Dean filed indictment PPS nr. 08/2009 against Sabit Geci and Riza Alija alleging one count of War Crimes Against the Civilian Population against each defendant for acts committed against civilian detainees held in two KLA-run camps in Kukes and Cahan in the Republic of Albania during 1999, and one count of Unauthorized Possession of Weapon against Defendant Geci. A hearing on confirmation of the indictment was held on 07 October 2010 during which SPRK Prosecutor Maurizio Salustro presented a revision of the wording of the enacting clause of the indictment which separated the individual various charges of War Crimes. The hearing was adjourned until 22 October in order to give the Defence appropriate time to review the revision. On 24 November 2010, EULEX Judge Nikolay Entchev confirmed the Indictment as amended in Ruling KA nr. 64/2010.
2. On 29 December 2010, SPRK Prosecutor Salustro filed Indictment PPS nr. 117/2010 against Haki Hajdari and Sali Rexhepi charging them with War Crimes Against the Civilian Population by maltreatment of civilian detainees at a KLA-run detention camp located in Cahan, Albania during 1999. A hearing was held on confirmation of the indictment and admissibility of the evidence on 14 February 2011. Upon request of the Defence Counsel of both Defendants, the hearing was adjourned to 22 March 2011 in order to give the Defence appropriate time to review the materials gathered during the investigation supporting the indictment.
3. In the meantime, on 16 February 2011, the Prosecutor filed a Ruling on expansion of the criminal investigation of case PPS nr. 117/2010 to include Shaban Hoti as a suspect. Subsequently, on 25 February 2011, the Prosecutor filed a separate indictment under PPS nr. 117/2010 (registered by the Court under KA nr. 09/2011) against Shaban Hoti charging two counts of War Crimes with regard to the detainees at the KLA camp in Cahan.

4. Upon request of the SPRK Prosecutor, on 02 March 2011 Confirmation Judge Nikolay Entchev issued an Order to join criminal case KA nr. 09/2011 against Shaban Hoti to criminal case KA nr. 208/2010 against Haki Hajdari and Sali Rexhepi since the alleged criminal offences were interconnected and relied upon common evidence.
5. The Confirmation Hearing of the Indictments against Hajdari, Rexhepi and Hoti was held on 22 March 2011. On 25 March 2011, Confirmation Judge Nikolay Entchev issued Ruling KA nr. 208/2010 confirming both indictments and declaring all the evidence contained in the case file as admissible.
6. The trial against Sabit Geci and Riza Alija opened on 14 March 2011 before the above-mentioned mixed panel of judges. Both defendants pleaded “Not Guilty” to all of the counts of War Crimes of the Indictment. Sabit Geci pleaded “Guilty” to the criminal offence of Unauthorized Possession of Weapon. Between 14 March and 04 May, six Prosecution witnesses were heard, all of whom testified exclusively about events occurring in the KLA-run camp in Kukes.
7. On 14 April 2011, Prosecutor Salustro moved for the case against Haki Hajdari, Sali Rexhepi and Shaban Hoti to be joined to the ongoing trial against Geci and Alija. On 04 May, the trial against Hajdari, Rexhepi and Hoti in case P nr. 13/2011 was opened, also in the presence of defendants Geci and Alija and their Defence Counsel. All of the parties agreed to the joinder of the cases because although eleven hearings had been held in the Geci/Alija trial, all of the evidence heard thus far concerned acts which had allegedly occurred in the KLA camp in Kukes. Only Geci and Alija were charged with committing criminal offences at that location. The charges against Hajdari, Rexhepi and Hoti concerned incidents which allegedly occurred at the KLA camp in Cahan, Albanian. Therefore, there was no prejudice to the new defendants in the joinder of these cases. The main trial thus continued against all five defendants.
8. On 16 June 2011, Defence Counsel Qerimi applied for permission from the Court for Defendant Rexhepi to travel to Turkey for urgently needed heart

surgery. On 20 June, the Trial Panel severed the case against Sali Rexhepi pursuant to Article 34 KCCP and the trial continued against the four other defendants.

9. The closing statements were heard on 21 and 25 July 2011, and the verdict pronounced on 29 July.

II. COMPETENCE OF THE COURT & QUALIFICATION OF OFFENCE

10. Under Article 23 Item 1) i) KCCP, District Courts are competent to hear criminal cases involving charges for which the law allows the imposition of a penal sentence of at least five years. Each of the four Accused were charged with the criminal offences of War Crimes Against the Civilian Population, which carries a minimum sentence of five years (under Art. 142 CC SFRY).
11. Therefore, the District Court is the competent judicial body to hear this criminal proceeding.
12. Under Article 3.1 of the Law on the Jurisdiction, Case Selection and Case Allocation of EULEX Judges and Prosecutors (“Law on Jurisdiction”), EULEX Judges have jurisdiction and competence “over any case investigated or prosecuted by the SPRK.” This case was investigated and prosecuted by SPRK prosecutors. The main trial panel was composed of EULEX Judge Jonathan Welford-Carroll as Presiding Judge, and EULEX Judge Caroline Charpentier and Mitrovica District Court President Xhevdet Abazi as panel members. There were no objections by the parties to the composition of the panel.
13. In the joined indictment all of the defendants are charged with several counts of “War Crime against the Civilian Population”, pursuant to common article 3 of Geneva Conventions 1949 and articles 4 and 5(1) of Additional Protocol II 1977 under Articles 22 and 142 of the Criminal Code of the Socialist Federal Republic of Yugoslavia (CCSFRY).

14. Pursuant to UNMIK Regulation 1999/24, as amended by UNMIK Regulation 2000/59, the CCSFRY is the applicable Substantive Law in this case. This is confirmed by the Supreme Court of Kosovo in People v Latif Gashi.⁴ The Procedural Law applicable to the case is the KCCP.

15. Common Article 3 of the Geneva Conventions 1949, *inter alia*, declares:

In the case of armed conflict *not of an international character* [emphasis added] occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:

(1) Persons taking no active part in the hostilities, ... , shall in all cases be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.

To this end, the following acts are and shall remain prohibited *at any time* and *in any place whatsoever* [emphasis added] with respect to the above mentioned persons:

a. Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;

b. – d. ... (*not relevant*) Taking of hostages;

(2) ... (*not relevant*)

... (*not relevant*)

The application of the preceding provision shall not affect the legal status of the parties to the conflict.

16. Additional Protocol II 1977, Part II Humane Treatment declares:

Article 4 – Fundamental guarantees

1. All persons who do not take a direct part ... in hostilities, whether or not their liberty has been restricted, are entitled to respect for their person, honour and convictions and religious practices. They shall be in all circumstances be

⁴ Latif Gashi, Kosovo Supreme Court Decision, 21 July 2005 at p5.

treated humanely, without any adverse distinction. It is prohibited to order that there shall be no survivors.

2. Without prejudice to the generality of the foregoing, the following acts against the persons referred to in paragraph (1) are and shall remain prohibited *at any time and in any place whatsoever* [emphasis added]:

(a) violence to the life, health and physical or mental well-being of persons, in particular murder as well as cruel treatment such as torture, mutilation or any form of corporal punishment;

(b) – (h) ... (*not relevant*)

3. ... (*not relevant*)

Article 5 – Persons whose liberty has been restricted

1. In addition to the provisions of Article 4, the following provisions shall be respected as a minimum with regard to persons deprived of their liberty for reasons related to the armed conflict, whether they are interned or detained:

(a) ... (*not relevant*)

(b) the persons referred to in this paragraph shall, to the same extent as the local civilian population, be provided with food and drinking water and be afforded safeguards as regards health and hygiene and protection against the rigours of the climate and the dangers of the armed conflict;

(c) – (e) ... (*not relevant*)

17. It is established and settled law that Common Article 3 of the Geneva Conventions and Articles 4 and 5(1) of AP2 1977 are customary international law and were so at the relevant time for this case.⁵

18. CC SFRY – substantive offences:

Article 22 – complicity

If several persons jointly commit a criminal act by participating in the act of commission or in some other way, each of them shall be punished as prescribed for the act.

⁵ See Opinion of International Court of Justice opining that Common Article 3 represents customary international law in both international and non-international armed conflict in *Nicaragua v U.S., Merits* 1986 ICJ Rep. 4 (June 27) at paras 118-120.

NOTE: The above provision is repeated within the current CCK in Article 23 – Collaboration in Criminal Offences/Co-perpetration.

Article 142 – War crime against the civilian population

Whoever in violation of the rules of international law effective at the time of war, armed conflict or occupation, orders that the civilian population be subjected to killings, torture, inhuman treatment, ..., immense suffering or violation of bodily integrity or health; ..., unlawful bringing in concentration camps and other illegal arrests and detention, deprivation of rights to fair and impartial trial; ... , or who commits one of the foregoing acts, shall be punished by imprisonment of not less than five years or by the death penalty.

NOTE: The above provision is repeated within the current CCK in Article 120 – War Crimes in serious violation of Article 3 Common to the Geneva Conventions.

19. CCSFRY – Applicability of Yugoslav criminal law to a SFRJ citizen committing a criminal act abroad

Article 106.

Yugoslav criminal law applies to a citizen of SFRJ when he commits abroad a criminal act other than those referred to in article 105 of this law, provided he is found on the territory of the SFRJ or has been extradited to the SFRJ.

NOTE: The above provision is repeated within the current CCK in Articles 100 and 101.

20. Yugoslavia became a high contracting party to the Geneva Conventions on 15 December 1950 and to the Additional Protocols on 28 December 1978.
21. The relevant procedural law for the trial is the current KCCP.
22. The Defendants each raised the issue of the court's jurisdiction to try cases of alleged war crimes relating to the war between Serbian forces and the Kosovo

Liberation Army which existed in Kosovo in circumstances where the alleged criminality occurred within the territory of a third party nation, Albania, which at no stage was a combatant in the armed conflict. In addition, the Defendants incorporated into that argument issues relating to the proper classification of such offences that may be proved to have occurred in Albania. Though these two issues of jurisdiction and classification are closely linked within the context of this case, they remain two distinct and separate issues.

23. The following issues arise:

1. Did a state of Armed Conflict not of an International Character exist in Kosovo?

2. Did such Armed Conflict (if it existed) engage Geneva Conventions, Common Article 3 and Additional Protocol II, Articles 4 and 5(1)?

3. If engaged, what impact, if any, is there upon the jurisdiction of the Kosovo Criminal Courts, where the alleged criminal conduct occurred outside the territorial boundary of Kosovo and within a third party country, Albania, which at no time was a party to the conflict?

24. First, it must be noted that Common Article 3 of the Geneva Conventions and Additional Protocol II were in force at the time of the alleged facts.⁶

25. Common Article 3 of the Geneva Conventions applies to conflicts “not of an international character”. Non-international armed conflicts are armed confrontations occurring within the territory of a single State and in which the armed forces of no other State are engaged against the central government.⁷ However, where a foreign State extends military support to an armed group acting against the government, the conflict will become international in character.⁸ In this case, the NATO bombing of Serbian military targets began on

⁶ Supreme Court Decision of 21 July 2005 in *Latif Gashi et al.*, p6.

⁷ The Manual on the Law of Non-International Armed Conflict, with commentary, International Institute of Humanitarian Law, March 2006, p2.

⁸ *Ibid.*, p2.

24 March 1999⁹. Subject to the threshold issue (see below), until that moment, the conflict between the forces of the Serbian Government and the KLA amounted to a conflict of a non-international character. After that moment, the conflict may have amounted to an International Armed Conflict, though nothing in this case requires that to be determined one way or the other.

26. To amount to a “non-international armed conflict”, a minimum threshold needs to be met. Though Common Article 3 merely requires that the armed conflict not be of “an international character” and occur in “the territory of one of the High Contracting Parties” (both conditions being satisfied in the instant case), a higher threshold applies under Additional Protocol II. APII only applies to conflicts between the armed forces of a High Contracting Party and “dissident armed forces or other organized armed groups which, under responsible command exercise such control over a part of the territory as to enable them to carry out sustained and concerted military operations.”¹⁰ The Prosecution asserted and there was no contrary argument from the Defence in the instant case that the higher threshold conditions of APII were met. Indeed, it was positively advanced by the Defence that the KLA were engaged in such an armed conflict. According to the Indictment, the alleged crimes were committed in the period between April and mid-June 1999. The existence of an armed conflict between the Serbian forces and the KLA in the relevant period has been established by the Supreme Court of Kosovo in the Kolasinac case Decision of 5 August 2004. This finding was confirmed in the Supreme Court Decision of 21 July 2005 in *Latif Gashi et al.*, p. 9-11. This latter Decision also found that the organizational structure of the KLA satisfied the above – mentioned requirements under Additional Protocol II. Particularly relevant for the present case is the finding that “the very fact that the KLA was detaining Kosovar civilians suspected of conduct hostile to the aims of the KLA reflects the extent of their control over part of the territory” (see Supreme Court Decision of 21 July 2005 in *Latif Gashi et al.*, p. 10).

⁹ See http://nato.int/cps/en/natolive/topics_49602.htm.

¹⁰ *Ibid.*, p3.

27. The Panel has no hesitation in concluding that the condition precedents of Common Article 3 and Additional Protocol II were met and those provisions were engaged in the non-international armed conflict phase of the war in Kosovo. Common Article 3 and APII sets out all of the obligations that apply to parties to such conflicts and, of crucial significance, those obligations apply automatically and without any condition of reciprocity.¹¹ Note also that the use of the phrase ‘each Party to the conflict’ clearly indicates that the Article was not intended to be limited to HCPs but applies to all participants in qualifying armed conflict.
28. The question arises, did the status or applicability of Common Article 3 and Additional Protocol II change when the conflict became an international armed conflict after the commencement of NATO bombing on 24 March 1999? The short answer is no. Despite the language of Common Article 3 stating that it applies to non-international armed conflicts, in two substantial ways, the substance of the text should be considered to be applying to all armed conflicts of any description, including international. As the absolute prohibitions of Common Article 3 are stated to be ‘as a minimum’ which must be applied ‘in the least determinate of conflicts, its terms must *a fortiori* be respected in the case of international conflicts proper, when all the provisions of the Convention are applicable. For “the greater obligation includes the lesser”, as one might say.’¹² The only consequence therefore of the war in Kosovo becoming an “international armed conflict” is that wider obligations, which continued to include Common Article 3 and Additional Protocol II, were imposed upon the warring parties. Thus the panel concludes that the behaviour of the parties at all material times referred to in the instant indictment was subject to the regulation of Common Article 3 and Additional Protocol II, and the behaviour alleged, if proved, is capable of amounting to War Crime Against the Civilian Population contrary to Article 142 CCSFRY.
29. But, what impact, if any, does the fact that the events alleged to amount to the offences charged occurred wholly within the territory of Albania, which at no

¹¹ GC3 & GC4 Commentaries to Common Article 3 at <http://www.icrc.org/ihl.nsf/COM/380-600006?OpenDocument>.

¹² *Ibid.*

stage was a party to the conflict? Does that fact impact either upon the jurisdiction of the court to try the case, or, if the court may try the case, upon the classification of the offence that the alleged conduct constitutes?

30. Article 9 ICTY STATUE Concurrent Jurisdiction:

1. The International Tribunal and national courts shall have concurrent jurisdiction to prosecute persons for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1 January 1991.
2. The International Tribunal shall have primacy over national courts. At any stage of the procedure, the International Tribunal may formally request national courts to defer to the competence of the International Tribunal in accordance with the present Statute and the Rules of Procedure and Evidence of the International Tribunal.

31. There has been no request from ICTY pursuant to Art 142(2) to take over this case.

32. The Law on SPRK Article 5.1(f) gives SPRK exclusive jurisdiction over crimes in breach of Common Article 3, CCK Art 120.

33. The Law on Jurisdiction, Case Selection and Case Allocation of EULEX Judges and Prosecutors in Kosovo Art 3 clearly foresees that EULEX Judges have jurisdiction over any case prosecuted by SPRK.

34. Mitrovica DC Jurisdiction. This court is not an ad hoc jurisdiction and the local jurisdiction does not have a restricted mandate. Under Article 23(1)(i) KCCP, district courts are competent to hear criminal cases involving charges for which the law allows the imposition of a penal sentence of at least five years. This includes the matters for which the defendants are charged on this indictment.

35. Article 22 combined with Article 142 CCSFRY, reflected in articles 23 and 120 of the CCK gives jurisdiction to try War Crimes against the Civilian Population to the District Court level.

36. Article 106 CCSFRY, reflected in Article 101(2) CCK, extends that competence to include offences which were committed by citizens of SFRY abroad (which necessarily includes the territory of Albania) and therefore grants to Mitrovica DC the competence/jurisdiction to try the war crimes alleged to have been committed by Sabit Geci, Riza Alija and the other co-defendants.
37. I turn to the issue of geographical location in terms of the classification of the alleged conduct amounting to a war crime.
38. Various decisions of ICTY have been reviewed and considered including: *Tadic*, *Blaskic*, *Kunarac* and *Kovac & Vasiljevic*. None of these decisions were called upon to consider the precise circumstances of Geci's case, namely the impact on jurisdiction and qualification of the alleged criminal activity of crossing an international border into a third state. Thus such an issue has not, to this panel's knowledge, been adjudicated upon before.
39. In *Tadic*, the Appeal Panel stated that "International Humanitarian Law governs the conduct of both internal and international armed conflicts. The Appellant correctly points out that for there to be a violation of this body of law, there must be an armed conflict. The definition of "armed conflict" varies depending on whether the hostilities are international or internal but, contrary to Appellant's contention, the temporal and geographical scope of both internal and international armed conflicts extends beyond the exact time and place of hostilities."¹³ As the *Tadic* judgment makes clear, both the Geneva Conventions and the Additional Protocols in certain key provisions, especially those relating to the protection of civilians, apply throughout the territory of the parties. In particular, relating to civilians who have been detained "for reasons related to such conflict",¹⁴ the *Tadic* Appeal Panel stated that "the relatively loose nature of the language "for reasons related to such conflict", suggests a broad geographical scope. The nexus required is only a relationship between the

¹³ *Tadic*, Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, at para 67.

¹⁴ Additional Protocol II, Article 2 paragraph 2.

conflict and the deprivation of liberty.”¹⁵ The *Tadic* Appeal Panel concluded that “an armed conflict exists whenever there is a resort to armed force between States or protracted armed violence between governmental authorities and organized armed groups or between such groups within a State. International humanitarian law applies from the initiation of such armed conflicts and extends beyond the cessation of hostilities until a general conclusion of peace is reached; or, in the case of internal conflicts, a peaceful settlement is achieved. Until that moment, international humanitarian law continues to apply in the whole territory of the warring States or, in the case of internal conflicts, the whole territory under the control of a party, whether or not actual combat takes place there.”¹⁶

40. The *Blaskic* case¹⁷ did not significantly add to the principals laid out in *Tadic*, but simply re-affirmed the requirement nexus over the requirement for geographical or temporal connection with fighting:

“Nexus between the crimes imputed to the accused and the armed conflict

69. In addition to the existence of an armed conflict, it is imperative to find an evident nexus between the alleged crimes and the armed conflict as a whole. This does not mean that the crimes must all be committed in the precise geographical region where an armed conflict is taking place at a given moment. To show that a link exists, it is sufficient that the alleged crimes were closely related to the hostilities occurring in other parts of the territories controlled by the parties to the conflict.

70. The foregoing observations demonstrate that a given municipality need not be prey to armed confrontation for the standards of International Humanitarian Law to apply there. It is also appropriate to note, as did the *Tadic* and *Celebici* Judgments, that a crime need not be part of a policy or practice officially endorsed or tolerated by one of the parties to the conflict, or that the act be in actual furtherance of a policy associated with the conduct of the war or in the actual interest of a party to the conflict.

71. With particular regard to Article 5 of the Statute, the terms of that Article, the *Tadic* Appeal Judgment, the Decision of the Trial Chamber hearing the

¹⁵ *Tadic*, para 69.

¹⁶ *Tadic*, para 70.

¹⁷ *Blaskic*, IT-95-14-T, 3 March 2000.

Tadic case and the statements of the representatives of the United States, France, Great Britain and the Russian Federation to the United Nations Security Council all point out that crimes against humanity must be perpetrated during an armed conflict. Thus, provided that the perpetrator's act fits into the geographical and temporal context of the conflict, he need not have the intent to participate actively in the armed conflict.”¹⁸

41. The same point is reiterated in the case of *Kunarac and others*¹⁹ and in *Vasiljevic*.²⁰ It is also worthy of note that regarding the word territory, the cases, whilst expressly considering incidents that occurred within the same territorial boundaries as the fighting, state that the laws of war apply and continue to apply “to the whole of the territory under the control of one of the parties to the conflict.”²¹ Such “territory” cannot mean and does not mean the political or national territorial boundaries or borders. It can only be understood to mean the actual places in which one of the warring parties has substantive and real control, irrespective of where that is. In the context of the instant case, that must and does include the well established, functional KLA military bases in Albania which were established and used by the KLA as military logistical bases, training bases, HQs, bases from which military operations were launched and as detention centres for detainees who were detained solely for reasons related to the war. It is clear that this amounts to “territory under the control of one of the parties to the conflict.” To determine otherwise, is to permit a wholly technical and unjustified loop-hole from the protection of the Conventions and the Protocols in which by simply crossing a boundary, but in all other respects remaining in territory which was under the control of a Party to the conflict, that Party completely avoids its obligations under International Humanitarian Law. That is neither within the spirit nor the letter of the law. We are fortified in this conclusion by the terms of the ICRC Commentaries on Article 3, in general and of Article 3, sub-paragraphs (1) and (2) “extent of the obligation”. This makes it clear that Article 3 represents the “minimum obligation” applying to both internal and international conflicts and that the acts prohibited by article 3 “are

¹⁸ *Blaskic*, paras 69-71.

¹⁹ *Kunarac*, IT-96-23 & IT-96-23/1-A, para 57.

²⁰ *Vasiljevic*, IT-98-32-T, para 25.

²¹ *Tadic*, paras 68-70; *Vasiljevic*, para 25; *Kunarac*, para 57.

and shall remain prohibited *at any time and in any place whatsoever* [emphasis added]” and thus “no possible loophole is left; there can be no excuse, no attenuating circumstances.”²² To escape liability because a Party has crossed a boundary by a mere few kilometres into the political territory of a neighboring state but carry out acts within territory clearly under the control of a party to the conflict such as a KLA military camp would amount to the most technical and unjustified loophole which Common Article 3 was intended to prevent.

42. The essential principles that can be derived from these cases are as follows:

1. An armed conflict exists whenever there is resort to armed force between states or protracted armed violence between governmental authorities and organized armed groups or between such groups within a state. There is no real challenge by the defence to the proposition that at the relevant time there was an internal armed conflict in Kosovo.

2. Common Article 3, in particular where it applies to civilians (GC4) should be given the widest possible interpretations in both temporal and geographical terms, since to do otherwise is to defeat the purpose of these provisions. Thus within one state, it is not necessary to prove that armed conflict existed in every single municipality, it is sufficient that it existed within the larger region where the municipalities existed, in other words the entirety of the state. It should be noted that the ICTY in none of these cases was expressly required to determine the situation where the alleged conduct occurred across an international boundary in a 3rd country. As the ICTY was not expressly considering such a situation, nothing in the quoted judgments can be considered to be excluding such a situation.

3. What is required is a nexus/link between the defendant, the victim, the alleged criminal conduct and the armed conflict and that the alleged conduct occurred on territory under the control of one of the Parties to the conflict. On the alleged facts of this case, it is said that the Defendants behaved in the way alleged because of their membership of KLA, that the victims were selected for the

²² ICRC Commentaries, Article 3, subparas (1) & (2) “Extent of the obligation”.

alleged treatment because of their assumed beliefs or sympathies in relation to armed conflict which was then taking place and that the alleged conduct was inflicted because of those sympathies. In every case, the alleged conduct occurred within KLA Camps at Kukes and Cahan. There is no doubt at all that these amounted to territory under the clear control of a party to the conflict, namely the KLA. In other words, a clear nexus between the defendants, victims, conduct, treatment and territorial control is alleged. Nothing in any of the quoted cases prevents this from amounting to a war crime just because the geographical location of the events was in Albania. Nothing in the alleged conduct deprives this Court of jurisdiction just because the geographical location of the events was in Albania.

43. Thus, it is clear to the Panel that it has jurisdiction and is competent to try cases involving persons previously of Yugoslav citizenship and currently of Kosovo citizenship for offences which occurred outside the territory of Kosovo where the offences alleged constitutes criminalized conduct within Kosovo and that the particular offences alleged in the instant indictment are capable, if the acts are in fact proved, of being classified as war crimes, regardless of the fact that such crimes occurred within the territory of a third party nation (Albania) which was not itself a party to the conflict. Any other conclusion would defeat the clear purposes of the Geneva Conventions and Additional Protocols and would run counter to the prevailing criminal code of the Socialist Federal Republic of Yugoslavia, the current criminal code of Kosovo, the strict letter and the spirit of the Geneva Conventions and Additional Protocols and against all common sense.
44. At the material time, there was both an internal and international armed conflict in which the KLA were engaged in a war of liberation against Serb forces both regular and irregular, such as engaged the provisions of Common Article 3 of the Geneva Conventions 1949, & Art 4 & 5(1) of APII 1977.
45. The KLA had established and maintained camps within Albania at Kukes and Cahan. Those camps were used for a variety of purposes including logistics, transit accommodation for soldiers en route to the fighting, training,

administration, headquarters & a detention facility in which ethnic Kosovo Albanians who were suspected of collaboration with the Serb forces were detained, questioned and ill-treated.

46. Despite the physical location of these camps within the territory of Albania, there existed a clear nexus between the KLA, the victims of the detentions and the armed conflict within Kosovo sufficient to qualify such criminal acts as are found to be proved as war crimes within the meaning of International Humanitarian Law.

III. SUMMARY OF EVIDENCE PRESENTED

47. During the course of the main trial the following witnesses were heard:

- (1) Witness B – 16, 21, 23 & 24 March 2011
- (2) Witness F – 24 & 28 March 2011
- (3) Witness H – 31 March & 04 April 2011
- (4) ██████████ – 06 April 2011
- (5) Witness E – 07 April 2011
- (6) Witness D – 07 April 2011
- (7) ██████████ – 04 & 05 May 2011
- (8) Witness K – 16 May 2011
- (9) Witness M – 19 May 2011
- (10) Witness N – 23 & 25 May 2011
- (11) ██████████ – 02 June 2011
- (12) ██████████ – 02 June 2011
- (13) ██████████ – 08 June 2011
- (14) ██████████ – 08 June 2011
- (15) Witness A – 09 & 10 June 2011
- (16) ██████████ – 20 June 2011

48. On 20 July 2011, all four defendants chose to remain silent and stand by their previous statements.

49. During the course of the main trial the following documents were read into the record:

- (1) Prosecution Record of the Witness Hearing of Witness C dated 17 December 2009 – admitted on 07 April 2011.
- (2) EULEX Police WCIU Report on Interrogation Statement of Witness C dated 09 April 2009 – admitted on 07 April 2011.
- (3) EULEX Photo Identification Procedure Report (Witness C) dated 17 December 2009 – admitted on 07 April 2011.
- (4) Prosecution Record of the Witness Hearing (Witness G) dated 04 March 2011, admitted on 28 April 2011.
- (5) Medical Certificate of Central Military University Hospital of Tirana regarding hospitalization of Sabit Geci from 03-14 June 1999 – admitted on 20 July 2011.
- (6) District Public Prosecutor Incident Report (Republic of Albania), PP nr. 876/99 (regarding Sabit Geci's car accident) – submitted by Sabit Geci on 20 July 2011.
- (7) Document signed by Azem Sylja and bearing official stamp (regarding activities of Riza Alija – submitted by Alija and DC Kollçaku on 20 July 2011.
- (8) Prosecution Record of Witness Hearing (Witness F) dated 16 December 2009.
- (9) EULEX Police WCIU Report on Interrogation Statement of Witness F dated 24 June 2009.
- (10) EULEX WCIU Photo Identification Procedure Report (Witness F) dated 03 December 2009.
- (11) Officer's Report by Victor Odom dated 06 May 2010.
- (12) EULEX Police Report by Francesco Duminuco dated 06 May 2010 with receipt of temporary seizure of items.
- (13) EULEX WCIU Officer's Report by Antonio Rocha dated 15 May 2010.
- (14) EULEX WCIU Officer's Report by Claudio Scipione dated 15 May 2010.
- (15) EULEX Detailed Description of Items Seized on 06 May 2010 from Sabit Geci and on 13 May 2010 from Xh [REDACTED] K [REDACTED].

- (16) EULEX Memo: Weapon Authorization Checking by Victor Tenovici dated 25 May 2010.
- (17) KP Database Verification on Weapon Authorization by Lt. Col. Z [REDACTED] K [REDACTED] dated 03 June 2010.
- (18) EULEX WCIU Report on Search of Person, Accommodation and Other Premises (regarding search of Riza Alija's home) by V [REDACTED] O [REDACTED] dated 23 June 2010.
- (19) EULEX Police Report (regarding search of Riza Alija's home) by C [REDACTED] S [REDACTED] dated 23 June 2010.
- (20) EULEX WCIU Report on Search of Person, Accommodation and Other Premises (regarding search of Riza Alija's home) by C [REDACTED] S [REDACTED] (undated).
- (21) EULEX WCIU Officer's Report (regarding search of Riza Alija's home) by C [REDACTED] S [REDACTED] dated 24 June 2010.
- (22) Photos taken during search of Riza Alija's home.
- (23) SPRK Record of the Expert Witness Hearing in an Investigation (M [REDACTED] G [REDACTED]) dated 02 March 2011.
- (24) DFM Report of Physical Examination of Witness B by Dr. M [REDACTED] G [REDACTED] dated 02 March 2011 with accompanying photographs.
- (25) DFM Medical Examiner Office report on examination of Witness B dated 10 November 2010 with attachments.
- (26) DFM Report of Physical Examination of Witness H by Dr. M [REDACTED] G [REDACTED] dated 10 November 2010 with attachments.
- (27) Officer's Report by Jouni Voutila dated 01 February 2011 together with a list of KLA members based in Cahan and bundle of photographs – submitted on 04 May 2011.
- (28) OMPF Autopsy Report MA09216 ([REDACTED]) by Dr. M [REDACTED] G [REDACTED] dated 18 August 2009 with photographs.
- (29) Police of Czech Republic, Criminology Institute Prague, Expert's Examination dated 22 December 2009.
- (30) List of deceased immigrants from Kosovo, Kukes Municipality (28 March 1999 to 17 June 1999) at SPRK binder pp. B80-B84.
- (31) Expertise Reports on Firearms at SPRK binder pp. B52-B73.

- (32) EULEX WCIU Photo Identification Procedure Report (Witness A) dated 27 October 2009.
- (33) Photograph of Witness A and victim [REDACTED] at SPRK binder p. C247.
- (34) EULEX WCIU Photo Identification Procedure Report (Witness B) dated 23 October 2009.
- (35) EULEX WCIU Photo Identification Procedure Report (Witness B) dated 01 April 2010.
- (36) EULEX WCIU Report: Interrogation Statement of the Witness/Victim (Witnesses D and E) dated 22 April 2009.
- (37) Report regarding served summons and episode of [REDACTED], by Claudio Scipione dated 06 March 2010.
- (38) Photo Identification Procedure (Witness G) dated 04 March 2010.
- (39) EULEX WCIU Photo Identification Procedure Report ([REDACTED]) by Jouni Voutila dated 16 June 2010.
- (40) EULEX WCIU Photo Identification Procedure Report ([REDACTED]) by J [REDACTED] V [REDACTED] dated 14 June 2010.
- (41) Newspaper articles written by [REDACTED] and related reports at SPRK binder pp. D245-D253.
- (42) EULEX WCIU Photo Identification Procedure Report (Witness M) dated 18 June 2010.
- (43) EULEX WCIU Photo Identification Procedure Report (Witness N) dated 17 January 2011.
- (44) SPRK Record of the Witness Hearing in a Preliminary Investigation and Photo Identification Procedure (Witness N) dated 02 December 2010.
- (45) Prosecution Record of the Suspect Hearing in an Investigation (Riza Alija) dated 23 June 2010.
- (46) Prosecution Record of the Suspect Hearing in an Investigation (Riza Alija) dated 28 July 2010.
- (47) Photos referenced during the 28 July 2010 interview of Riza Alija.
- (48) Prosecution Record of the Suspect Hearing in an Investigation (Sabit Geci) dated 06 May 2010.
- (49) Prosecution Record of the Suspect Hearing in an Investigation (Sabit Geci) dated 10 May 2010.

- (50) Prosecution Record of the Witness Hearing (Haki Hajdari) dated 15 June 2010.
- (51) Prosecution Record of the Suspect Hearing in an Investigation (Haki Hajdari) dated 15 December 2010.
- (52) Prosecution Record of the Suspect Hearing in an Investigation (Shaban Hoti) dated 18 February 2011.

IV. WITNESS CREDIBILITY

50. The Panel was mindful that the events described occurred over ten years ago, and the witnesses were all injured parties who were testifying about details and events which occurred while each one was experience severe physical, mental and emotional trauma. As such, it is only human and logical that there will be some small discrepancies between witness testimonies, for example as to the specific date of a beating or the precise amount of time which a beating lasted. These minor inconsistencies do not render the whole of the testimonies as incredible. The Panel carefully considered the account given by each witness and the corroborating testimonies and evidence for such account, and determined that the witnesses were credible with the following exceptions.
51. Witnesses D and E are [REDACTED]. As such, it is easy in the evidence of others to identify when they are speaking of Witnesses D and E. Throughout their evidence, Witnesses D and E sought to paint a picture of good treatment in the KLA Kukes camp during which they insisted that they were volunteers and not detained against their will. Their account of good treatment, adequate food and water, voluntary work on behalf of the KLA and the absence of beatings or other forms of ill-treatment was entirely inconsistent with the entirety of evidence from other sources as to how Witnesses D and E were treated. Other sources also made it clear that Witnesses D and E were not voluntary residents at the Kukes camp but were detainees like other witnesses. Furthermore, the account that Witnesses D and E gave to the court was not internally consistent with their suggestion that they were not detained against their will. By way of example, during the course of the exchange in the main trial evidence about Witness D's recollection of a death in

Kukes, Witness D used the following phrase: “yes, we found out [*about the death*] after we left prison as to what happened.”²³ The use of the word prison came unprompted and voluntarily from the witness, who had previously throughout his evidence denied that he was detained against his will. When confronted by the Presiding Judge about his use of the word ‘prison’, again Witness D denied that he had been in prison: “No, I was not in a prison. I was there to work and I was free.”²⁴ Witness D was also confronted by the fact that three other witnesses had testified about [REDACTED], together with a [REDACTED], had been beaten, forced to work, had come to the detention room where the other witnesses were and complained of being beaten. Witness D denied that any of this was true.²⁵ Witness D was challenged by the Presiding Judge about his evidence that although he was not in prison and was free to leave, he did not in fact leave because he was frightened to do so. Witness D replied that “we had no place to go and had nothing to eat. We had nothing and were forced to stay there.” When challenged about his use of the word ‘forced’ and by whom, Witness D replied “by nobody. We simply stayed there in our own account.”²⁶ The Trial Panel has absolutely no hesitation in rejecting the evidence of Witnesses D and E as inaccurate and untruthful. No weight is given to it and it is not considered that their evidence in any way undermines or diminishes the evidence of other witnesses which has been accepted.

52. Witness C was not available to attend the trial session. After the Presiding Judge consulted with all the parties, including each Defence Counsel and each Defendant, it was agreed that the statement of Witness C could be read into the trial record.²⁷ It is clear from her record of interrogations that Witness C did not want to remember in detail the traumatic events and tried to distance herself from those memories as much as possible. In broad analysis, her account was consistent with the general account given by other witnesses as to ill-treatment, beatings and the like at Kukes camp, though she was not entirely consistent as to the details such as timings or dates. Also, the Trial Panel notes that there was no

²³ Witness D, Minutes of Main Trial, 07 April 2011, Q205.

²⁴ Witness D, Minutes of Main Trial, 07 April 2011, Q220.

²⁵ Witness D, Minutes of Main Trial, 07 April 2011, Q222-230.

²⁶ Witness D, Minutes of Main Trial, 07 April 2011, Q239-242.

²⁷ Minutes of Main Trial, 07 April 2011, p34.

opportunity for the defence to cross-examine Witness C. Therefore, the panel assigned an appropriate reduced weight to her statements. No defendant has been convicted as a result of Witness C's evidence alone, which instead is to be understood as no more than general corroboration for the accounts given by other witnesses in the case.

53. Witness K's evidence has been approached by the Panel with care. He spent time in both the Kukes and Cahan camps. In general, he provides some corroboration for the presence of other witnesses at the time and place those other witnesses have stated and for some use of violence. But, it must also be noted that Witness K does not assert such severity of conditions of detention or ill-treatment as other witnesses in the case. Further, on the specific issue of hearing shots being fired in Kukes (the event leading to the death of [REDACTED]), Witness K in oral evidence denied hearing such shots and when confronted by his contradictory past statements his answers were equivocal, and, in the Panel's view, evasive. It may be that Witness K was actually treated better than other witnesses and therefore gives an account that is less intensive than other witnesses, or, it may be that Witness K was a reluctant and more evasive witness than others. Therefore the Panel concludes that the weight to be attached to Witness K is considerably reduced. Insofar as he corroborates other witnesses, his evidence is taken into account. There is no direct evidence from Witness K that is capable of fundamentally undermining other witnesses.

V. EVALUATION OF THE EVIDENCE: Factual Findings

54. Upon the evidence presented during the course of the main trial, the Court considers the facts which are detailed in this section as proven. The evidence supporting each fact is incorporated into the description of the fact itself as well as indicated in the footnotes.
55. The general circumstances ongoing in Kosovo at the relevant time have been laid out in detail above. In summary, the KLA and Serb forces were engaged in an internal and international armed conflict and the KLA had established camps in Kukes and Cahan, Albania, which were used, *inter alia*, for detaining and

questioning ethnic Kosovo Albanians suspected of collaboration with the Serb forces.

The KLA Camp in Kukes, Albania

56. In 1999, the KLA had converted a factory in Kukes, Albania into a military camp. In various ways and via various routes, each of the witnesses left their homes in Kosovo and crossed the border into Albania as a direct result of the conflict. While some arrived voluntarily to the KLA camp, others were forcibly brought there by KLA soldiers.
57. In 1999, Witness A was working in [REDACTED] when his family left Kosovo due to the war. He was on his way to visit his family in Albania when he arrived in Durres by boat from Italy on 14 May 1999. On arrival, a young man approached Witness A, asked to see his passport, and escorted him to a waiting motor vehicle. There were two other men in the vehicle, one of whom was identified to Witness A by other passengers as “Haki Drenica”. Witness A was put into the vehicle and initially taken to somewhere in Durres, where he was asked questions regarding his support for the war. He was detained there, locked into a room with a guard, for approximately four days and thereafter taken by car to the KLA camp in Kukes.²⁸ Witness A’s account is corroborated by Witness H in that whilst detained A told H the same account that A now gives to the Court.²⁹
58. Witness B [REDACTED] were expelled from [REDACTED] by Serbian Police in the beginning of May 1999.³⁰ They were taken together with Witness C to the border of Albania. They crossed the border and traveled voluntarily to Kukes, arriving on or about 14 May 1999.³¹ In Kukes, Witness B [REDACTED] intended to report to the KLA headquarters in order to get

²⁸ Witness A, Minutes of Main Trial, 09 June 2011, Q2-3, 10-32.

²⁹ Witness H, Minutes of Main Trial, 31 March 2011, Q43-47.

³⁰ Report on Interrogation Statement of the Witness Victim (Witness C), 09 April 2009, p3; Record of the Witness Hearing (Witness C), 17 December 2009, p2.

³¹ Witness B, Minutes of Main Trial, 21 March 2011, Q1-3; 23 March 2011, Q8-14; Report on Interrogation Statement of the Witness Victim (Witness C), 09 April 2009, p3.

uniforms and be mobilized. They obtained a ride to the KLA headquarters from R■■■ Q■■■.³²

59. When Witness B, Witness C and ■■■■■ arrived at the headquarters, they had to wait to be interviewed, during which time they were moved to a warehouse where the KLA stored uniforms and food.³³ They were kept in the warehouse for three days,³⁴ guarded by a person in uniform.³⁵ Then KLA military police arrived with insignia on their shoulders and wearing white belts. They tied the hands of Witness B, ■■■■■ and Witness C, placing them under arrest.³⁶ They were detained in the warehouse for an additional 24 hours, with their hands bound and guarded by armed security guards.³⁷ Then Witness B ■■■■■ were moved to one room while Witness C was moved to another.³⁸

60. Witness D and Witness E were living ■■■■■ in 1999. They left Kosovo due to the war and crossed the border into Albania. In May 1999, they were arrested by three uniformed KLA soldiers under the allegation that they were Serbian policemen. Witness D and Witness E were interviewed together in the KLA headquarters in Kukes and asked questions such as whether they were police officers.³⁹ Afterwards, they were brought to the warehouse.⁴⁰

61. Witness F was working as ■■■■■ when he left Kosovo with his family. He arrived in Kukes on approximately 28 or 29 April 1999. They were staying in a refugee camp when one day in mid-May Xh■■■■ K■■■■ and another

³² Witness B, Minutes of Main Trial 16 March 2011, p7-10; Minutes of Main Trial, 24 March 2011, Q6-9; Record of the Witness Hearing (Witness C), 17 December 2009, p2-4.

³³ Report on Interrogation Statement of the Witness Victim (Witness C), 09 April 2009, p3.

³⁴ Witness B, Minutes of Main Trial, 16 March 2011 p11; Minutes of Main Trial, 21 March 2011, p8; Minutes of Main Trial, 23 March 2011, p6.

³⁵ Record of the Witness Hearing (Witness C), 17 December 2009, p4.

³⁶ Witness B, Minutes of Main Trial, 16 March 2011, p11; Report on Interrogation Statement of the Witness Victim (Witness C), 09 April 2009, p3.

³⁷ Witness B, Minutes of Main Trial, 16 March 2011, p. 12; 21 March 2011, p7-8; Record of the Witness Hearing (Witness C), 17 December 2009, p4.

³⁸ Witness B, Minutes of Main Trial, 21 March 2011, Q16-17; Report on Interrogation Statement of the Witness Victim (Witness C), 09 April 2009, p. 3.

³⁹ Witness E, Minutes of Main Trial, 07 April 2011, Q41-49; Witness D, Minutes of Main Trial, 07 April 2011, Q181-189, 230-231.

⁴⁰ Witness E, Minutes of Main Trial, 07 April 2011, Q4-33; Wt D, Minutes of Main Trial, 07 April, Q109-141.

KLA soldier appeared and told Witness F he had to be taken to the KLA headquarters to be interviewed.⁴¹

62. Witness G was a [REDACTED] until 1988. He was also [REDACTED]. In 1999, Witness G was unemployed and living [REDACTED] Municipality. When the war broke out, he became [REDACTED]. On 11 May 1999, the entire village was expelled from their homes by Serbian government authorities and they traveled together to Kukes, Albania. On or about 15-17 May 1999, in Kukes, Xh[REDACTED] K[REDACTED] and two other KLA soldiers dressed in black uniforms sought out Witness G by name and told him that he had to come for an “informative conversation.” They brought him to the KLA headquarters in the former factory, where the KLA soldiers accused Witness G of expelling the villagers from their homes, of having a gun, and of being a friend and collaborator of the Serbs. Witness G was forced to write a statement regarding this. After the interview, he was informed that he would have to stay in the camp until the KLA could finish investigating him and he was moved into another room.⁴²

63. Witness H was employed as [REDACTED] 1999 when he was forced to retire by the Serbian government authority.⁴³ He went to Albania. On 18 May 1999, Witness H was in Durres, Albania when four men in KLA military police uniforms forced him at gunpoint to get into their car. They took him first to military bunkers in Ramanak, and then on around 21 May 1999 to the KLA camp in Kukes.⁴⁴ In Durres, they had forced him to put on a black KLA Military Police Uniform because Witness H’s son had reported his kidnapping to the police.⁴⁵ Witness H was still wearing this black uniform when he arrived in Kukes.⁴⁶

General Living Conditions of Detainees in the KLA Kukes Camp

⁴¹ Witness F, Minutes of Main Trial, 24 March 2011, Q14-15, 22-28; 28 March 2011, Q43.

⁴² Prosecution Record of the Witness Hearing (Witness G), 04 March 2010, p. 2-6.

⁴³ Witness H, Minutes of Main Trial, 04 April 2011, Q156.

⁴⁴ Witness H, Minutes of Main Trial, 31 March 2011, Q1-21.

⁴⁵ Witness H, Minutes of Main Trial, 31 March 2011, Q40-41.

⁴⁶ Witness H, Minutes of Main Trial, 31 March 2011, Q41.

64. Witness A, Witness B, Witness C, Witness D, Witness E, Witness F, Witness G, Witness H and [REDACTED] were all detained in the KLA camp in Kukes, in three different locations, in the following conditions.

Witness C In Solitary Confinement

65. When Witness C was taken out of the warehouse, she was locked alone in a small room measuring approximately 2x2 meters. It had a dirt floor, and inside there was a very thin mattress but no furniture. There was one window, the size of an A4 sheet of paper, covered with a grill. There was no light in the room.⁴⁷
66. There were guards outside the room. Food was provided once or twice daily and water was also provided. Witness C was never allowed to leave the room for exercise and had no access to fresh air. There was a bad stench from the toilets which were located very close to the room. Witness C would have to ask permission to be taken by the guard to the toilet.⁴⁸
67. Witness C was kept in this room for approximately one month. During this time, Witness C was never allowed to bathe or wash, and had no access to clean clothes.⁴⁹

⁴⁷ Record of the Witness Hearing (Witness C), 17 December 2009, p. 6-7; Report on Interrogation Statement of the Witness Victim (Witness C), 09 April 2009, p. 4; Witness B, Minutes of Main Trial, 21 March 2011, Q16-17.

⁴⁸ Record of the Witness Hearing (Witness C), 17 December 2009, p. 6-7; Report on Interrogation Statement of the Witness Victim (Witness C), 09 April 2009, p. 6-8.

⁴⁹ Record of the Witness Hearing (Witness C), 17 December 2009, p. 14-15; Report on Interrogation Statement of the Witness Victim (Witness C), 09 April 2009, p. 6.

The Makeshift Room With Low Ceiling

68. When Witness A was brought to the Kukes camp, the KLA soldiers initially detained him in a small room, measuring approximately 2 x 2 meters, where he was locked up and guarded.⁵⁰ Inside were two blankets, old sponge mattresses, and bottles filled with urine which had been left by previous occupants.⁵¹
69. Witness A was detailed alone in this room for approximately 2-3 days, until around midnight on or about 20 May 1999 when Witness H was brought into the room.⁵² When he arrived, Witness H was still wearing the black KLA military police uniform which he was forced to put on in Durres.⁵³
70. The room had a low ceiling so that one could not stand up straight inside.⁵⁴ Witness H described this room as a 'makeshift' or 'improvised' prison cell measuring approximately 2.5x 2-3 meters.⁵⁵ There was no furniture, and there was no electricity.⁵⁶ There was no window.⁵⁷ Witness A and Witness H slept on thin sponges on the concrete floor.⁵⁸
71. Approximately three days after Witness H arrived, Witness A and Witness H were moved from this makeshift room to another room where Witness B, Witness D, Witness E, Witness F, Witness G, ██████████ and an unknown male Roma were being detained together.⁵⁹

⁵⁰ Witness A, Minutes of Main Trial, 09 June 2011, Q34-38; 10 June 2011, Q37-39.

⁵¹ Witness A, Minutes of Main Trial, 09 June 2011, Q35.

⁵² Witness A, Minutes of Main Trial 09 June 2011, Q36-37, 41; Witness H, Minutes of Main Trial, 31 March 2011, Q18-27.

⁵³ Witness A, Minutes of Main Trial, 09 June 2011, Q47; Witness H, Minutes of Main Trial, 31 March 2011, Q40-41.

⁵⁴ Witness A, Minutes of Main Trial, 10 June 2011, Q37-38; Witness H, Minutes of the Main Trial, 31 March 2011, Q26.

⁵⁵ Witness H, Minutes of Main Trial, 31 March 2011, Q22-25.

⁵⁶ Witness H, Minutes of Main Trial, 31 March 2011, Q26-27 & 42.

⁵⁷ Witness A, Minutes of Main Trial, 10 June 2011, Q41.

⁵⁸ Witness A, Minutes of Main Trial, 09 June 2011, Q35; Witness H, Minutes of Main Trial, 04 April 2011, Q174-176.

⁵⁹ Witness A, Minutes of Main Trial, 09 June 2011, Q82-89; Witness H, Minutes of Main Trial, 31 March 2011, Minutes of Main Trial, Q30-39; Minutes of Main Trial, 04 April 2011, Q69-74.

The Main Detention Room

72. Witness A, Witness B, Witness D, Witness E, Witness F, Witness G, and Witness H were all held in the same room during overlapping periods of their detentions. Each of these witnesses corroborated each other on their accounts of this detention room. The living conditions during their detention were stark, and described by Witness H such that “even animals or cattle would not stay there.”⁶⁰
73. After having been initially detained in the warehouse for four days, Witness B and ██████████ were moved into a room together with Witness D, Witness E, and an unknown male Roma.⁶¹ At some later point, Witness A, Witness F, Witness G and Witness H were each also brought into this room.⁶² Because in addition to the witnesses, other people were also being brought in and out during overlapping periods of time, the total number of persons detained in the room on a single day ranged from between seven and thirteen people.⁶³
74. The room was extremely small, especially in consideration of the number of detainees who were held together there. Insofar as actual numbers are concerned, it is notoriously difficult to accurately describe measurements and distances. What is important and clear is that the overall impression of the room was that it was of a small limited space and substantially overcrowded.⁶⁴ The door to the room was locked.⁶⁵ The detainees inside were also not allowed to speak to each other.⁶⁶

⁶⁰ Witness H, Minutes of Main Trial, 04 April 2011, Q82.

⁶¹ Witness B, Minutes of Main Trial, 16 March 2011, p. 13; Witness E, Minutes of Main Trial, 07 April 2011, Q95; Witness D, Minutes of Main Trial, 07 April 2011, Q171-172.

⁶² Witness A, Minutes of Main Trial, 09 June 2011, Q7-8; Witness B, Minutes of Main Trial, 16 March 2011, p. 13; Witness F, Minutes of Main Trial, 24 March 2011, Q66-68; Minutes of Main Trial, 28 March 2011, Q2-26; Prosecution Record of the Witness Hearing (Witness G), 04 March 2010, p. 7; Witness H, Minutes of Main Trial, 04 April 2011, Q69-74.

⁶³ Witness A, Minutes of Main Trial, 09 June 2011, Q4-9, 89 & 95; Witness B, Minutes of Main Trial, 16 March 2011, p. 16; Prosecution Record of the Witness Hearing (Witness G), 04 March 2010, p. 7; Witness H, Minutes of Main Trial, 04 April 2011, Q69.

⁶⁴ The witnesses estimated that the room could have measured anywhere from 3 x 4 meters to 5 x 6 meters. See Witness A, Minutes of Main Trial, 10 June 2011, Q44; Witness B, 16 March 2011, p. 14; Witness F, Minutes of Main Trial, 24 March 2011, Q38; Prosecution Record of the Witness Hearing (Witness G), 04 March 2010, p. 7; Witness H, Minutes of Main Trial, 04 April 2011, Q82.

⁶⁵ Witness F, Minutes of Main Trial, 24 March 2011, Q52.

⁶⁶ Witness B, Minutes of Main Trial, 16 March 2011, p. 14; Witness H, Minutes of Main Trial, 04 April 2011, Q64.

75. The room was bare of any furniture and had a concrete floor. There were 2 or 3 windows with iron bars but no glass.⁶⁷ The temperature was “disastrously hot” inside the room.⁶⁸ Some detainees, such as Witness A and Witness B, slept on the concrete floor, while others such as Witness H had a thin 2 cm sponge.⁶⁹ Witness G and Witness F slept on sleeping bags.⁷⁰ After sleeping on the concrete for approximately one week, some detainees were given thin blankets to sleep on, however those blankets were taken away again after another week.⁷¹ After the killing of detainee [REDACTED] the detainees were provided with some blankets and sponges.⁷²
76. The detention room was never cleaned except by the detainees themselves.⁷³ There were no showers and the detainees could not wash themselves.⁷⁴ Witness B was allowed to wash himself only once with cold water outside in the yard during his detention in Kukes from approximately 14 May to 17 June 1999, and only because he was covered with blood from maltreatment.⁷⁵ Witness A was able to wash himself only once during his detention, outside in the yard with two buckets of water.⁷⁶ Witness F was able to wash himself in a shed in the yard.⁷⁷ Witness D, Witness E and Witness G had access to water for bathing outside approximately every third day, but this was due to their forced labor of unloading the trucks which allowed them to leave the room daily unlike the other detainees.⁷⁸

⁶⁷ Witness A, Minutes of Main Trial, 10 June 2011, Q45, 54-58; Witness B, Minutes of Main Trial, 16 March 2011, p. 14 & 15; Witness D, Minutes of Main Trial, 07 April, Q163; Witness F, Minutes of Main Trial, 24 March 2011, Q50-52, 66-68; Prosecution Record of the Witness Hearing (Witness G), 04 March 2010, p. 8; Witness H, Minutes of Main Trial, 04 April 2011, Q82, 174-176.

⁶⁸ Witness A, Minutes of Main Trial, 10 June 2011, Q59.

⁶⁹ Witness A, Minutes of Main Trial, 10 June 2011, Q46-47; Witness B, Minutes of Main Trial, 16 March 2011, p. 15; Witness D, Minutes of Main Trial, 07 April 2011, Q163-164; Prosecution Record of the Witness Hearing (Witness G), 04 March 2010, p. 7-8; Witness H, Minutes of Main Trial, 04 April 2011, Q82, 174-176.

⁷⁰ Witness F, Minutes of Main Trial, 24 March 2011, Q45-49; Prosecution Record of the Witness Hearing (Witness G), 04 March 2010, p. 7.

⁷¹ Witness B, Minutes of Main Trial, 16 March 2011, p. 15; Witness F, Minutes of Main Trial, 24 March 2011, Q40-51.

⁷² Witness A, Minutes of Main Trial, 10 June 2011, Q47.

⁷³ Witness B Minutes of Main Trial, 16 March, p. 14; Witness F, Minutes of Main Trial, 24 March 2011, Q38-39.

⁷⁴ Witness H, Minutes of Main Trial, 04 April 2011, Q84-86.

⁷⁵ Witness B, Minutes of Main Trial, 16 March 2011, p. 16; Minutes of Main Trial, 21 March 2011, Q1.

⁷⁶ Witness A, Minutes of Main Trial, 10 June 2011, Q64-65.

⁷⁷ Witness F, Minutes of Main Trial, 24 March 2011, Q59.

⁷⁸ Prosecution Record of the Witness Hearing (Witness G), 04 March 2010, p. 8.

77. The detainees were not able to change into clean clothes during their detention with the exception of Witness F who once received a fresh change of clothes from his family.⁷⁹
78. The toilet was located outside, approximately 50 meters away from the room, between the building where the detainees were held and the warehouse.⁸⁰ The detainees had to ask permission to go to the toilet and would be escorted and guarded by soldiers during this time.⁸¹ Witness A would often be harassed by KLA soldiers when he went to or from the toilet, to the point that he would try to avoid going there.⁸²
79. While there were some discrepancies in the testimonies of the different witnesses with regard to the precise amount of water they received during their detention, the weight of the evidence establishes that the water supply was inconsistently provided and not on a daily basis. All the detainees in the room had to share whatever water was provided and therefore had to be economic with it.⁸³
80. The food supply for the detainees was also provided inconsistently and in an inadequate amount.⁸⁴ This resulted in substantial weight loss of the detainees. Witness A lost 17 kg during his detention in the camp,⁸⁵ and Witness B's body weight dropped from 77-78 kg to 40-45 kg during his detention.⁸⁶

⁷⁹ Witness A, Minutes of Main Trial, 10 June 2011, Q64-65; Witness B, Minutes of Main Trial, 16 March 2011, p. 15; Witness F, Minutes of Main Trial, 24 March 2011, Q60-63; Witness H, Minutes of Main Trial, 04 April 2011, Q84-86.

⁸⁰ Witness A, Minutes of Main Trial, 10 June 2011, Q35-36, 44; Witness B, Minutes of Main Trial, 16 March 2011, p. 16; Prosecution Record of the Witness Hearing (Witness G), 04 March 2010, p. 8, Witness H, Minutes of Main Trial, 04 April 2011, Q82-88, 144.

⁸¹ Witness A, Minutes of Main Trial, 10 June 2011, Q49; Witness F, Minutes of Main Trial, 28 March 2011, Q155; Prosecution Record of the Witness Hearing (Witness G), 04 March 2010, p. 8; Witness H, Minutes of Main Trial, 04 April 2011, Q82-88, 144.

⁸² Witness A, Minutes of Main Trial, 10 June 2011, Q35-36, 49-53.

⁸³ Witness A, Minutes of Main Trial, 10 June 2011, Q51-53; Witness B, Minutes of Main Trial, 16 March 2011, p. 15-16; Minutes of Main Trial, 24 March 2011, Q122; Witness F, Minutes of Main Trial, 24 March 2011, Q54-56; Witness H, Minutes of Main Trial, 04 April 2011, Q84-86.

⁸⁴ Witness A, Minutes of Main Trial, 10 June 2011, Q61; Witness B, Minutes of Main Trial, 16 March 2011, p. 16; Witness F, Minutes of Main Trial, 24 March 2011, Q57-58; Witness H, Minutes of Main Trial, 04 April 2011, Q82-83.

⁸⁵ Witness A, Minutes of Main Trial, 10 June 2011, Q62.

⁸⁶ Witness B, Minutes of Main Trial, 16 March 2011, p. 16.

81. Due to their forced labour of unloading trucks Witness D, Witness E, and Witness G did not eat in the room with the other detainees, but with the KLA soldiers.⁸⁷
82. While most of the detainees were kept locked up in the room all day, Witness D, Witness E and Witness G were made to work long hours in the warehouse every day, unloading trucks of supplies for the KLA. Their work hours began early morning and lasted anywhere from 22:00 hrs to 01:00 hrs.⁸⁸ Witness D and Witness E were also forced to clean the communal toilets during the night hours.⁸⁹
83. Each witness spent a significant amount of time detained in these conditions. Witness A was held in the Kukes camp for approximately one month, from on or about 14 May to on or about 18 June 1999.⁹⁰ Witness B was held for approximately one month, from on or about 14 May until approximately 16 June 1999⁹¹ to 19 June 1999⁹². Witness D and Witness E were held in the camp for approximately one month.⁹³ Witness F was detained for approximately one month.⁹⁴ Witness G was held in the camp for approximately 3 weeks, starting from on or about 15-17 May 1999.⁹⁵ Witness H was held in the camp from approximately 21 May until 01 June 1999.⁹⁶

Torture on 19 May 1999 of Witnesses A, B, C, D, E, H, and [REDACTED]

84. One night, or about 19 May 1999, Witness A, Witness B, Witness C, Witness D, Witness E, Witness H and [REDACTED] were brought into another room which

⁸⁷ Prosecution Record of the Witness Hearing (Witness G), 04 March 2010, p. 8.

⁸⁸ Witness A, Minutes of Main Trial, 10 June 2011, Q20-25; Witness D, Minutes of Main Trial, 07 April 2011, Q145-151, 165; Witness E, Minutes of Main Trial, 07 April 2011, Q57-60, 66-68; Prosecution Record of the Witness Hearing (Witness G), 04 March 2010, p. 6; Witness H, Minutes of Main Trial, 04 April 2011, Q79-80, 140.

⁸⁹ Witness A, Minutes of Main Trial, 10 June 2011, Q23-25; Witness H, Minutes of Main Trial, 04 March 2011, Q80-81, & 139-141.

⁹⁰ Witness A, Minutes of Main Trial, 09 June 2011, Q3, 18-20.

⁹¹ Witness B, Minutes of Main Trial, 16 March 2011, p. 14; Minutes of Main Trial, 21 March 2011, Q1-3; Minutes of Main Trial, 23 March 2011, Q8-14.

⁹² Witness B, Minutes of Main Trial, 21 March 2011, Q209.

⁹³ Witness D, Minutes of Main Trial, 07 April 2011, Q142; Witness E, Minutes of Main Trial, 07 April 2011, Q38.

⁹⁴ Witness F, Minutes of Main Trial, 24 March 2011, Q21.

⁹⁵ Prosecution Record of the Witness Hearing (Witness G), 04 March 2010, p. 5-6.

⁹⁶ Witness H, Minutes of Main Trial, 31 March 2011, Q21 & 28.

resembling an “office”, where they were beaten severely while being interrogated by Sabit Geci and other KLA soldiers. While the precise date can not be concretely established, and the event could have occurred as early as 19 May 1999 or as late as 22 May 1999, the important fact, which is concretely established, is that the event did occur. Therefore, the Court engages the term “on or around 19 May 1999” for this incident.

85. On this night, the detainees were taken one by one from the room in which they were regularly detained into another room located on the ground floor which resembled an office.⁹⁷ There was a table, chairs and a bed in the office.⁹⁸
86. Inside the office were many KLA soldiers, including Sabit Geci, Xh [REDACTED] K [REDACTED], O [REDACTED] K [REDACTED] and P [REDACTED] Sh [REDACTED] (a.k.a. “Commander U [REDACTED]” meaning “Wolf”).⁹⁹ Some were in KLA uniform and others in civilian clothes.¹⁰⁰
87. Witness H was brought into the office first.¹⁰¹ Upon entering the room, Witness H was immediately hit by two of the soldiers.¹⁰² Sabit Geci, who was seated on a bed, asked Witness H questions about his identity and where he was from.¹⁰³ Other soldiers also asked Witness H questions about this identity.¹⁰⁴ Witness H protested against the allegations and Sabit Geci hit him in the face.¹⁰⁵ Xh [REDACTED] K [REDACTED] hit Witness H in the back and left elbow with a baton.¹⁰⁶ Then P [REDACTED] Sh [REDACTED] and the other KLA soldiers began to hit Witness H on all parts of his body, including his back, shoulders, and chest.¹⁰⁷ Xh [REDACTED] K [REDACTED] also hit

⁹⁷ Witness A, Minutes of Main Trial, 09 June 2011, Q49-50; Witness B, Minutes of Main Trial, 21 March 2011, Q33; Witness H, Minutes of Main Trial, 31 March 2011, Q 53, 58-59; Witness F, Minutes of the Main Trial, 28 March 2011, Q64.

⁹⁸ Witness A, Minutes of Main Trial, 09 June 2011, Q49; Witness H, Minutes of Main Trial, 31 March 2011, Q61-63.

⁹⁹ Witness A, Minutes of Main Trial, 09 June 2011, Q49-54; Witness B, Minutes of Main Trial, 16 March 2011, p. 17, Witness B, Minutes of Main Trial, 21 March 2011, Q48; Witness H, Minutes of Main Trial, 31 March 2011, Q65-70, 79-80.

¹⁰⁰ Witness A, Minutes of Main Trial, 09 June 2011, Q69; Witness B, Minutes of Main Trial, 16 March 2011, p. 18; Witness H, Minutes of Main Trial, 31 March 2011, Q56-57; Witness H, Minutes of Main Trial, 04 April 2011, Q138.

¹⁰¹ Witness H, Minutes of Main Trial, 31 March 2011, Q53-58, 119; Minutes of Main Trial, 04 April 2011, Q56.

¹⁰² Witness H, Minutes of Main Trial, 31 March 2011, Q99.

¹⁰³ Witness H, Minutes of Main Trial, 31 March 2011, Q99-100, 122, 124.

¹⁰⁴ Witness H, Minutes of Main Trial, 31 March 2011, Q120-121.

¹⁰⁵ Witness H, Minutes of Main Trial, 31 March 2011, Q99-100, 125-126; Minutes of Main Trial, 04 April 2011, Q111-113.

¹⁰⁶ Witness H, Minutes of Main Trial, 31 March 2011, Q99-100, 123, 127; Minutes of Main Trial, 04 April 2011, Q28-33.

¹⁰⁷ Witness H, Minutes of Main Trial, 31 March 2011, Q127; Minutes of Main Trial, 04 April 2011, Q13-15.

Witness H in the head with the muzzle of a gun.¹⁰⁸ As a result, Witness H sustained a bleeding injury in the head, and a doctor came to bandage his wound.¹⁰⁹ At one point, Witness H lost consciousness and was revived with a bucket of water.¹¹⁰ Nevertheless, the beatings continued after this.¹¹¹ Xh [REDACTED] K [REDACTED] also put cigarettes out on Witness H's chest and shoulder.¹¹² During the beating, the accusations against Witness H continued. Sabit Geci accused him of killing 100 KLA soldiers and raping 20-30 women.¹¹³ Other KLA accused him of being a police officer in 1998, burning Albanian houses and raping Albanian women.¹¹⁴

88. Sabit Geci personally came along with KLA military police wearing white belts to take Witness B and [REDACTED] from the detention room to the office.¹¹⁵ Witness H was already in the room when they were brought in, and had already been beaten gravely.¹¹⁶ His head was wrapped in gauze and he was covered in blood.¹¹⁷ Witness B saw that despite his injury, Witness H was still being hit, with an iron bar and a baseball bat covered in rubber by P [REDACTED] Sh [REDACTED] and Xh [REDACTED] K [REDACTED]¹¹⁸ and also by Sabit Geci with his crutches.¹¹⁹ At one point, Sabit Geci and another KLA soldier threw salt into the face and wounds of Witness H.¹²⁰
89. At some point, Witness C was also brought into the office by KLA soldiers, and saw Witness B and [REDACTED] being beaten with metal bars and baseball bats while being questioned by the KLA.¹²¹ Witness H, who was already in the room,

¹⁰⁸ Witness H, Minutes of Main Trial, 31 March 2011, Q130-135.

¹⁰⁹ Witness B, Minutes of Main Trial, 16 March 2011, p. 20; Witness H, Minutes of Main Trial, 31 March 2011, Q128-136; Minutes of Main Trial, 04 April 2011, Q6.

¹¹⁰ Witness B, Minutes of Main Trial, 16 March 2011, p. 19; Witness H, Minutes of Main Trial, 31 March 2011, Q137-138; Witness H, Minutes of Main Trial, 04 April 2011, Q1-3.

¹¹¹ Witness H, Minutes of Main Trial, 31 March 2011, Q139-140.

¹¹² Witness H, Minutes of Main Trial, 04 April 2011, Q11-12, 34.

¹¹³ Witness H, Minutes of Main Trial, 31 March 2011, Q124.

¹¹⁴ Witness B, Minutes of Main Trial, 16 March 2011, p. 20; Minutes of Main Trial, 21 March 2011, Q53.

¹¹⁵ Witness B, Minutes of Main Trial, 16 March 2011, p. 16-17; Minutes of Main Trial, 21 March 2011, Q20-24.

¹¹⁶ Witness B, Minutes of Main Trial, 16 March 2011, p. 18-19; Minutes of Main Trial, 21 March 2011, Q49-54.

¹¹⁷ Witness B, Minutes of Main Trial, 16 March 2011, p. 18.

¹¹⁸ Witness B, Minutes of Main Trial, 16 March 2011, p. 19.

¹¹⁹ Witness B, Minutes of Main Trial, 16 March 2011, p. 19.

¹²⁰ Witness B, Minutes of Main Trial, 16 March 2011, p. 20.

¹²¹ Witness A, Minutes of Main Trial, 09 June 2011, Q72-75; Witness B, Minutes of Main Trial, 16 March 2011, p. 24 & 26-27; Witness B, Minutes of Main Trial, 21 March 2011, Q24; Report on Interrogation Statement of the Witness Victim (Witness C), 09 April 2009, p. 4; Witness H, Minutes of Main Trial, 04 April 2011, Q 52.

also saw many KLA soldiers beating Witness B and [REDACTED] severely, “with everything they had”.¹²²

90. Sabit Geci, Xh [REDACTED] K [REDACTED] and O [REDACTED] K [REDACTED] asked Witness B questions, such as who had sent him to Albania and whether he was spying on the KLA for the Serbs.¹²³ Witness B was also asked many questions about [REDACTED] and about [REDACTED] living and working there, and was accused of having a role in the death of Commander P [REDACTED] and P [REDACTED] P [REDACTED].¹²⁴ Witness B denied these allegations and then Sabit Geci, P [REDACTED] Sh [REDACTED], Xh [REDACTED] K [REDACTED], and another KLA soldier began to maltreat him. First Sabit Geci made P [REDACTED] Sh [REDACTED] hit Witness B, and afterwards many of the other KLA soldiers hit him with iron bars and baseball bats.¹²⁵ At one point, Sabit Geci hit Witness B in the head with his pistol.¹²⁶ Witness B lost consciousness more than once during these beatings.¹²⁷

91. Witness A was brought into the office last.¹²⁸ When he entered, he saw that the other detainees had been beaten already and Xh [REDACTED] K [REDACTED] was still hitting them.¹²⁹ Sabit Geci was sitting on the bed at this point and not taking part in the physical beatings of the detainees.¹³⁰ Witness A saw that Witness B and [REDACTED] [REDACTED] were beaten worse than he. They were bleeding and being beat by KLA soldiers with batons. The KLA soldiers took turns, but it was mainly Xh [REDACTED] K [REDACTED] who beat them. Witness B and [REDACTED] [REDACTED] were screaming and the KLA soldiers put salt into their wounds¹³¹ and put Witness B’s head into a bucket of water.¹³²

¹²² Witness H, Minutes of Main Trial, 04 April 2011, Q44 &135-136.

¹²³ Witness B, Minutes of Main Trial, 16 March 2011, p. 21; Minutes of Main Trial, 21 March 2011, Q67-68.

¹²⁴ Witness B, Minutes of Main Trial, 16 March 2011, p. 22-24.

¹²⁵ Witness B, Minutes of Main Trial, 16 March 2011, p. 21-22; Witness B, Minutes of Main Trial, 21 March 2011, Q72-74.

¹²⁶ Witness B, Minutes of Main Trial, 16 March 2011, p. 22; Minutes of Main Trial, 24 March 2011, Q100-102.

¹²⁷ Witness B, Minutes of Main Trial, 16 March 2011, p. 24-25.

¹²⁸ Witness A, Minutes of Main Trial, 09 June 2011, Q49.

¹²⁹ Witness A, Minutes of Main Trial, 09 June 2011, Q49, 66.

¹³⁰ Witness A, Minutes of Main Trial, 09 June 2011, Q49, 52, 77-78.

¹³¹ Witness A, Minutes of Main Trial, 09 June 2011, Q56-58; Witness B, Minutes of Main Trial, 16 March 2011, p. 22-23.

¹³² Witness B, Minutes of Main Trial, 16 March 2011, p. 22-23.

92. After Witness B was beaten, they took him outside the office into the corridor where a KLA soldier put a knife to his throat.¹³³ While in the corridor, Witness B heard Witness C and ██████████ screaming inside the office while they were being beaten.¹³⁴ Witness B was in the corridor for approximately 30 minutes.¹³⁵
93. In the office, Xh██████ K██████ and other KLA soldiers were hitting Witness C with their hands. Witness C was being accused of singing to ‘Arkan’ while working in a café.¹³⁶ Witness C was hit with plastic batons until she lost consciousness.¹³⁷ When she regained consciousness, she was hit again and asked questions about her association with Witness B and ██████████ and whether they were spies for the Serbs.¹³⁸ They tried to force Witness C to declare that Witness B and ██████████ were Serb collaborators.¹³⁹
94. Witness A was made to take off his shoes.¹⁴⁰ P██████ Sh██████ beat Witness A and hit him on his hands to the point that he almost fainted.¹⁴¹ Witness H saw Witness A being beaten badly, including by Sabit Geci who hit him with his fist and with a rubber baton.¹⁴² Witness H saw Sabit Geci, Xh██████ K██████ and P██████ Sh██████ maltreating Witness A.¹⁴³ Witness H saw Sabit Geci slap Witness A in the face and use a baton on his palms.¹⁴⁴ After 10-15 minutes of beating, Witness A said “I am going to faint” and then Sabit Geci said “Enough” and they stopped beating Witness A.¹⁴⁵
95. Witness A also saw Witness H being beaten severely with rubber batons and wooden axe handles.¹⁴⁶ While Witness H was being beaten, he was being asked

¹³³ Witness B, Minutes of Main Trial, 16 March 2011, p. 25.

¹³⁴ Witness B, Minutes of Main Trial, 16 March 2011, p. 25-27; Witness B, Minutes of Main Trial, 21 March 2011, Q76-79.

¹³⁵ Witness B, Minutes of Main Trial, 16 March 2011, p. 26.

¹³⁶ Witness A, Minutes of Main Trial, 09 June 2011, Q72.

¹³⁷ Report on Interrogation Statement of the Witness Victim (Witness C), 09 April 2009, p. 4.

¹³⁸ Report on Interrogation Statement of the Witness Victim (Witness C), 09 April 2009, p. 4; Witness H, Minutes of Main Trial, 04 April 2011, Q146-147.

¹³⁹ Witness H, Minutes of Main Trial, 04 April 2011, Q65-67.

¹⁴⁰ Witness A, Minutes of Main Trial, 09 June 2011, Q49 & 52.

¹⁴¹ Witness A, Minutes of Main Trial, 09 June 2011, Q51-54.

¹⁴² Witness H, Minutes of Main Trial, 04 April 2011, Q44, 50, 114, 133.

¹⁴³ Witness H, Minutes of Main Trial, 04 April 2011, Q47.

¹⁴⁴ Witness H, Minutes of Main Trial, 04 April 2011, Q50.

¹⁴⁵ Witness A, Minutes of Main Trial, 09 June 2011, Q52-53; Minutes of Main Trial, 10 June 2011, Q182-183.

¹⁴⁶ Witness A, Minutes of Main Trial, 09 June 2011, Q59-62.

why he had not resigned his job earlier and being accused of being in association with Arkan.¹⁴⁷

96. Witness B estimates that the beatings lasted until approximately 6am because the morning sunlight had started.¹⁴⁸ After the beatings, the detainees were taken from the office back into the detention rooms one by one.¹⁴⁹ Witness A arrived back in bad condition, he could hardly walk and his hand was swollen.¹⁵⁰ Witness B and ██████████ were brought back in extremely bad condition, and were complaining about pain in their necks, heads, back, hands and legs.¹⁵¹ ██████████ was dragged into the room by KLA soldiers because he could not walk. Neither one received any medical treatment for their injuries.¹⁵²

Violation of Bodily Integrity of Witnesses A, B, C, D, E, F, H and ██████████

97. In addition to the interrogation and beating described above which occurred on or about 19 May 1999, there were numerous and frequent other beatings of the detainees during their time in captivity in the Kukes KLA camp. Each of the witnesses, with the exception of Witness D and Witness E, described beatings which they received from KLA soldiers, during which times other witnesses or detainees who happen to be in the room would also be beaten.
98. The beatings could occur in the detention room¹⁵³ or a detainee could be brought out of the room to another location and beaten there.¹⁵⁴ Witness F described the detainees being beaten “in the most animal like way.”¹⁵⁵

¹⁴⁷ Witness A, Minutes of Main Trial, 09 June 2011, Q72.

¹⁴⁸ Witness B, Minutes of Main Trial, 16 March 2011, p. 25, 27-28.

¹⁴⁹ Witness A, Minutes of Main Trial, 09 June 2011, Q82; Witness H, Minutes of Main Trial, 04 April 2011, Q57-58.

¹⁵⁰ Witness H, Minutes of Main Trial, 04 April 2011, Q60 & 133.

¹⁵¹ Witness A, Minutes of Main Trial, 09 June 2011, Q82-85; Witness H, Minutes of Main Trial, 04 April 2011, Q61-64.

¹⁵² Witness B, Minutes of Main Trial, 16 March 2011, p. 28; Witness B, Minutes of Main Trial, 21 March 2011, Q82-84.

¹⁵³ Witness A, Minutes of Main Trial, 09 June 2011, Q95; Witness A, Minutes of Main Trial, 10 June 2011, Q10, 16, 69, 74-79, 184; Witness B, Minutes of Main Trial, 21 March 2011, Q219-223, 228-247.

¹⁵⁴ Witness F, Minutes of Main Trial, 28 March 2011, Q49-50; Witness H, Minutes of Main Trial, 04 April 2011, Q68, 75-78.

¹⁵⁵ Witness H, Minutes of Main Trial, 31 March 2011, Q36.

Witness A

99. Witness A was beaten a number of times in the detention room and suffered a lot of pain and injuries as a result of these beatings.¹⁵⁶ During a beating, Witness B heard Sabit Geci ask Witness A questions about [REDACTED], such as “why are you taking goods from Serbia and bringing them into Kosovo?”¹⁵⁷
100. Witness A also describes additional examples of criminal misconduct such as prisoners being made to fight each other and prisoners being made to stand in stress positions such as on one leg for extended periods of time in extreme heat causing him to faint twice.¹⁵⁸ However, it is noted by the Panel that no other witness describes these specific features and so the weight attached to this evidence is considerably limited.

Witness B and [REDACTED]

101. Witness B was subjected to maltreatment many times.¹⁵⁹ In the evening on or about 20 May 1999, Xh[REDACTED] K[REDACTED] and other KLA soldiers and beat Witness B, [REDACTED] and other detainees in the room with iron bars, police batons, weapons and fists.¹⁶⁰ After this, there were at least three additional occasions where Witness B was beaten by KLA soldiers in the room where he was being detained. Sabit Geci was involved in one of those beatings.¹⁶¹ There is some conflict between Witness B and Witness F as to the precise location of the beatings suffered by B and [REDACTED]. Witness B suggests that the beatings took place in the same room with other witnesses whereas Witness F suggests that B [REDACTED] were taken out to another location to be beaten.¹⁶² The Panel does not consider that such minor conflict in the evidence reduces the overall credibility of the evidence for the following reasons. First, the essential

¹⁵⁶ Witness A, Minutes of Main Trial, 10 June 2011, Q10, 16, 69, 74-79, 184; Witness B, Minutes of Main Trial, 21 March 2011, Q219-223.

¹⁵⁷ Witness B, Minutes of Main Trial, 21 March 2011, Q225-226.

¹⁵⁸ Witness A, Minutes of Main Trial, 09 June 2011, p17 Q91-94; Minutes of Main Trial, 10 June 2011, p8 Q60.

¹⁵⁹ Witness B, Minutes of Main Trial, 16 March 2011, p. 33.

¹⁶⁰ Witness B, Minutes of Main Trial, 16 March 2011, p. 31-32; Minutes of Main Trial, 21 March 2011, Q88-92, 95-96.

¹⁶¹ Witness B, Minutes of Main Trial, 21 March 2011, Q110-112.

¹⁶² See notes 160 and 161 above for the references to Witness B's account. See Minutes of Main Trial, 28 March 2011, Q63-76 for Witness F's account.

element that each witness was trying to describe was the fact of the beatings and the impact upon the victims of such beatings. Issues such as location and time are ancillary to the main element, namely the beatings. With the passage of time, recollection of ancillary matters inevitably fades. Second, as it is clear that there were several beatings, some may have been in the same room and others may have been in different locations. Indeed, Witness B expressly stated that sometimes he was beaten in the room and sometimes in the corridor.¹⁶³ Third, the main thrust of the questioning of Witness B related to what happened and when, with little exploration of where. In conclusion on this matter therefore, whilst acknowledging that there is a difference of account as to location of events between Witnesses B and F, it is concluded that this is a minor difference which does not undermine the overall quality of their accounts.

Witness D and Witness E

102. During the first three days that Witness B was detained in the warehouse, he witnessed Witness D, Witness E and an unknown male Roma screaming while being beaten by the KLA military police.¹⁶⁴
103. Witness D and Witness E and ██████████ were also beaten on several occasions while in the detention room.¹⁶⁵ Witness B saw Sabit Geci personally beat ██████████ detainees on one occasion.¹⁶⁶ One of ██████████ detainees was never able to talk without being hit, since there was one KLA soldier who seemed to not like ██████████.¹⁶⁷
104. Witness D and Witness E were also beaten while they were working unloading the supply trucks in the warehouse.¹⁶⁸

¹⁶³ Witness B, Minutes of Main Trial, 21 March 2011, Q110.

¹⁶⁴ Witness B, Minutes of Main Trial, 16 March, p. 11-12; 21 March 2011, Q231.

¹⁶⁵ Witness B, Minutes of Main Trial, 21 March 2011, Q228-247.

¹⁶⁶ Witness B, Minutes of Main Trial, 21 March 2011, Q121 & 233.

¹⁶⁷ Witness B, Minutes of Main Trial, 23 March 2011, Q40.

¹⁶⁸ Witness H, Minutes of Main Trial, 04 April 2011, Q80-81.

Witness F

105. Witness F was maltreated on two separate occasions.¹⁶⁹ On the first occasion, after he had been detained in the room for 2-3 weeks, Witness F was hit in the eye.¹⁷⁰ This occurred in the detention room and the other detainees were present and were also being hit.¹⁷¹ The KLA soldiers also asked Witness F questions about his identity and where he worked, as they were concerned that he was a Serb collaborator. After he told them that he was employed as [REDACTED], they called him a “traitor” and “spy”.¹⁷²
106. The second occasion was when Witness F was made to face the wall and was hit in the back.¹⁷³ It felt like being hit with a police rubber baton.¹⁷⁴ As a result, he could not move his back at all.¹⁷⁵

Witness H

107. Witness H was beaten from time to time when unknown KLA soldiers would come into the detention room late at night and beat him and the other detainees on their hands with rubber batons.¹⁷⁶

Beatings of Other Detainees

108. On or about 20 May 1999 around noon, Sabit Geci entered the detention room where Witness B was being detained with [REDACTED] and several other persons. Geci was with two KLA Military Police, and they brought three arrested KLA soldiers into the room.¹⁷⁷

¹⁶⁹ Witness A, Minutes of Main Trial, 10 June 2011, Q7-10; Witness F, Minutes of Main Trial, 28 March 2011, Q27-51, Q158-159.

¹⁷⁰ Witness F, Minutes of Main Trial, 28 March 2011, Q27-51.

¹⁷¹ Witness F, Minutes of Main Trial, 28 March 2011, Q49-50.

¹⁷² Witness F, Minutes of Main Trial, 28 March 2011, Q39-44, Q158-159.

¹⁷³ Witness F, Minutes of Main Trial, 28 March 2011, Q27-49.

¹⁷⁴ Witness F, Minutes of Main Trial, 28 March 2011, Q53.

¹⁷⁵ Witness F, Minutes of Main Trial, 28 March 2011, Q56.

¹⁷⁶ Witness H, Minutes of Main Trial, 04 April 2011, Q68-69, 77.

¹⁷⁷ Witness B, Minutes of Main Trial, 16 March 2011, p. 28-29.

109. The three KLA soldiers were brought in because they had left the front line. Sabit Geci and other KLA soldiers wearing black uniforms from the Special Unit beat the three arrested soldiers until they fainted. One broke a baton over the head of one of them. On this same occasion, they also beat on the detainees already in the room – specifically Witness B, Witness D, Witness E, the unknown male Roma, and two other detainees.¹⁷⁸ According to Witness B, they “beat the hell out of” all of them.¹⁷⁹
110. Witness A described another such incident, when four FARK soldiers (the A■■■■ brothers) were brought in and beaten by Sabit Geci and other KLA soldiers.¹⁸⁰
111. Witness B also described other incidents of violence witnessed whilst detained; One detainee – a big man with a moustache from Suhareka/SuvaReka who was accused of being a spy – was maltreated in the room by Xh■■■■ K■■■■ who “beat the hell out of him” together with some other KLA soldiers.¹⁸¹ Another detainee – a man from Malisheve/Malisevo who was found with an SPS booklet and therefore deemed a spy – was beaten up and had knife cuts on his legs.¹⁸²
112. After the death of ■■■■■ (described below), the beatings were less frequent. However they did occur a few more times.¹⁸³

Witness C

113. Witness C was also subjected to severe maltreatment.
114. While still being initially detained in the warehouse, Witness C was woken up on the 3rd morning to see ■■■■■ being beaten by three persons with sticks and batons. During the beating, the KLA asked questions about asked how

¹⁷⁸ Witness B, Minutes of Main Trial, 23 March 2011, Q62-65; Witness B, Minutes of Main Trial, 24 March 2011, Q103-105.

¹⁷⁹ Witness B, Minutes of Main Trial, 16 March 2011, p. 28.

¹⁸⁰ Witness A, Minutes of Main Trial, 09 June 2011, Q96-97.

¹⁸¹ Witness B, Minutes of Main Trial, 21 March 2011, Q248-249.

¹⁸² Witness B, Minutes of Main Trial, 21 March 2011, Q251-253.

¹⁸³ Witness A, Minutes of Main Trial, 09 June 2011, Q91; Witness B, Minutes of Main Trial, 21 March 2011, Q204-207.

Witness B, Witness C and ██████████ had arrived in Kukes. They also slapped and kicked Witness C, asking questions about her affiliation with Witness B and ██████████.¹⁸⁴

115. When taken out of the warehouse, Witness C was separated from the others and detained alone in a room. During this time, she was also subjected to severe maltreatment. During her detention, Witness C would be interrogated by different KLA soldiers on almost a daily basis.¹⁸⁵ They would ask questions about Witness B and ██████████ and about their association with Witness C, because the KLA suspected them of collaborating with the Serbs. These interrogations would involve violence, beatings and ill treatment.¹⁸⁶ On one occasion, they beat Witness C with a knife or metal stick, and on another occasion Witness C was beat unconscious. At one point, Witness C was taken by two KLA soldiers armed with weapons ██████████ ██████████. As a result, Witness C has suffered injuries and permanent scarring.¹⁸⁷ During her detention, Witness C could hear the screams of men every day.¹⁸⁸

Interrogations and Accusations

116. In addition to the specific questions and accusations which the KLA posed against individual detainees which are described in the sections above, there were other incidents where accusations were made by the KLA against a detainee or another interrogation or interview of a detainee took place. These interrogations were interrelated with accusations made by the KLA against the detainee, often because of a perceived connection with the Serbian authorities or Serbian people.
117. Detainees would be brought out of the room individually for questioning from time to time. Witness G was interrogated three times. During each interview, he was accused of expelling his fellow villagers from their homes, of owning a gun,

¹⁸⁴ Record of the Witness Hearing (Witness C), 17 December 2009, p. 4-5.

¹⁸⁵ Record of the Witness Hearing (Witness C), 17 December 2009, p. 8.

¹⁸⁶ Record of the Witness Hearing (Witness C), 17 December 2009, p. 9.

¹⁸⁷ Record of the Witness Hearing (Witness C), 17 December 2009, p. 8-13; Report on Interrogation Statement of the Witness Victim (Witness C), 09 April 2009, p. 4-5, 7.

¹⁸⁸ Report on Interrogation Statement of the Witness Victim (Witness C), 09 April 2009, p. 7 & 8.

and of being a friend and collaborator with the Serbs.¹⁸⁹ The interviews mostly occurred in the late night, such as 23:00 hrs and midnight.¹⁹⁰ Other persons being held were accused of being Serb collaborators because they worked at the

██████████.¹⁹¹

118. Witness A was accused by the KLA soldiers of involvement in the murder of the “Gervalla brothers”.¹⁹² In addition, he was made to write out his biography.¹⁹³
119. Witness H had been arrested by the KLA because he worked as ██████████ Kosovo and the KLA soldiers questioned him on why he had not resigned with other ██████████ when they resigned.¹⁹⁴
120. Witness D and Witness E were kept in detention because of an allegation that they were part of a paramilitary unit who fought with the Serbs.¹⁹⁵

The Killing of ██████████

121. ██████████ had been in a traffic accident approximately six months prior to May 1999 and suffered six broken ribs and injuries to his head which required stitches. These injuries had not fully healed yet when he was arrested, detained and beaten in Kukes.¹⁹⁶
122. On the basis of the testimonies of Witnesses A, B, and F it has been established that ██████████ died while he was detained at the Kukes camp on or about 05 June 1999 at approximately 14:00-14:45 hrs as a result of a firearm wound on his leg.¹⁹⁷ The wound was a result of an episode of severe mistreatment which began in the evening, one or two nights before his death.

¹⁸⁹ Prosecution Record of the Witness Hearing (Witness G), 04 March 2010, p. 7-10.

¹⁹⁰ Prosecution Record of the Witness Hearing (Witness G), 04 March 2010, p. 9.

¹⁹¹ Prosecution Record of the Witness Hearing (Witness G), 04 March 2010, p. 12.

¹⁹² Prosecution Record of the Witness Hearing (Witness G), 04 March 2010, p. 9.

¹⁹³ Witness A, Minutes of Main Trial, 09 June 2011, Q81.

¹⁹⁴ Witness A, Minutes of Main Trial, 10 June 2011, Q26-31.

¹⁹⁵ Witness B, Minutes of Main Trial, 21 March 2011, Q212-213.

¹⁹⁶ Witness B, Minutes of Main Trial, 16 March 2011, p. 10; Witness B, Minutes of Main Trial, 24 March 2011, Q24-26; Report on Interrogation Statement of the Witness Victim (Witness C), 09 April 2009, p. 4.

¹⁹⁷ Witness B, Minutes of Main Trial, 21 March 2011, Q159-165, 174-202; 24 March 2011, Q30, 39-40; Witness A, Minutes of Main Trial, 09 June 2011, Q100-103; Witness A, Minutes of Main Trial, 10 June 2011, Q1-4, 131; Witness F, Minutes of Main Trial, 28 March 2011, Q77-97.

123. That evening, Witness B was taken out of the detention room and into another room which did not have a door located opposite the corridor from the detention room. Xh [REDACTED] K [REDACTED] and several other KLA soldiers were present with a small cassette player.¹⁹⁸ The KLA tried to coerce Witness B into making a confession on tape and when he refused, they beat him.¹⁹⁹ At some point, Witness B was forced to put on a bullet-proof vest, stood up against the wall and fired shots at, causing him to faint.²⁰⁰
124. When Witness B regained consciousness, the KLA returned him to the detention room (where Witnesses A, D, E, F, an unknown [REDACTED] were being held) and took [REDACTED] out to the room across the corridor.²⁰¹ Witness B heard shots fired and the screams of [REDACTED], and believed that he had been killed.²⁰² However, [REDACTED] was brought back into the detention room in the early morning hours and he told Witness B that the KLA had fired shots at him and he had fainted.²⁰³
125. That same day, Xh [REDACTED] K [REDACTED] came into the detention room and told Witness B and [REDACTED] “One of you is going to live tonight but not both.”²⁰⁴
126. That evening, KLA soldiers came to the detention room again and took both Witness B and [REDACTED] back into the room across the corridor without a door.²⁰⁵ The KLA soldiers again tried to coerce Witness B and [REDACTED] into making a confession on tape, accused them of involvement in the killing of Commander P [REDACTED], and questioned them about [REDACTED] in Kosovo.²⁰⁶ The KLA beat them with batons, injuring their ribs, and hit them in their faces with

¹⁹⁸ Witness B, Minutes of Main Trial, 21 March 2011, Q122-129.

¹⁹⁹ Witness B, Minutes of Main Trial, 21 March 2011, Q129-131.

²⁰⁰ Witness B, Minutes of Main Trial, 21 March 2011, Q129-138.

²⁰¹ Witness B, Minutes of Main Trial, 21 March 2011, Q139-149; Witness A, Minutes of Main Trial, 10 June 2011, Q3-6; Witness F, Minutes of Main Trial, 28 March 2011, Q77-80.

²⁰² Witness B, Minutes of Main Trial, 21 March 2011, Q150.

²⁰³ Witness B, Minutes of Main Trial, 21 March 2011, Q153-156.

²⁰⁴ Witness B, Minutes of Main Trial, 21 March 2011, Q157-159.

²⁰⁵ Witness B, Minutes of Main Trial, 21 March 2011, Q159-160.

²⁰⁶ Witness B, Minutes of Main Trial, 21 March 2011, Q161, 175.

automatic weapons.²⁰⁷ One KLA soldier shot Witness B in his left foot just above the toes with a TT pistol from a distance of 50-70 cm.²⁰⁸

127. Then another KLA soldier [said to be Xh [REDACTED] K [REDACTED] but the Trial Panel does not make any specific factual finding as to the identity of the KLA soldier in question] fired an automatic weapon at [REDACTED], hitting him with one to three shots under his left knee causing heavy bleeding.²⁰⁹ Despite these wounds, the KLA soldiers continued to brutally maltreat Witness B and [REDACTED] throughout the night and into the early morning hours, even after returning both of them to the detention room.²¹⁰

128. Witness B asked for a doctor for [REDACTED] and one was brought to examine him inside the detention room. The doctor could not stop the bleeding from the gunshot wound and recommended that [REDACTED] be brought to the Kukes hospital.²¹¹ However such measure, which could have saved the life of [REDACTED] [REDACTED], was denied by the KLA soldiers present.²¹² The other detainees, and specifically Witness D and Witness E tried to help [REDACTED].²¹³ Hours later, at approximately 14:00 hrs, [REDACTED] died inside the detention room.²¹⁴

129. The Trial Panel notes that this incident is denied by Witness D and Witness E, who not only testified that they did not witness the death of [REDACTED], but also claimed that they had no knowledge of anyone being ill-treated while in the camp. As explained above, the Panel, while relying on the accounts of Witnesses A, B, and F, does not hold the testimony of Witness D and Witness E as credible.

²⁰⁷ Witness B, Minutes of Main Trial, 21 March 2011, Q161; Witness A testified that upon return to the detention room, Witness B informed him that he had been hit with a revolver, Minutes of Main Trial, 09 June 2011, Q109.

²⁰⁸ Witness B, Minutes of Main Trial, 21 March 2011, Q161-165, 169-173. Witness A, Minutes of Main Trial, 09 June 2011, Q108-109; Witness F, Minutes of Main Trial, 28 March 2011, Q100-104; DFM Report of Physical Examination of Witness B by Dr. Marek Gasior dated 02 March 2011; DFM Medical Examiner Office report on examination of Witness B dated 10 November 2010.

²⁰⁹ Witness B, Minutes of Main Trial, 21 March 2011, Q123, 174-179; OMPF Autopsy Report MA09216 ([REDACTED]) by Dr. Marek Gasior dated 18 August 2009.

²¹⁰ Witness B, Minutes of Main Trial, 21 March 2011, Q179-189.

²¹¹ Witness B, Minutes of Main Trial, 21 March 2011, Q190.

²¹² Witness B, Minutes of Main Trial, 21 March 2011, Q190-191.

²¹³ Witness B, Minutes of Main Trial, 21 March 2011, Q194.

²¹⁴ Witness B, Minutes of Main Trial, 21 March 2011, Q 191-199.

130. Witness A was questioned briefly about the death of ██████████ during his testimony, and corroborates Witness B's account on the following details: one or two nights before his death, ██████████ was taken out of the detention room and beaten. A shot was heard. When ██████████ was returned to the detention room, he was wounded under his knee and bleeding. A doctor came and examined ██████████, however he died.²¹⁵ Witness F also provided the following corroboration of Witness B's account in his testimony: ██████████ was not in the detention room when shots were heard coming from another adjacent room. ██████████ was brought back to the detention room the morning afterwards with a wound near his knee and was bleeding. Witness B asked for a doctor, who came and examined ██████████, however he died two to three days later inside the detention room.²¹⁶

131. The Trial Panel notes that Witness A and Witness F testified that Witness B was inside the detention room at the time when the shot was heard which is believed to have been directed at ██████████, while Witness B testified that he was with ██████████ in the opposite room and witnessed the shooting. This discrepancy can be explained without impinging on the overall credibility of these witnesses. There were several incidents of ill-treatment throughout the relevant period, and indeed two shooting incidents involving Witness B and ██████████ on two consecutive days. On the first incident, Witness B was inside the detention room with Witness A and Witness F when ██████████ was taken out and shots were heard nearby, whilst on the second incident Witness B and ██████████ were both together outside the detention room. Thus it is likely that some details related to an incident of ill-treatment which happened on one day may have become confused in the memory of the witnesses with details related to the other incident.

The KLA Camp in Cahan, Albania

132. A second military camp was set up by the KLA in Cahan, Albania where civilians were also detained. At various times, all five of the defendants were

²¹⁵ Witness A, Minutes of Main Trial, 09 June 2011, Q100-107.

²¹⁶ Witness F, Minutes of Main Trial, 28 March 2011, Q77-99.

present and had a role in the Cahan camp. Each detainee arrived at the Cahan camp in a different manner and route.

133. Witness ██████████ was a supporter of LDK and Ibrahim Rugova from the early 1990's.²¹⁷ His ██████████
██████████.²¹⁸ In the beginning of April 1999, ██████████
was working in Croatia.²¹⁹ When the NATO bombing commenced in Kosovo, ██████████ family fled Kosovo for Albania.²²⁰ ██████████ traveled to Albania in search of his family and in the evening of 12 April 1999 he arrived in Krume.²²¹ In the middle of the night, 8-10 uniformed persons wearing masks and armed with weapons knocked on his door and informed him that his family was waiting in a nearby mosque.²²² They took ██████████ to the mosque where Sabit Geci was present.²²³ Geci introduced himself and stated that he was the "chief of the KLA secret police."²²⁴ With regard to ██████████, Sabit Geci stated "We have the right guy because he is a supporter of Rugova" and "Will Rugova be able to save you now?"²²⁵ ██████████ and two other Kosovo-Albanians were then taken by car to the KLA camp in Cahan by Sabit Geci and Haki Hajdari.²²⁶ ██████████ saw that it was a military barracks, and there were approximately 100-150 KLA soldiers present.²²⁷

134. Until 17 September 1990, Witness M was employed as ██████████
██████████. On ██████████, along with over 100 other employees, Witness M resigned from his post. In 1999, Witness M was unemployed.²²⁸ Approximately four days after the NATO airstrike began, Witness M and his family were expelled from their home by Serbian military. They traveled first to Rozaje, Montenegro, and then to Skallure village near

²¹⁷ ██████████, Minutes of Main Trial, 04 May 2011, Q56.

²¹⁸ ██████████, Minutes of Main Trial, 04 May 2011, Q92-95; Witness K, Minutes of Main Trial, 16 May 2011,

Q67.

²¹⁹ ██████████, Minutes of Main Trial, 04 May 2011, Q5-6.

²²⁰ ██████████, Minutes of Main Trial, 04 May 2011, Q9.

²²¹ ██████████, Minutes of Main Trial, 04 May 2011, Q9-17.

²²² ██████████, Minutes of Main Trial, 04 May 2011, Q21-25.

²²³ ██████████, Minutes of Main Trial, 04 May 2011, Q26-29.

²²⁴ ██████████, Minutes of Main Trial, 04 May 2011, Q29, 38-39.

²²⁵ ██████████, Minutes of Main Trial, 04 May 2011, Q58-59.

²²⁶ ██████████, Minutes of Main Trial, 04 May 2011, Q41-47, 60.

²²⁷ ██████████, Minutes of Main Trial, 04 May 2011, Q60.

²²⁸ Witness M, Minutes of Main Trial, 19 May 2011, Q19-22.

Durres in Albania. After ten days, on or about 16 April 1999, a person came to their door in the evening and introduced himself as a member of SHIK. There were two other persons with him waiting in a vehicle. This person informed Witness M that he had to come with him to Durres. Witness M obliged and after getting into their vehicle and departing, they told him that they were not SHIK but KLA. Witness M was then taken to Hotel Drenica.²²⁹

135. At Hotel Drenica, Witness M was interrogated by a KLA soldier whom he later learned to be Xh [REDACTED] K [REDACTED].²³⁰ Xh [REDACTED] K [REDACTED] was armed with a gun during the questioning.²³¹ Witness M was accused of being a spy and was asked for names of Serb collaborators.²³² The KLA soldiers confiscated Witness M's driver's license, identification card, ring, watch and cash.²³³ He was then taken handcuffed to the KLA military camp in Kukes.²³⁴ After a few minutes, the KLA brought another person in handcuffs (Witness K) into the car.²³⁵

136. Witness K left Kosovo with his family and some fellow villagers due to the conflict. He arrived in Durres, Albania on or about 30 March 1999. There he was living in a refugee camp near the beach for approximately 12 days.²³⁶ Two persons dressed in civilian clothing who stated that they were KLA told Witness K that he had to come with them to answer some questions. He was brought first to Hotel Drenica in Durres for one night where he was asked questions by a person claiming to be an investigative judge.²³⁷ Witness K was then brought to Kukes where he was held for approximately three days.²³⁸ Then Witness K was transported together with Witness M out of the Kukes camp.²³⁹

137. From Kukes, Witness K and Witness M were first driven to Krume. During the journey, the KLA soldiers told Witness M that they were going to shoot him.²⁴⁰

²²⁹ Witness M, Minutes of Main Trial, 19 May 2011, Q1-10.

²³⁰ Witness M, Minutes of Main Trial, 19 May 2011, Q11-14.

²³¹ Witness M, Minutes of Main Trial, 19 May 2011, Q11-14.

²³² Witness M, Minutes of Main Trial, 19 May 2011, Q11-17.

²³³ Witness M, Minutes of Main Trial, 19 May 2011, Q16.

²³⁴ Witness M, Minutes of Main Trial, 19 May 2011, Q23-29.

²³⁵ Witness M, Minutes of Main Trial, 19 May 2011, Q30-35.

²³⁶ Witness K, Minutes of Main Trial, 16 May 2011, Q9-16.

²³⁷ Witness K, Minutes of Main Trial, 16 May 2011, Q18-22.

²³⁸ Witness K, Minutes of Main Trial, 16 May 2011, Q22-24.

²³⁹ Witness K, Minutes of Main Trial, 16 May 2011, Q24-28.

²⁴⁰ Witness M, Minutes of Main Trial, 19 May 2011, Q33.

They stopped briefly in Krume, where Haki Hajdari, who introduced himself as “Commander Drenica”, instructed the KLA soldiers to take Witness K and Witness M to Cahan.²⁴¹ Witness K and Witness M were then driven to the KLA camp in Cahan.²⁴² It was on or about 17 April 1999.²⁴³

138. Witness N was living in [REDACTED] in 1999.²⁴⁴ He and his wife were members of [REDACTED].²⁴⁵ Witness N resigned his position in mid-April 1999 and left his home with his family because all of the Kosovo Albanians were leaving the village and he no longer felt safe.²⁴⁶ The family traveled to Shkodra in Albania where they stayed in a tobacco factory, and after ten days Witness N was summoned for questioning by three KLA members.²⁴⁷ The KLA members beat him and asked him about his employment and his [REDACTED] and Witness N called the Albanian police who arrested and detained him for 24 hours.²⁴⁸ Upon his release, Witness N returned to the factory, and armed KLA members arrived after midnight and arrested him.²⁴⁹
139. The KLA brought Witness N first to the Albanian police station where he was detained until the morning, next to the KLA headquarters in Kukes where he was held for a few hours, and then to Krume.²⁵⁰ In Krume, Witness N was beaten by the three KLA soldiers who had transported him there, and asked questions about his family and why he had not resigned from his job sooner.²⁵¹ In the night at approximately 21:00 hrs, Witness N was transferred to the Cahan camp.²⁵²

²⁴¹ Witness M, Minutes of Main Trial, 19 May 2011, Q33.

²⁴² Witness K, Minutes of Main Trial, 16 May 2011, Q24-28; Witness M, Minutes of Main Trial, 19 May 2011, Q30-35.

²⁴³ Witness M, Minutes of Main Trial, 19 May 2011, Q98-100.

²⁴⁴ Witness N, Minutes of Main Trial, 23 May 2011, Q1-11.

²⁴⁵ Witness N, Minutes of Main Trial, 23 May 2011, Q12-17.

²⁴⁶ Witness N, Minutes of Main Trial, 23 May 2011, Q9-11, 22-25.

²⁴⁷ Witness N, Minutes of Main Trial, 23 May 2011, Q26-35.

²⁴⁸ Witness N, Minutes of Main Trial, 23 May 2011, Q36-44.

²⁴⁹ Witness N, Minutes of Main Trial, 23 May 2011, Q44-52.

²⁵⁰ Witness N, Minutes of Main Trial, 23 May 2011, Q44-66.

²⁵¹ Witness N, Minutes of Main Trial, 23 May 2011, Q67-72.

²⁵² Witness N, Minutes of Main Trial, 23 May 2011, Q69, 73-77.

General Living Conditions of Detainees in the KLA Cahan Camp

140. Witness K, Witness M, Witness N and ██████████ were all kept in the same detention room in the Cahan camp. ██████████ was brought there first, and for the first seven days, remained alone in the room.²⁵³ Witness K and Witness M were then brought into the room.²⁵⁴ Approximately three weeks later, Witness N was also brought into the room, and later Witness O.²⁵⁵ While there was regularly these detainees kept in the room, from time to time more persons were brought in, so that at one point there were potentially up to 17 persons, though this was not for long.²⁵⁶
141. The room was small and narrow, measuring approximately 2x2.5-2.7 meters with one window which caused a lot of drafts because the glass was broken.²⁵⁷ As a result, it was very cold inside the room.²⁵⁸ The door was always locked.²⁵⁹
142. The room would leak water and rain, enough so that the floor became very wet.²⁶⁰ For the first three days that Witness K was in the room, the floor was so wet that the detainees could not lie down to sleep.²⁶¹ After this, some plastic sheeting was given to the detainees to put on the wet floor.²⁶²
143. ██████████ slept on the concrete floor of the detention room, on top of a 1 cm thick sponge.²⁶³ He was not provided with any blanket and covered himself at night with his own jacket.²⁶⁴ Later, after other detainees had arrived, some

²⁵³ ██████████, Minutes of Main Trial, 04 May 2011, Q124 & 129.

²⁵⁴ ██████████, Minutes of Main Trial, 04 May 2011, Q163-164; Witness K, Minutes of Main Trial, 16 May 2011, Q33, 47, 58, 249-250.

²⁵⁵ ██████████, Minutes of Main Trial, 04 May 2011, Q128, 170-171; Witness K, Minutes of Main Trial, 16 May 2011, Q83.

²⁵⁶ ██████████, Minutes of Main Trial, 04 May 2011, Q173-174, 181.

²⁵⁷ ██████████, Minutes of Main Trial, 04 May 2011, Q98, 123, 175-178; Witness K, Minutes of Main Trial, 16 May 2011, Q108-109; Witness M, Minutes of Main Trial, 19 May 2011, Q35-38, 61; Witness N, Minutes of Main Trial, 23 May 2011, p.15.

²⁵⁸ Witness M, Minutes of Main Trial, 19 May 2011, Q61.

²⁵⁹ ██████████, Minutes of Main Trial, 04 May 2011, Q157; Witness K, Minutes of Main Trial, 16 May 2011, Q116; Witness M, Minutes of Main Trial, 19 May 2011, Q110.

²⁶⁰ Witness K, Minutes of Main Trial, 16 May 2011, Q108-110; Witness M, Minutes of Main Trial, 19 May 2011, Q109.

²⁶¹ Witness K, Minutes of Main Trial, 16 May 2011, Q110-114.

²⁶² Witness K, Minutes of Main Trial, 16 May 2011, Q110-114.

²⁶³ ██████████, Minutes of Main Trial, 04 May 2011, Q153-154.

²⁶⁴ ██████████, Minutes of Main Trial, 04 May 2011, Q155.

blankets were provided.²⁶⁵ Nevertheless, the sleeping conditions were described by Witness K as “very severe.”²⁶⁶ Witness K, Witness M and ██████ huddled together for warmth during the night, and the hands of both Witness K and ██████ were always tied.²⁶⁷ In fact, ██████ hands were kept tied together for ten days.²⁶⁸

144. The testimonies of the witnesses regarding access to water during their detention were too inconsistent to arrive at any firm conclusions. ██████ testified that water would be brought to the detention room when requested.²⁶⁹ Witness M testified that no one dared to ask for water, and they had little access to the water which came from a spring located near the toilet.²⁷⁰ Witness N testified that the detainees were provided water in bottles, however seemed to suggest that this water was not drinkable.²⁷¹

145. Food was provided when the KLA soldiers themselves had food.²⁷²

146. The toilet was located outside of the room, in a field, and stank badly.²⁷³ Detainees could ask permission to go to the toilet in the morning and in the afternoon.²⁷⁴ However, they were not able to go to the toilet on a regular basis, and at night some detainees would urinate into plastic bottles.²⁷⁵ According to Witness M, the detainees would have to ask “100 times” before finally being allowed to go to the toilet.²⁷⁶

147. There was no opportunity for the detainees to bathe or wash themselves.²⁷⁷ ██████ was able to shave once after five weeks of detention, and to wash only

²⁶⁵ Witness K, Minutes of Main Trial, 16 May 2011, Q108; Witness M, Minutes of Main Trial, 19 May 2011, Q59 & 65.

²⁶⁶ Witness K, Minutes of Main Trial, 16 May 2011, Q231.

²⁶⁷ Witness M, Minutes of Main Trial, 19 May 2011, Q59-65.

²⁶⁸ ██████, Minutes of Main Trial, 04 May 2011, Q110.

²⁶⁹ ██████, Minutes of Main Trial, 04 May 2011, Q156.

²⁷⁰ Witness M, Minutes of Main Trial, 19 May 2011, Q144, 150-152, 191-195.

²⁷¹ Witness N, Minutes of Main Trial, 23 May 2011, Q250-251; Minutes of Main Trial, 25 May 2011, Q169-170.

²⁷² ██████, Minutes of Main Trial, 04 May 2011, Q158-159.

²⁷³ ██████, Minutes of Main Trial, 04 May 2011, Q144; Witness K, 16 May 2011, Q108.

²⁷⁴ Witness K, Minutes of Main Trial, 16 May 2011, Q118.

²⁷⁵ Witness K, Minutes of Main Trial, 16 May 2011, Q119; Witness M, Minutes of Main Trial, 19 May 2011, Q66, 111-113, 141.

²⁷⁶ Witness M, Minutes of Main Trial, 19 May 2011, Q190.

²⁷⁷ ██████, Minutes of Main Trial, 04 May 2011, Q160; Witness K, Minutes of Main Trial, 16 May 2011, Q120.

once during approximately nine weeks of detention.²⁷⁸ Witness K was able only to shave once during approximately eight weeks of detention.²⁷⁹ The detainees were never provided with a change of fresh clothing.²⁸⁰

148. There was no medical treatment provided, even when Witness ██████ sustained injuries from the beatings²⁸¹ though it should be noted that Witness K stated that they were provided with medicines whenever they were needed.²⁸²

149. ██████ was detained for approximately nine weeks, from 12 April to 20 June 1999.²⁸³ Witness K was held for approximately two months.²⁸⁴ Witness M was detained in Cahan for approximately six days.²⁸⁵ Witness N was detained for over one month.²⁸⁶

Violation of Bodily Integrity of ██████ on 12 April 1999

150. ██████ was brought from Krume to the Cahan KLA camp in a vehicle driven by Haki Hajdari. Sabit Geci was also in the vehicle. During the drive, Sabit Geci slapped ██████ and stated “You’ve lived enough, you’ve had a good life.”²⁸⁷ Upon arrival at the Cahan camp, Sabit Geci stated “We will exterminate all of ██████.”²⁸⁸ Sabit Geci slapped ██████ and also hit him with his crutch.²⁸⁹

151. ██████ was put into a room with Sabit Geci, Riza Alija (a.k.a. “Commander Hoxha”), and someone named “F█████”.²⁹⁰ Haki Hajdari was passing in and out of the room.²⁹¹ Sabit Geci stated that ██████ must withdraw or let go of

²⁷⁸ ██████, Minutes of Main Trial, 04 May 2011, Q160.

²⁷⁹ Witness K, Minutes of Main Trial, 16 May 2011, Q120-122.

²⁸⁰ Witness K, Minutes of Main Trial, 16 May 2011, Q121.

²⁸¹ ██████, Minutes of Main Trial, 04 May 2011, Q159.

²⁸² Witness K, Minutes of Main Trial, 16 May 2011, Q219.

²⁸³ ██████, Minutes of Main Trial, 04 May 2011, Q12, 17-26, 122, 232.

²⁸⁴ Witness K, Minutes of Main Trial, 16 May 2011, Q78.

²⁸⁵ Witness M, Minutes of Main Trial, 19 May 2011, Q 73; Witness K, Minutes of Main Trial, 16 May 2011, Q54 & 79; ██████, Minutes of Main Trial, 04 May 2011, Q183.

²⁸⁶ Witness N, Minutes of Main Trial, 23 May 2011, Q156.

²⁸⁷ ██████, Minutes of Main Trial, 04 May 2011, Q41-47, 48-55, 60.

²⁸⁸ ██████, Minutes of Main Trial, 04 May 2011, Q60.

²⁸⁹ ██████, Minutes of Main Trial, 04 May 2011, Q60.

²⁹⁰ ██████, Minutes of Main Trial, 04 May 2011, Q61-68.

²⁹¹ ██████, Minutes of Main Trial, 04 May 2011, Q102.

█████, and threatened that “we will all kill you”.²⁹² Sabit Geci slapped █████ and hit him with his crutch. Riza Alija began hitting █████ with a baton or piece of wood and struck him at least once in the chin.²⁹³ █████ was bleeding heavily during this beating and became paralyzed.²⁹⁴ At one point, █████ lost consciousness and was revived by F█████ with a bucket of water.²⁹⁵ When █████ regained consciousness, he heard Sabit Geci tell Riza Alija that they should give █████ to SHIK to be executed.²⁹⁶ Sabit Geci also stated that they would look for █████ “at the yellow gates” in order to kill him.²⁹⁷ At that time, █████ staying in a house which had a yellow gate.²⁹⁸ Sabit Geci also claimed that they had already killed A█████ K█████, E█████ M█████ and S█████ H█████.²⁹⁹ █████ was then brought to another room.³⁰⁰

152. When Witness K and Witness M were first brought into the detention room, they saw that █████ had already been badly mistreated; he had blood on his leg due to a wound there, and another wound on his head. His face, head and hands were full of bruises.³⁰¹

153. According to Witness K, Sabit Geci would come into the room where they were being detained and push █████ with his crutch.³⁰² It appeared that there was a great deal of animosity from Sabit Geci towards █████, and Geci would accuse █████ of involvement in the death of his brother-in-law.³⁰³

154. Witness N testified that when he was first brought into the detention room in the Cahan camp (which was approximately the first week of May 1999), he saw that

292 █████, Minutes of Main Trial, 04 May 2011, Q69.

293 █████, Minutes of Main Trial, 04 May 2011, Q69-70.

294 █████, Minutes of Main Trial, 04 May 2011, Q70, 78-79.

295 █████, Minutes of Main Trial, 04 May 2011, Q80-81.

296 █████, Minutes of Main Trial, 04 May 2011, Q82, 98.

297 █████, Minutes of Main Trial, 04 May 2011, Q83.

298 █████, Minutes of Main Trial, 04 May 2011, Q83-89.

299 █████, Minutes of Main Trial, 04 May 2011, Q83 & 105.

300 █████, Minutes of Main Trial, 04 May 2011, Q98.

301 Witness K, Minutes of Main Trial, 16 May 2011, Q59-62; Witness M, Minutes of Main Trial, 19 May 2011, Q35-39, 107; █████, Minutes of Main Trial, 04 May 2011, Q165.

302 Witness K, Minutes of Main Trial, 16 May 2011, Q77.

303 Witness K, Minutes of Main Trial, 16 May 2011, Q69-71, 182-183.

██████████ had been beaten badly, with cuts and bruises on his head.³⁰⁴ ██████████
██████████ told Witness N that he had been beaten by Sabit Geci.³⁰⁵

155. Witness N also recalled that ██████████ would be verbally threatened by the KLA whilst in the detention room.³⁰⁶ On the first occasion that Witness N saw Sabit Geci, Geci came into the detention room, told the detainees that they would rot in there, and specifically threatened ██████████.³⁰⁷ On the second occasion that Witness N saw Sabit Geci, he came into the detention room and threatened ██████████ by mentioning the yellow gate in ██████████ where ██████████ was residing.³⁰⁸

Torture on 03 May 1999 of Witness N

156. When Witness N was brought to the Cahan camp, he was handed over to Haki Hajdari (a.k.a. “Haki Drenica”), Sali Rexhepi and Shaban Hoti and taken to a basement where they beat and interrogated him.³⁰⁹ [The witness testified that Xh██████ H██████ was the one who brought him there and instructed the others to question him, however as he is not a defendant in this trial the Panel does not make any specific factual finding as to his identity.] Haki Hajdari, Sali Rexhepi and Shaban Hoti, along with other unknown KLA soldiers, tied Witness N’s hands, removed his socks and beat him on the soles of his feet with wooden sticks until he felt that he lost consciousness.³¹⁰ After he regained consciousness, they beat him again for approximately another hour.³¹¹ During both beatings, the KLA, including the three defendants, asked Witness N questions about his employment, his involvement ██████████, details about the organization ██████████, and the presence of Serbian militaries in ██████████.³¹²

157. After this beating and interrogation, Witness N was brought to a detention room on the second floor where ██████████, Witness K and Witness O were being

³⁰⁴ Witness N, Minutes of Main Trial, 23 May 2011, Q127-133.

³⁰⁵ Witness N, Minutes of Main Trial, 23 May 2011, Q132-133.

³⁰⁶ Witness N, Minutes of Main Trial, 23 May 2011, Q129.

³⁰⁷ Witness N, Minutes of Main Trial, 23 May 2011, Q150-152.

³⁰⁸ Witness N, Minutes of Main Trial, 23 May 2011, Q194-201.

³⁰⁹ Witness N, Minutes of Main Trial, 23 May 2011, Q76-83.

³¹⁰ Witness N, Minutes of Main Trial, 23 May 2011, Q82-88.

³¹¹ Witness N, Minutes of Main Trial, 23 May 2011, Q87.

³¹² Witness N, Minutes of Main Trial, 23 May 2011, Q89-99.

held.³¹³ Witness K and ██████████ testified that Witness N had been beaten before being brought into the detention room and had visible injuries.³¹⁴ ██████████ could hear Witness N screaming before he was brought in, and also witnessed his further beating as they entered the room.³¹⁵ The KLA soldiers just dropped Witness N at the feet of ██████████ and Witness K.³¹⁶ The reason given for this treatment was because Witness N had attended a meeting of the ██████████ political party.³¹⁷

Torture on 09 May 1999 of Witness N

158. Witness N confirmed that he was beaten on a second occasion, about 8-9 days after the first beating, though he could not be certain exactly when.³¹⁸ He was taken to the floor below the detention cell and beaten by a person wearing a black KLA uniform. At one stage, Witness N appears to suggest that the person responsible for this second beating was a female soldier, but later answers suggest that it was a male soldier.³¹⁹ At this occasion, Witness N was beaten with a wooden rifle (or wooden model rifle) while two or three other KLA soldiers stood watching.³²⁰
159. After giving this testimony, Witness N was confronted by the Prosecutor with his previous statement given to the Prosecutor on 10-16 March 2010, when he stated that he was beaten by a man wearing a black KLA uniform using a piece of wood resembling a rifle and that Sali Berisha, Shaban Hoti and an unknown third person were present and asking him questions as he was beaten.³²¹ The Prosecutor also confronted the witness with a passage from his previous statement given to the Prosecutor on 02 December 2010 where in reference to the second beating he said, “this time an unknown person beat me. But I remember that Sali Berisha and Shaban Hoti were present and they were asking

³¹³ Witness N, Minutes of Main Trial, 23 May 2011, Q117-126.

³¹⁴ Witness K, Minutes of Main Trial, 16 May 2011, Q83-84; ██████████, Minutes of Main Trial, 04 May 2011, Q170-172, 196-200.

³¹⁵ ██████████, Minutes of Main Trial, 04 May 2011, Q170-172, 196-200.

³¹⁶ Witness K, Minutes of Main Trial, 16 May 2011, Q83-84.

³¹⁷ Witness K, Minutes of Main Trial, 16 May 2011, Q84-86.

³¹⁸ Witness N, Minutes of Main Trial, 23 May 2011, Q158 -162; Record of Witness Hearing 10-16 March 2010, p28.

³¹⁹ Witness N, Minutes of Main Trial, 23 May 2011, Q159-160, 163.

³²⁰ Witness N, Minutes of Main Trial, 23 May 2011, Q158-167.

³²¹ Witness N, Minutes of Main Trial, 23 May 2011, Q168; Record of Witness Hearing, 10-16 March 2010 p28.

me questions while this guy was beating me.” In these passages, Witness N denies seeing Haki Drenica (Haki Hajdari) at the second beating.³²² In response to this confrontation, Witness N replied that he remembers both occasions when he was beaten and that on the second occasion Sali Berisha, Shaban Hoti and Haki Drenica were present but did not stay for the beating, they just came and went.³²³ When challenged yet further by the Prosecutor as to who was present, there was conflict between the previous statements and oral trial testimony about whether Witness N had seen Haki Drenica at this beating, Witness N replied that “I remember well that I was badly beaten and I was horrified and simply I don’t want to remember”³²⁴ and “I saw these two [*referring to Sali Berisha and Shaban Hoti*] in the room but it was very dark and I could not establish exactly who the other one was.”³²⁵

160. Witness N then went on to give a detailed description of the beating he received including being beaten on his legs, being questioned during the beating and afterwards as a consequence of the beating his leg gave way and had to be examined by a doctor, his face was in pain and swollen, looking like “blue ink”.³²⁶ It should be noted that at no stage does Witness N suggest that there was ever any other witness present during the second beating.
161. Due to the inconsistent and confused statements regarding the details of what occurred on this occasion, the evidence only establishes that Witness N did indeed suffer another beating on or about 09 May 1999. However, no further factual findings can be made regarding this incident, such as who was present, who actively perpetrated the beating and who, if anyone, interrogated Witness N during the beating.

³²² Witness N, Minutes of Main Trial, 23 May 2011, Q168; Record of Witness Hearing, 02 December 2010, p4.

³²³ Witness N, Minutes of Main Trial, 23 May 2011, Q168.

³²⁴ Witness N, Minutes of Main Trial, 23 May 2011, Q169.

³²⁵ Witness N, Minutes of Main Trial, 23 May 2011, Q171.

³²⁶ Witness N, Minutes of Main Trial, 23 May 2011, Q172-179.

Violation of Bodily Integrity of Witnesses K, M, N, O and ██████████

162. During the time that they were detained in the Cahan camp, Witness K, Witness M, Witness N, Witness O and ██████████ were all subjected to various beatings and ill treatment, on more than one occasion.
163. During the time in which ██████████ was detained in the camp, he suffered two serious beatings from Riza Alija.³²⁷ On the first occasion, ██████████ requested permission from the guard to go to the toilet. His hands were still tied together.³²⁸ When ██████████ was returning from the toilet, Riza Alija began to beat him with a heavy shoe.³²⁹ ██████████ fell to the ground and lost consciousness.³³⁰ When he regained consciousness, ██████████ felt pain all over his body and had fresh blood on his face.³³¹
164. On the second occasion, ██████████ was again returning from the toilet to the detention room when Riza Alija began beating him.³³²
165. In addition to these two serious beatings, ██████████ occasionally suffered less severe ill-treatment at the hands of other KLA soldiers during the time when he traveled to and from the toilet.³³³ ██████████ would be asked questions while he was being beaten regarding who he was and what he did for work. At one point, he was instructed to write down the reason for his arrest by the KLA.³³⁴
166. Witness K corroborated that in the beginning of their time in detention, some detainees would be beaten on the way to the toilet.³³⁵ When Witness N was brought into the detention room in approximately the first days of May 1999, he saw that ██████████ was “horrified” and had been beaten. He had cuts and bruises on his head, which was red.³³⁶

³²⁷ ██████████, Minutes of Main Trial, 04 May 2011, Q126, 130-146.

³²⁸ ██████████, Minutes of Main Trial, 04 May 2011, Q132.

³²⁹ ██████████, Minutes of Main Trial, 04 May 2011, Q132-135.

³³⁰ ██████████, Minutes of Main Trial, 04 May 2011, Q136.

³³¹ ██████████, Minutes of Main Trial, 04 May 2011, Q136-137.

³³² ██████████, Minutes of Main Trial, 04 May 2011, Q141.

³³³ ██████████, Minutes of Main Trial, 04 May 2011, Q147-152.

³³⁴ ██████████, Minutes of Main Trial, 04 May 2011, Q207-208.

³³⁵ Witness K, Minutes of Main Trial, 16 May 2011, Q211-212.

³³⁶ Witness N, Minutes of Main Trial, 23 May 2011, Q127-131.

167. When Witness K and Witness M were first taken to the Cahan camp, on or about 16 April 1999, they were handed over to two KLA police officers and Riza Alija.³³⁷ They immediately began hitting and punching Witness K and Witness M.³³⁸ Riza Alija was hitting them with an iron bar and continued to beat them as they ran up one flight of stairs and into the detention room.³³⁹ Witness M was beat more than Witness K on the way to the detention room.³⁴⁰
168. ██████████ was already inside the detention room when Witness K and Witness M arrived and he witnessed Riza Alija beating them.³⁴¹ Witness K, Witness M and ██████████ all had their hands tied at this time.³⁴² Riza Alija continued to beat Witness K and Witness M inside the detention room for approximately two more minutes, hitting them at least six to seven times.³⁴³ Witness M was beat so badly that he lost consciousness and fell to the floor.³⁴⁴ ██████████ was also hit at least once by one of the KLA soldiers at this time.³⁴⁵ During this beating, the KLA soldiers were insulting the detainees and calling them “spies”.³⁴⁶ This is the only incident where Witness K was beaten.³⁴⁷
169. Later that day, Witness K and Witness M were taken downstairs to be interviewed. Haki Hajdari was waiting in the interrogation room and introduced himself as the commander of all the soldiers.³⁴⁸ Haki Hajdari began questioning Witness K first, but stopped when he learned that Witness K worked in ██████████.³⁴⁹

³³⁷ Witness K, Minutes of Main Trial, 16 May 2011, Q24-30, 43.

³³⁸ Witness K, Minutes of Main Trial, 16 May 2011, Q31-33; Witness M, Minutes of Main Trial, 19 May 2011, Q35.

³³⁹ Witness M, Minutes of Main Trial, 19 May 2011, Q35; Witness K, Minutes of Main Trial, 16 May 2011, Q31-42, 47, 199-201, 253.

³⁴⁰ ██████████, Minutes of Main Trial, 04 May 2011, Q57.

³⁴¹ Witness K, Minutes of Main Trial, 16 May 2011, Q33 & 58; ██████████, Minutes of Main Trial, 04 May 2011, Q163-169, 186-19; Witness M, Minutes of Main Trial, 19 May 2011, Q38.

³⁴² Witness M, Minutes of Main Trial, 19 May 2011, Q36-39.

³⁴³ Witness K, Minutes of Main Trial, 16 May 2011, Q33-41; ██████████, Minutes of Main Trial, 04 May 2011, Q191; Witness M, Minutes of Main Trial, 19 May 2011, Q41.

³⁴⁴ Witness M, Minutes of Main Trial, 19 May 2011, Q35.

³⁴⁵ Witness M, Minutes of Main Trial, 19 May 2011, Q36.

³⁴⁶ Witness M, Minutes of Main Trial, 19 May 2011, Q40.

³⁴⁷ Witness K, Minutes of Main Trial, 16 May 2011, Q46; ██████████, Minutes of Main Trial, 04 May 2011, Q192.

³⁴⁸ Witness K, Minutes of Main Trial, 16 May 2011, Q48-49.

³⁴⁹ Witness K, Minutes of Main Trial, 16 May 2011, Q50.

170. Haki Hajdari then began to interview Witness M.³⁵⁰ Riza Alija was present when the questioning started.³⁵¹ Haki Hajdari asked Witness M why he had become a “spy” and asked him for the names of Serb collaborators.³⁵² Haki Hajdari gave him a pen and paper and instructed him to give a written statement.³⁵³ At some point during the interview of Witness M, Witness K was taken out of the room.³⁵⁴
171. When Witness N was brought into the detention room, which was approximately the first week of May, he saw that [REDACTED], Witness K and Witness O had all be beaten prior to his arrival. They had bruises on their heads and were swollen.³⁵⁵
172. Witness N was also subjected to further maltreatment. According to Witness K, Witness N was mistreated often in the detention room, and “whoever came to the room hit him” including Riza Alija.³⁵⁶ As a result of the maltreatment, Witness N had difficulty moving and could not stand up properly.³⁵⁷
173. On or around 25 or 26 May 1999, Shaban Hoti and Riza Alija entered the room and brought with them a female. Riza Alija stood at the door while Shaban Hoti was inside the room. Riza Alija instructed the female to beat the detainees and then Riza Alija and Shaban Hoti watched while the female beat both [REDACTED] and Witness N with a stick.³⁵⁸
174. [REDACTED] heard Witness O screaming before he was brought into the detention room. When he was brought in, Witness O had injuries from being beaten and his legs were heavily bruised.³⁵⁹ Witness O told [REDACTED] that Riza Alija and others had beaten him after accusing him of joining FARK.³⁶⁰

³⁵⁰ Witness K, Minutes of Main Trial, 16 May 2011, Q50-51; Witness M, 19 May 2011, Q42-45.

³⁵¹ Witness M, Minutes of Main Trial, 19 May 2011, Q44.

³⁵² Witness M, Minutes of Main Trial, 19 May 2011, Q42-45.

³⁵³ Witness M, Minutes of Main Trial, 19 May 2011, Q48-50; Witness K, Minutes of Main Trial, 16 May 2011, Q50-51.

³⁵⁴ Witness K, Minutes of Main Trial, 16 May 2011, Q50-51.

³⁵⁵ Witness N, Minutes of Main Trial, 23 May 2011, Q127-131.

³⁵⁶ Witness K, Minutes of Main Trial, 16 May 2011, Q87-92.

³⁵⁷ Witness N, Minutes of Main Trial, 23 May 2011, Q197-199.

³⁵⁸ [REDACTED], Minutes of Main Trial, 04 May 2011, Q201-202, 225-228, 265.

³⁵⁹ [REDACTED], Minutes of Main Trial, 04 May 2011, Q182, 203.

³⁶⁰ [REDACTED], Minutes of Main Trial, 04 May 2011, Q204-206.

175. According to Witness K, Riza Alija would maltreat and beat detainees when they first arrived at the camp.³⁶¹

The “Trial” of ██████████ and Witness N

176. On approximately 20 May 1999, ██████████ was presented with a written charge by KLA member Sali Rexhepi (a.k.a. “Sali Berisha”). The charge stated “Admirer of President Rugova, a person who organizes the free percent (sic) for Kosova. A friend of A ██████████ K ██████████ who was murdering in Tirana, ██████████ brother, leader of ██████████, and a friend of seven brothers.”³⁶² ██████████ and Witness N were then taken by Haki Hajdari and Sali Rexhepi to a court in Kukes and placed into different rooms.³⁶³

177. A judge came into the room where ██████████ was, read the written charge against him and then spoke with ██████████.³⁶⁴ He then told ██████████ that as far as he was concerned, ██████████ was free.³⁶⁵ Witness N was also released by the judge.³⁶⁶

178. When Haki Hajdari and Sali Rexhepi came to collect ██████████ and Witness N, they were told by a police officer at the court that ██████████ and Witness N were to be freed.³⁶⁷ Haki Hajdari was apprehensive and decided not to release ██████████ ██████████ and Witness N, but to bring them back to the KLA camp in Cahan.³⁶⁸ When they returned to the detention room, Witness K was gravely relieved because he had been told by Riza Alija that the KLA had executed ██████████ and Witness N.³⁶⁹

³⁶¹ Witness K, Minutes of Main Trial, 16 May 2011, Q107.

³⁶² ██████████, Minutes of Main Trial, 04 May 2011, Q209-210.

³⁶³ ██████████, Minutes of Main Trial, 04 May 2011, Q209-Q213.

³⁶⁴ ██████████, Minutes of Main Trial, 04 May 2011, Q213-214.

³⁶⁵ ██████████, Minutes of Main Trial, 04 May 2011, Q214.

³⁶⁶ ██████████, Minutes of Main Trial, 04 May 2011, Q214

³⁶⁷ ██████████, Minutes of Main Trial, 04 May 2011, Q214-215.

³⁶⁸ ██████████, Minutes of Main Trial, 04 May 2011, Q214-216.

³⁶⁹ ██████████, Minutes of Main Trial, 04 May 2011, Q218-219.

VI. EVALUATION OF THE EVIDENCE: Identification of the Defendants

179. Each of the defendants except Shaban Hoti were referred to by nicknames used during the relevant time by the witnesses. However, the identity and positions of each defendant was established by the evidence.

Identification of Sabit Geci in the KLA Kukes Camp

180. Witness A knew Sabit Geci from before his arrest and detention in Kukes, and he also identified him in a photographic line-up.³⁷⁰ Witness A recalled that Sabit Geci came to the first room where Witness A was being detained (with the low ceiling) 1-2 days after Witness A had been put in there. He was dressed in a uniform, armed with a weapon and on crutches. Although they previously knew each other, Geci introduced himself by name and stated that he was the “commander”.³⁷¹

181. Witness B recognized Sabit Geci in the Kukes camp because they had both been in ██████████ together.³⁷² Witness B identified Sabit Geci in a photographic line-up before the Public Prosecutor’s Office on 23 October 2009.³⁷³ Witness B had been ██████████ from 1992 until the end of 1995, and during that time he and Sabit Geci were in the same ██████████ for at least one year.³⁷⁴ Witness B saw Sabit Geci in Kukes for the last time one day before ██████████ died, and he heard that Geci had been in a traffic accident 3-4 days later.³⁷⁵

182. Both Witness A and Witness B recalled that when in Kukes Sabit Geci was nicknamed “Qopa” meaning “The Cripple”.³⁷⁶

³⁷⁰ Witness A, Minutes of Main Trial, 10 June 2011, Q85; EULEX WCIU Photo Identification Procedure Report (Witness A) dated 27 October 2009.

³⁷¹ Witness A, Minutes of Main Trial, 09 June 2011, Q39-44; Witness B, Minutes of Main Trial, 21 March 2011, Q254-258; Witness B, Minutes of Main Trial, 23 March 2011, Q33-34.

³⁷² Witness B, Minutes of Main Trial, 16 March 2011, p. 17.

³⁷³ EULEX WCIU Photo Identification Procedure Report (Witness B) dated 23 October 2009.

³⁷⁴ Witness B, Minutes of Main Trial, 16 March 2011, p. 17; Minutes of Main Trial, 24 March 2011, Q51-54, 59.

³⁷⁵ Witness B, Minutes of Main Trial, 24 March 2011, Q40&42.

³⁷⁶ Witness A, Minutes of Main Trial, 09 June 2011, Q99; Witness B, Minutes of Main Trial, 16 March 2011, p. 17.

183. During his witness interview before the prosecutor in 2010, Witness G stated that in 1999 Sabit Geci was on crutches in the Kukes camp.³⁷⁷ He wore his grey hair brushed back.³⁷⁸ Witness G also correctly identified Sabit Geci from a photographic line-up.³⁷⁹
184. Witness H first learned the name of Sabit Geci while in the detention room with Witness A.³⁸⁰ He only saw Geci on two occasions: on the night of the group torture (19 May 1999) and on the day that he was released from detention (01 June 1999).³⁸¹ There does not appear to have been any attempt to undertake a photographic identification procedure with Witness H.
185. The Panel also notes that in his closing speech, Sabit Geci admitted presence in Kukes camp, though he limited that to two occasions of 10 and 20 minutes respectively and admitted seeing Witnesses A & B.³⁸² Indeed, he admitted entering a cell containing Witness A and stating “I am Sabit Geci”.³⁸³
186. Witness C and Witness F failed to identify Sabit Geci in photographic line-ups. In the case of Witness C, as explained above, the Panel considers that due to the physical and psychological trauma she suffered and continues to suffer from the detention, beatings and █████ in the Kukes camp, Witness C has pushed those memories as far out of her mind as possible. In any regard, the failure of these two witnesses to pick out Sabit Geci from a photograph is greatly outweighed by the positive identifications by Witnesses A, B, and G and by Sabit Geci’s own admissions. The Trial Panel has no issue concluding that Sabit Geci’s presence in the Kukes camp has been firmly established and that the witnesses’ references to Sabit Geci during the events are correct.

³⁷⁷ Prosecution Record of the Witness Hearing (Witness G), 04 March 2010, p. 10.

³⁷⁸ Prosecution Record of the Witness Hearing (Witness G), 04 March 2010, p. 11.

³⁷⁹ Prosecution Record of the Witness Hearing (Witness G), 04 March 2010, p. 11; Photo Identification Procedure (Witness G) dated 04 March 2010.

³⁸⁰ Witness H, Minutes of Main Trial, 31 March 2011, Q91-93; Minutes of Main Trial, 04 April 2011, Q97.

³⁸¹ Witness H, Minutes of Main Trial, 31 March 2011, Q21 & 28; Minutes of Main Trial, 04 April 2011, Q148-149, 155.

³⁸² Sabit Geci, Minutes of Main Trial, 25 July 2011, p7-8.

³⁸³ Sabit Geci, Minutes of Main Trial, 25 July 2011, p8.

Position and Authority of Sabit Geci in the KLA Kukes Camp

187. Witness A saw Sabit Geci when he was first arrested, and then two or three more times in the Kukes camp. Witness A believes that Xh [REDACTED] K [REDACTED] and Sabit Geci were the highest ranking commanders present at the camp, although Krasniqi was the commander of the camp.³⁸⁴
188. Witness B saw Sabit Geci for the first time on the fifth day of being detained in the Kukes camp, when he was taken from the warehouse and put into a room.³⁸⁵ He cannot remember the total number of times that he saw Geci throughout his detention in Kukes, however believes it was five or six times.³⁸⁶ At the first meeting, Geci told Witness B that he was a “very high ranking leader” and it was clear that Geci ‘had power at the time, no-one could stand up to him’³⁸⁷ and that he was well known during the war. Witness B believed that Geci belonged to the special units or KLA military police. He was wearing an American uniform and boots.³⁸⁸
189. When Geci introduced himself as a commander, he did not say which unit he commanded.³⁸⁹ Witness B could see that Geci was able to give orders to others, and it was because of this and because Geci would be the one to interrogate the detainees, Witness B understood that Geci was the commander of both the military police and of intelligence.³⁹⁰ “The truth is that Sabit Geci was the main guy there and his word was the law.”³⁹¹ Witness B describes being beaten and maltreated on several occasions. Sabit Geci was not present at each and every incident and was described by Witness B as “he was the one who gave orders”.³⁹² It was Witness B’s impression that Sabit Geci and Xh [REDACTED] K [REDACTED] were the two who gave the orders to the other KLA soldiers to beat or stop beating the detainees. One or the other was always present in the room during

³⁸⁴ Witness A, Minutes of Main Trial, 10 June 2011, Q69-70.

³⁸⁵ Witness B, Minutes of Main Trial, 23 March 2011, Q20.

³⁸⁶ Witness B, Minutes of Main Trial, 23 March 2011, Q23.

³⁸⁷ Witness B, Minutes of Main Trial, 21 March 2011, Q254-258.

³⁸⁸ Witness B, Minutes of Main Trial, 23 March 2011, Q32-35.

³⁸⁹ Witness B, Minutes of Main Trial, 23 March 2011, Q44, Q47.

³⁹⁰ Witness B, Minutes of Main Trial, 23 March 2011, Q45-47.

³⁹¹ Witness B, Minutes of Main Trial, 23 March 2011, Q131.

³⁹² Witness B, Minutes of Main Trial, 21 March 2011, Q110-112.

the beatings.³⁹³ It was also Witness B's impression, based on the manner of Sabit Geci and how he treated other soldiers, and how those soldiers reacted to him, that there was no higher ranking officer in Kukes than Sabit Geci.³⁹⁴ He had power and no one would stand up to him.³⁹⁵ According to Witness B, the KLA military police who perpetrated the beatings could only enter the detention room when accompanied by either Sabit Geci or Xh [REDACTED] K [REDACTED], and they would beat the detainees upon the order of Geci or K [REDACTED].³⁹⁶

190. According to Witness G, Sabit Geci was a member of the KLA security service. Although there was a headquarters commander, it was Xh [REDACTED] K [REDACTED] and Sabit Geci who were responsible for everything that happened in the headquarters.³⁹⁷ Sabit Geci and Xh [REDACTED] K [REDACTED] had lots of authority, including over all prisoners.³⁹⁸

191. While the Trial Panel can not conclude with certainty the precise rank held by Sabit Geci, what is clear from the evidence in its totality is that he was a senior member of the KLA holding authority over soldiers below him.

Identification of Sabit Geci in the KLA Cahan Camp

192. [REDACTED] met Sabit Geci for the first time in the mosque in Krume, Albania.³⁹⁹ Geci was on crutches and introduced himself as "Sabit Geci, Chief of the KLA secret police".⁴⁰⁰ [REDACTED], who was the only injured party/victim to testify live in the courtroom, was able to positively identify Sabit Geci in the Courtroom.⁴⁰¹ Furthermore, during his closing speech, Sabit Geci admitted presence on one occasion at Cahan camp and entering a room containing [REDACTED] and having a conversation with him.⁴⁰²

³⁹³ Witness B, Minutes of Main Trial, 21 March 2011, Q236-247.

³⁹⁴ Witness B, Minutes of Main Trial, 21 March 2011, Q254-258.

³⁹⁵ Witness B, Minutes of Main Trial, 21 March 2011, Q255-258.

³⁹⁶ Witness B, Minutes of Main Trial, 21 March 2011, Q228-234, 239-247.

³⁹⁷ Prosecution Record of the Witness Hearing (Witness G), 04 March 2010, p. 10.

³⁹⁸ Prosecution Record of the Witness Hearing (Witness G), 04 March 2010, p. 12.

³⁹⁹ [REDACTED], Minutes of Main Trial, 04 May 2011, Q29, 34-40.

⁴⁰⁰ [REDACTED], Minutes of Main Trial, 04 May 2011, Q29, 37-40.

⁴⁰¹ [REDACTED], Minutes of Main Trial, 04 May 2011, Q266-268.

⁴⁰² Sabit Geci, Minutes of Main Trial, 25 July 2011, p8-9.

193. Witness K met Sabit Geci for the first time in the Cahan KLA camp. He described Sabit Geci as powerfully built and on crutches.⁴⁰³ Sabit Geci did not tell Witness K his name, however Witness K found out his name from others including ██████████.⁴⁰⁴
194. Witness N did not know Sabit Geci before 1999, however he saw him twice in the Cahan camp. On the first occasion, which was 3-4 days after Witness N was first beaten (on or about 03 May 1999), Geci was wearing a track suit and came into the detention room and stated his name.⁴⁰⁵ Witness N described Sabit Geci as not very big, of average height, with his hair combed upwards and backwards, and leaning on crutches.⁴⁰⁶
195. The Trial Panel is satisfied by the witnesses' accounts of Sabit Geci and by Sabit Geci's own admission, that he was present in the Cahan camp at specific occasions during the relevant time period.

Position and Authority of Sabit Geci in the KLA Cahan Camp

196. ██████████ testified that the other two civilians who were arrested and brought to Cahan with him were released by Sabit Geci.⁴⁰⁷ ██████████ understood Geci to be the head of the main police of the KLA.⁴⁰⁸ Around approximately the end of May 1999, Riza Alija told ██████████ that he had spoken to Sabit Geci in Kukes and that the detainees were not to be beaten any more.⁴⁰⁹ The treatment of the detainees improved then, and they were not beaten again.⁴¹⁰ Sabit Geci came to the Cahan camp approximately six weeks into ██████████ detention and asked the detainees how they were.⁴¹¹ While they were detained together, ██████████ told Witness K that he had been arrested on the order of Sabit Geci.⁴¹²

⁴⁰³ Witness K, Minutes of Main Trial, 16 May 2011, Q72-74.

⁴⁰⁴ Witness K, Minutes of Main Trial, 16 May 2011, Q241-243.

⁴⁰⁵ Witness N, Minutes of Main Trial, 23 May 2011, Q134-136, 141-148.

⁴⁰⁶ Witness N, Minutes of Main Trial, 23 May 2011, Q144.

⁴⁰⁷ ██████████, Minutes of Main Trial, 04 May 2011, Q117-118.

⁴⁰⁸ ██████████, Minutes of Main Trial, 04 May 2011, Q119.

⁴⁰⁹ ██████████, Minutes of Main Trial, 04 May 2011, Q222.

⁴¹⁰ ██████████, Minutes of Main Trial, 04 May 2011, Q222.

⁴¹¹ ██████████, Minutes of Main Trial, 04 May 2011, Q225.

⁴¹² Witness K, Minutes of Main Trial, 16 May 2011, Q64-66.

197. Witness K saw Sabit Geci in the Cahan camp a few times, perhaps two or three times.⁴¹³ Witness N saw Sabit Geci in the camp on two occasions. The first is described above. On the second occasion, Sabit Geci entered the detention room wearing a military uniform and stated that he was the “commander of the KLA”.⁴¹⁴ Witness N described Sabit Geci as “the responsible person” and when Geci was present, no one else spoke.⁴¹⁵

Identification of Riza Alija as “Commander Hoxha”

198. During the main trial when his personal data was taken by the Court, Riza Alija stated that he did not have a nickname.⁴¹⁶ However, when asked for his personal data during the Hearing on the Confirmation of the Indictment, Riza Alija confirmed that he was known as “Commander Hoxha” by the soldiers whom he trained during the war.⁴¹⁷

199. Witness ██████████ did not know Riza Alija before he saw him at the KLA camp.⁴¹⁸ ██████████ testified that Riza Alija introduced himself as “Commander Hoxha” and he also heard other KLA soldiers address Alija by the name “Commander Hoxha”.⁴¹⁹ ██████████ was shown identification photographs of Riza Alija on two occasions: 14 and 16 June 2010. On the first occasion, he failed to pick out Riza Alija, and on the second he succeeded in picking out Alija and identified him as “Commander Hoxha”. ██████████ was questioned about this by defence counsel for Alija, who observed that ██████████ had stated that the face of Hoxha appears to him in his sleep, but that he failed to pick Alija out at the first identification procedure. His identification of Alija as Hoxha therefore is regarded by the panel as equivocal, though it is noted that his identification is somewhat strengthened by having picked out “Commander Hoxha” in the courtroom as Riza Alija.⁴²⁰

⁴¹³ Witness K, Minutes of Main Trial, 16 May 2011, Q75.

⁴¹⁴ Witness N, Minutes of Main Trial, 23 May 2011, Q136 & 152, 194-195.

⁴¹⁵ Witness N, Minutes of Main Trial, 23 May 2011, Q213-215.

⁴¹⁶ Minutes of Main Trial, 14 March 2011, p. 4.

⁴¹⁷ Minutes on the Confirmation of the Indictment, 22 October 2010, p.2.

⁴¹⁸ ██████████, Minutes of Main Trial, 05 May 2011, Q228.

⁴¹⁹ ██████████, Minutes of Main Trial, 05 May 2011, Q201-203.

⁴²⁰ ██████████, Minutes of Main Trial, 04 May 2011, Q266-268.

200. According to Witness K, “Commander Hoxha” called himself that name, while other KLA soldiers referred to him simply as “Hoxha”.⁴²¹ Witness K described “Commander Hoxha” as a tall man, approximately 40 years old, with a powerful build.⁴²² Commander Hoxha would come into the detention room “very often”.⁴²³ Witness K saw Riza Alija after the war and spent some time with him and talked with him.⁴²⁴
201. Witness M identified Riza Alija as “Commander Hoxha” from a photographic line-up identification procedure.⁴²⁵
202. During the main trial hearing on 20 July 2011, Defence Counsel Kollqaku drew the Panel’s attention to photographs which had been confiscated from the home of Riza Alija during a search performed on 23 June 2010 and submitted into evidence by the Prosecutor on 04 May 2011. Each photograph bears handwritten notes on the back which includes proper names, dates and the nickname “Hoxha”. Counsel Kollqaku first stated that the defence confirmed the accuracy of the dates which indicated the date on which each photograph was taken. Upon further discussion regarding the authenticity and accuracy of the handwriting on the backs of the photos, the Prosecutor accepted such and both Counsel Kollqaku and Riza Alija appeared to agree that the references to “Hoxha” related to Riza Alija.⁴²⁶ Riza Alija then disagreed that he was known as “Commander Hoxha”.
203. Later during the same hearing, the defence submitted into evidence a document signed by A■■■■ S■■■■ and bearing a stamp of the Ministry of Defence which purports to describe the activities of Riza Alija in the KLA during the war.⁴²⁷ In the title of this document, the name “Hoxha” appears next to the name Riza Alija. In the content of the document as well there are several references to the nickname “Hoxha”.

⁴²¹ Witness K, Minutes of Main Trial, 16 May 2011, Q29, 45, 252.

⁴²² Witness K, Minutes of Main Trial, 16 May 2011, Q44.

⁴²³ Witness K, Minutes of Main Trial, 16 May 2011, Q203.

⁴²⁴ Witness K, Minutes of Main Trial, 16 May 2011, Q217-218.

⁴²⁵ EULEX WCIU identification report (Witness M) 18 June 2010

⁴²⁶ Minutes of Main Trial, 20 July 2011, p. 8-10.

⁴²⁷ Minutes of Main Trial, 20 July 2011, p. 12-13, 15.

204. In light of all of the above, and the fact that Riza Alija made a clear admission during the confirmation proceedings that during the war he was known as “Hoxha”, the Trial Panel concludes that the references to “Hoxha” in the photographs and the document relate to Riza Alija, and that this was the name by which Riza Alija was known by other KLA soldiers and the witnesses during the relevant time period.

Position and Authority of Riza Alija in the KLA Cahan Camp

205. It was clearly established that Riza Alija was responsible for training the KLA soldiers in the Cahan camp. ██████████ and Witness M both testified to this, and Alija himself confirmed it during his cross-examination of ██████████.⁴²⁸ His degree of authority or command in the camp was less clear.

206. According to ██████████, Sali Rexhepi (a.k.a. Sali Berisha) was the commander of the Cahan prison, but Riza Alija “held onto the baton”, meaning that Alija always had a bat in hand and would use it against the people there.⁴²⁹ While Riza Alija was responsible for training the KLA soldiers “and it was alleged that he was keeping order inside in the capacity of a commander”, ██████████ perceived that Riza Alija acted as the commander of the prison.⁴³⁰ ██████████ believed that Riza Alija was below Sabit Geci in the hierarchy, in that Geci instructed Alija on whether to beat or stop beating detainees.⁴³¹

207. Witness K also stated that Sali Rexhepi was a commander who had a higher position in the Cahan camp than Riza Alija and could exert influence over Alija.⁴³²

208. According to Witness M, Riza Alija trained the other KLA soldiers and was their commander. Alija instructed them to give the detainees blankets and the soldiers followed his order.⁴³³

⁴²⁸ Riza Alija, Minutes of Main Trial, 05 May 2011, p. 39; ██████████, Minutes of Main Trial, 04 May 2011, Q260; Witness M, Minutes of Main Trial, 19 May 2011, Q128-130.

⁴²⁹ ██████████, Minutes of Main Trial, 04 May 2011, Q237-239.

⁴³⁰ ██████████, Minutes of Main Trial, 04 May 2011, Q260; Minutes of Main Trial, 05 May 2011, Q201.

⁴³¹ ██████████, Minutes of Main Trial, 04 May 2011, Q222, 261-262.

⁴³² Witness K, Minutes of Main Trial, 16 May 2011, Q101-107.

Identification of Haki Hajdari as “Haki Drenica” in the KLA Cahan Camp

209. Haki Hajdari confirmed that he was known by the nickname “Drenica” when his personal data was taken during the main trial.⁴³⁴ His defence counsel in his closing speech confirmed that Haki Hajdari was a member of the KLA and present in the Cahan camp.⁴³⁵
210. The witnesses also positively identified Haki Hajdari as Haki Drenica during the main trial. [REDACTED] was asked to identify Haki Drenica in the Courtroom and pointed out Haki Hajdari.⁴³⁶ Witness M testified that Haki Hajdari introduced himself as “Commander Drenica”, and later on told him that he was called “Haki Drenica”.⁴³⁷ Witness N described “Haki Drenica” as bigger than he, a little chubby, and not much older. He knew that Haki Drenica had worked at a powder factory in Skenderaj/Srbica and that he was from Drenica.⁴³⁸ Witness N heard other KLA soldiers addressing him by the name “Haki Drenica” and was also told by other prisoners that this was his name.⁴³⁹ In addition, Witness N identified Haki Hajdari as “Haki Drenica” in a photographic line-up.⁴⁴⁰
211. The Trial Panel concludes that Haki Hajdari’s identification as Haki Drenica and his presence in the Cahan camp is established by the evidence.

Identification of Shaban Hoti in the KLA Cahan Camp

212. [REDACTED] who was the only injured party/victim to testify live in the courtroom, was able to positively identify Shaban Hoti in the Courtroom.⁴⁴¹
213. Witness N described Shaban Hoti as a tall and thin person who was not yet 40 years old at the time of the events.⁴⁴² Witness N testified that learned from the

⁴³³ Witness M, Minutes of Main Trial, 19 May 2011, Q128-130.

⁴³⁴ Minutes of Main Trial, 04 May 2011, p. 3.

⁴³⁵ Minutes of Main Trial, 25 July 2011, p. 11-14.

⁴³⁶ [REDACTED], Minutes of Main Trial, 04 May 2011, Q266-268.

⁴³⁷ Witness M, Minutes of Main Trial, 19 May 2011, Q33 & 43.

⁴³⁸ Witness N, Minutes of Main Trial, 23 May 2011, Q108-112.

⁴³⁹ Witness N, Minutes of Main Trial, 23 May 2011, Q113-116 and p.16; SPRK Record of the Witness Hearing in a Preliminary Investigation (Witness N), 02 December 2010, p.4.

⁴⁴⁰ SPRK Record of the Witness Hearing in a Preliminary Investigation and Photo Identification Procedure (Witness N) dated 02 December 2010.

⁴⁴¹ [REDACTED], Minutes of Main Trial, 04 May 2011, Q266-268.

defendant himself, as well as from KLA soldiers and other prisoners in the camp, the name “Shaban Hoti” and the fact that he was from the village Polac.⁴⁴³ Shaban Hoti confirmed during the main trial that he is from the village Polac.⁴⁴⁴ Witness N correctly identified Shaban Hoti from a photographic line-up.⁴⁴⁵

214. The Trial Panel is satisfied that the evidence establishes the identification of Shaban Hoti as a member of the KLA who was present in the Cahan camp.

VII. INDIVIDUAL CRIMINAL LIABILITY

Sabit Geci With Regard to the Events in the KLA Kukes Camp

215. Sabit Geci is charged with four counts of war crimes in relation to the events which occurred in the Kukes camp detailed in the factual findings above.
216. As determined above, the preconditions triggering the Geneva Conventions and Additional Protocol II have been established and will not be reiterated here. Common Article 3 affords protection to “persons taking no active part in the hostilities”. The evidence establishes that Witness A, B, C, D, E, F, H and [REDACTED] were all civilians at the time that they were arrested and detained by the KLA. The basis of such detention was linked to their perceived status as “spies” or “Serb collaborators” however no evidence was presented to establish that any individual witness was taking active part in the ongoing conflict. Rather, these were vague, inconsistent and inadequate allegations which amounted to no more than unsubstantiated claims by the KLA used as an excuse to detain and mistreat the witnesses. The mere fact that any individual witness may have had neighbors or friends of Serbian ethnicity prior to 1999, or may have stayed employed as a civil servant for a longer period of time than other Kosovo-Albanians, does not amount to proof of participation in the conflict and certainly does not remove the status of a protected person under the Geneva Conventions.

⁴⁴² Witness N, Minutes of Main Trial, 23 May 2011, Q100-104.

⁴⁴³ Witness N, Minutes of Main Trial, 23 May 2011, Q111, 113-116 and p.16; SPRK Record of the Witness Hearing in a Preliminary Investigation (Witness N), 02 December 2010, p.4.

⁴⁴⁴ Minutes of Main Trial, 04 May 2011, p. 4.

⁴⁴⁵ EULEX WCIU Photo Identification Procedure Report (Witness N) dated 17 January 2011.

Count 1 Against Sabit Geci - Inhumane Treatment

217. Count 1 charges Sabit Geci with commission of a war crime by way of inhumane treatment of the civilians detained in Kukes camp with regard to the living conditions of their detention. He is charged as a co-perpetrator, along with other KLA soldiers not a party to this case, in his capacity as a KLA member with a command position.
218. The ICTY has defined inhuman treatment as “an intentional act or omission, that is an act which, judged objectively, is deliberate and not accidental, which causes serious mental harm or physical suffering or injury or constitutes a serious attack on human dignity [...]. Thus, inhuman treatment is intentional treatment which does not conform with the fundamental principle of humanity, and forms the umbrella under which the remainder of the listed ‘grave breaches’ in the [Geneva] Conventions fall. Hence, acts characterised in the Conventions and Commentaries as inhuman, or which are inconsistent with the principle of humanity, constitute examples of actions that can be characterised as inhuman treatment.”⁴⁴⁶ Inhumane treatment can be manifested in an endless number of ways, limited only by the dark imagination of mankind. One such manner of inhumane treatment may be constituted in the living conditions which detainees are forced to endure. To determine whether living conditions are so severe as to amount to inhumane treatment, one must examine both the tangible characteristics of the detention as well as the physical and mental suffering suffered by the detainee. The living conditions of detention must be “such as to cause serious mental and physical suffering to the detainees” and thus constitute “a serious attack upon the dignity of the detainees”.⁴⁴⁷ Furthermore, the period of time over which these conditions are maintained without improvement can be indicative that that they are imposed deliberately.⁴⁴⁸
219. The evidence establishes that the conditions of detention were squalid and appalling. The main detention room in which almost all the witnesses were held

⁴⁴⁶ ICTY, *Celebici Trial Judgment (Delalic et al.)*, 16 November 1998, at para. 543.

⁴⁴⁷ ICTY, *Limaj et al.*, Trial Chamber Judgment, 30 November 2005, at para. 289.

⁴⁴⁸ Ibid.

was extremely small, and not sufficient for the numbers of detainees involved. Detainees slept on a concrete, bare floor, sometimes without blankets when these were removed as a form of collective punishment due to their alleged collaborations. Water was scarce and not regularly provided. Food was also provided in small amount and inconsistently. Several witnesses suffered significant weight loss due to the poor and inadequate diet provided during their weeks of detention. Sanitation was almost non-existent with limited access to toilets, and no opportunity for washing or changing of clothes. The detainees were kept in filthy, squalid conditions, not fit, as one witness described, for animals.

220. In addition to the harsh physical conditions, the fact of the beatings that were occurring, and the frequency of such beatings, meant that the detainees were living in a state of perpetual fear of further violence and of death. Such a state of fear, maintained over a period of weeks with no indication of if and when they would be released from detention, added to the inhumane treatment of the witnesses and compounded the suffering they endured.
221. The evidence further establishes that Sabit Geci was a member of the KLA with a command role, within what is described by some witnesses as the “Military Police”. The precise nature of this role and the rank that Geci possessed is not clear, but nor does it need to be. The fact is that he described himself to various witnesses as commander, or in command of the military police, and he conducted himself in such a way as to indicate his possession of authority and the soldiers around him reacted to his instructions in such a way as to acknowledge his entitlement to give instructions and their obligation to obey them. A number of witnesses describe specific examples of individual occasions where Geci issued instructions and others carried them out. Thus, not only did Sabit Geci actively participate in a number of beatings of witnesses, he also enjoyed a degree of authority and control over other KLA soldiers who were responsible for the day-to-day living conditions of the detainees.
222. The Panel holds that Sabit Geci co-perpetrated, and is criminally liable for, Count 1 (War Crime Against Civilian Population) due to his overall

participation in the detention, ill-treatment and interrogation of the civilian witnesses in extreme physical and psychological conditions which amounted to inhumane treatment.

Count 2 Against Sabit Geci - Torture

223. Count 2 charges Sabit Geci with commission of a war crime as a co-perpetrator in his capacity as a KLA member with a command position by torturing Witnesses A, B, C, D, E, F, H and [REDACTED] on approximately 19 May 1999.
224. Matters of general application which have already been established in common with Count 1 will not be repeated herein and going forward.
225. UN Convention Against Torture defines torture as “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.”⁴⁴⁹
226. The evidence establishes that on or about 19 May 1999 there took place in Kukes, with Sabit Geci playing a leading directing role, a mass beating of Witnesses A, B, C, D, E, F, H and [REDACTED]. It was no less than an orgy of deliberate, intentional, sadistic violence carried out by Sabit Geci and others in their official capacities as KLA soldiers. The victims were beaten en mass, and deliberately brought to the scene so that they could be forced to see and hear the violence being inflicted on others whilst they had to wait their turn. This caused the detainees great pain and suffering, both physical and mental. During this violence, extensive questioning took place regarding the witnesses’ involvement

⁴⁴⁹ Article 1.

in past events related to the conflict, associations with Serbs, and activities as spies. Thus, the purpose was to illicit confessions and information from the witnesses and to punish them for perceived activity as a Serb sympathizer or collaborator.

227. Though Geci himself could play only a limited personal role in the inflicting of violence due to his injuries and disability, he nevertheless played such physical role as he could. In addition, he played a key role in the questioning in which both information about suspected collaborators and confessions of alleged crimes were sought from the victims.
228. The Panel holds that Sabit Geci co-perpetrated, and is criminally liable for, Count 2 (War Crimes Against the Civilian Population) due to his active participation in the beating and interrogation of Witnesses A, B, C, D, E, F, H and ██████████ on approximately 19 May 1999 which amounted to the act of torture.

Count 3 Against Sabit Geci – Violation of Bodily Integrity

229. Count 3 charges Sabit Geci with commission of a war crime, as a co-perpetrator in his capacity as a KLA member holding a command position, by violating the bodily integrity of Witnesses A, B, C, D, E, F, H and ██████████ on various occasions of beatings and ill-treatment between April and 03 June 1999.
230. The umbrella definition of inhumane treatment has been laid out above. Beatings and ill-treatment inflicted intentionally which are of such brutality and severity that the physical and mental suffering of the victim amounts to a serious attack upon their person and dignity rise to the level of inhumane treatment in the manner of a violation of bodily integrity. This is not to be confused with inhumane treatment in the manner of severe living conditions which has been dealt with in an entirely separate count.
231. Numerous incidents of beatings and other severe ill treatment suffered by Witnesses A, B, C, D, E, F, H and ██████████ are individually established in

the factual findings and will not be repeated here. The frequency and severity of these beatings amount to violations of the bodily integrity of the victims. Furthermore, they demonstrate as a whole that the use of violence against detainees in Kukes was not an isolated incident limited to the 19 May 1999 torture described in Count 3 above. Rather, such ill-treatment was an established fixed pattern of regular, persistent, gratuitous and unjustified violence, with Geci playing a key directing role.

232. Sabit Geci was present in some of these beatings and actively participated. His physical presence at each and every incident of violence is not required for a finding of individual criminal liability due to his higher ranking command position (described in detail above). As a person in a position of authority, his perpetration of acts of violence against some detainees implied permission and approval of similar acts of violence committed against detainees by other KLA soldiers under Geci's influence.
233. The Panel holds that Sabit Geci co-perpetrated, and is criminally liable for, Count 3 (War Crimes Against the Civilian Population) due to his active participation, both physically and via implicit sanction, in the beatings and ill-treatment of Witnesses A, B, C, D, E, F, H and ██████████ on various occasions between April and 03 June 1999, which amounted to violations of bodily integrity.

Count 4 Against Sabit Geci – Killing of ██████████

234. Count 4 charges Sabit Geci with commission of a war crime, as a co-perpetrator in his capacity as a KLA member holding a command position, by killing ██████████ ██████████ on or about 05 June 1999.
235. The Trial Panel was not able to establish whether Sabit Geci was present at the time of the shooting and death of ██████████. Witness B testified that he saw Sabit Geci in the corridor outside of the room where the bullet proof vest

incident incurred.⁴⁵⁰ Witness B also stated that he saw Sabit Geci leaving the area after the shooting, and that this was the last time he saw him in the Kukes camp.⁴⁵¹ No other witness could corroborate the presence of Sabit Geci at the time of ██████ death or immediately thereafter. Further, it has been established that on 03 June 1999, Sabit Geci was hospitalized in Tirana due to a traffic accident.⁴⁵² Therefore, it has not been established to the criminal standard of proof that Sabit Geci was present in the Kukes camp on the night that ██████ ██████ was shot or on the following day when he died.

236. It was also not proven that Sabit Geci participated in the killing of ██████ ██████. The fact that it could not be proved that he was physically present during the incident would not automatically exclude his criminal responsibility. Indeed, the Prosecutor alleged that Sabit Geci was criminally liable on the basis of his responsibility for keeping ██████ (and others) detained in the Kukes camp and thus available for torture, beating and other ill-treatment in circumstances where Sabit Geci should have foreseen that such violence could have led to the death of one or more of the detainees, including ██████.

237. If the death of ██████ had resulted from a beating typical of the ill-treatment which regularly occurred in the Kukes camp (as is described above), the Prosecution's argument may have been compelling. However, in circumstances where the method of the killing, whereby ██████ was made to wear a bulletproof vest and fired upon, is so highly unusual and completely outside the norm of the typical beatings, it can not be accepted that Sabit Geci could have foreseen the criminal conduct that led to the death of ██████.

238. Therefore, the Trial Panel acquits Sabit Geci of Count 4 of the Indictment.

With Regard to the Events in the KLA Cahan Camp

⁴⁵⁰ Witness B, Minutes of Main Trial, 21 March 2011, Q126-133.

⁴⁵¹ Witness B, Minutes of Main Trial, 21 March 2011, Q160-168.

⁴⁵² Medical Certificate of Central Military University Hospital of Tirana (see List of Admitted Documents, para 46 item 10 above).

239. All four defendants are charged with various counts of war crimes in relation to the events which occurred in the Cahan camp which are detailed in the factual findings above. Factual findings and legal conclusions established above with regard to common elements of war crimes will not be repeated and are incorporated herein.

Inhumane Treatment of the Detainees (Living Conditions)

240. The Indictment charges Riza Alija (Count 1) and Haki Hajdari (Count 1) with the commission of a war crime by way of inhumane treatment of the civilians detained in the Cahan camp with regard to the living conditions of their detention.

241. The evidence establishes that the conditions in the Cahan camp were severe, though considerably less so than at the Kukes camp. A number of witnesses pointed out that the conditions in which they were held, in particular regarding food, were not so significantly different from others present in Cahan including the soldiers. There is no evidence of severe weight loss or other signs of deprivation such as there was for those detained in the Kukes camp. The principal factors of complaint were the fact of detention *per se* and the continuing fear of further beatings rather than the living conditions.

242. The Trial Panel holds that there is insufficient evidence to qualify the conditions at Cahan as inhumane treatment within the definition of a war crimes and acquits Riza Alija of Count 1 and Haki Hajdari of Count 1.

Violation of Bodily Integrity of ██████████ on 12 April 1999

243. The Indictment charges Sabit Geci and Riza Alija with the commission of a war crime in co-perpetration by violating the bodily integrity of ██████████ (previously known as “Witness L”) on approximately 12 April 1999 in the Cahan camp (listed as Count 5 against Sabit Geci and Count 2 against Riza Alija in the Indictment).

244. ██████ gave a clear, coherent and detailed account of the beating he suffered at the hands of Sabit Geci and Riza Alija, as described factual findings above. Sabit Geci's primary role was to conduct the questioning, in particular about ██████ association with the ██████, though Geci took some direct participation by slapping ██████ and hitting him with a crutch. Sabit Geci also indulged in gratuitous mental cruelty by telling ██████ that he was to be executed and that Geci would arrange the execution ██████ as well. This was intended and no doubt succeeded in generating a real and substantial fear within ██████ of imminent death.
245. Riza Alija's role in this beating was considerably more basic. Whereas Sabit Geci was the mind behind this activity, Riza Alija was merely the muscle. It was Riza Alija who conducted the majority of the vicious beating using a wooden stick.
246. The Panel holds that Sabit Geci and Riza Alija co-perpetrated and are criminally liable for the offence of War Crimes Against the Civilian Population (Count 5 against Sabit Geci and Count 2 against Riza Alija) due to their beating of ██████ ██████ on approximately 12 April 1999 which amounted to a violation of bodily integrity.

Violation of Bodily Integrity of Witnesses K, M, N, O and ██████

247. The Indictment charges Sabit Geci and Riza Alija with the commission of a war crime in co-perpetration by violating the bodily integrity of Witnesses K, M, N, O and ██████ on unspecified dates between 12 April and mid-June 1999 in the Cahan camp (listed as Count 6 against Sabit Geci and Count 3 against Riza Alija in the Indictment).
248. On this count, the Prosecution did not allege that Sabit Geci had any personal role in the alleged violence referred to. The accusation was in effect that Riza Alija carried out the violence upon the instructions of Sabit Geci.

249. The evidence established that Riza Alija perpetrated several beatings against the witnesses. ██████ was beaten by Riza Alija on two separate occasions when he was returning from the toilet. Witness K and Witness M were beaten by Riza Alija with an iron bar on approximately 16 April 1999 so severely that Witness M lost consciousness. Witness O was beaten by Riza Alija before being brought to the detention room. It was also established that on approximately 25/26 May 1999, Riza Alija brought a female into the detention room and instructed her to beat ██████ and Witness N.
250. The Panel holds that Riza Alija perpetrated and is criminally liable for the offence of War Crimes Against the Civilian Population (Count 3 against Riza Alija) due to his active role in the beatings and ill-treatment of Witnesses K, M, N, O and ██████ on various occasions between 12 April and mid-June 1999, which amounted to violations of bodily integrity.
251. With regard to Sabit Geci, however, there was insufficient evidence to make a finding that he had instructed Riza Alija to perpetrate any of these beatings. The principal evidence that such instructions were given can be found in the account of ██████ who was quoting what he was told by Riza Alija.⁴⁵³
252. The problem with this evidence is that it comes from Riza Alija, the alleged co-perpetrator. If anyone had a potential motive to seek to absolve himself from personal blame and pass it onto someone else, it is Alija. Therefore, though the Trial Panel is satisfied that ██████ accurately described what Riza Alija told him, the Panel cannot rely upon the sole uncorroborated account of a co-perpetrator to be satisfied of Sabit Geci's guilt of giving any such instruction.
253. Due to insufficiency of evidence, the Trial Panel acquits Sabit Geci of Count 6 of the Indictment.

Torture of Witness N on 03 May 1999

⁴⁵³ Minutes of Main Trial, 04 May 2011, Q262.

254. The Indictment charges Haki Hajdari and Shaban Hoti with the commission of a war crime in co-perpetration by torturing Witness N on approximately 03 May 1999 in the Cahan camp (listed as Count 2 against Haki Hajdari and Count 1 against Shaban Hoti in the Indictment).
255. The evidence established that Witness N was badly beaten upon his arrival to the Cahan camp on or about 03 May 1999 and that the beating was perpetrated by Haki Hajdari and Shaban Hoti and other KLA soldiers. The beating inflicted severe pain and suffering, causing Witness N to scream and to lose consciousness. During this beating, Haki Hajdari, Shaban Hoti and the other KLA soldiers interrogated Witness N about his employment, his involvement [REDACTED], details about the organization [REDACTED] and the presence of Serbian militaries in [REDACTED]. Thus, the purpose of the beating and questioning was both to obtain information from Witness N and to punish him for his perceived involvement with Serbian organizations and entities. As explained above, Haki Hajdari and Shaban Hoti were acting in official capacity as members of the KLA.
256. The Panel holds that Haki Hajdari and Shaban Hoti co-perpetrated, and are criminally liable for, War Crimes Against the Civilian Population due to their participation in the beating and interrogation of Witnesses N on approximately 03 May 1999 which amounted to the act of torture.

Torture of Witness N on 09 May 1999

257. The Indictment charges Shaban Hoti with the commission of a war as a co-perpetrator by torturing Witness N on approximately 09 May 1999 (Count 2).
258. While the evidence establishes that this additional beating of Witness N took place, the account given by Witness N was confused and uncertain, in particular as to Shaban Hoti's alleged presence and role. While there is some evidence to support the allegations made in Count 2, the totality of the evidence upon this count, and indeed the uncertainty of the witness' own recollection of Shaban

Hoti's conduct and role, and the absence of other corroboration is such that the Trial Panel cannot find Shaban Hoti criminally liable.

259. Due to insufficiency of evidence, the Trial Panel acquits Shaban Hoti of Count 2 of the Indictment.

VIII. WEAPON CHARGE AGAINST SABIT GECI

260. When Sabit Geci was arrested on 06 May 2010, he had in his possession a semi-automatic Crvena Zastava M-57 Lux caliber 7.62x25mm pistol for which he did not have authorization.⁴⁵⁴ During the main trial hearing on 14 March 2011, Sabit Geci pleaded guilty to the charge of Unauthorized Possession of Weapon (Count 7 of the indictment) pursuant to Article 328(2) of the CCK. The Panel accepted his plea and finds him guilty of the charge.

IX. REJECTED MOTIONS

261. Pursuant to Art. 397 Paragraph (7) KCCP, following is the list of motions which were rejected over the course of the main trial:
262. On 14 March 2011, the Trial Panel rejected the motion of Defence Counsel Mahmut Halimi, supported by Defence Counsel Gezim Kollqaku, that the record of the witness hearing of Witness H dated 11 October 2010 and the record of the witness hearing of Witness B dated 23 October 2010 are separated from the case file and declared inadmissible because the statements were taken by the Prosecutor after the filing of the Indictment. The Panel held that the law allows the parties to propose new evidence and witnesses throughout the main trial stage of the case, and as such does not prohibit the gathering of such evidence after the filing of the Indictment. The Panel also adopted the reasoning set out in Ruling KA nr. 64/2010 on Confirmation of the Indictment and Admissibility of Evidence dated 24 November 2010 rejecting the same argument.

⁴⁵⁴ Officer's Report by Victor Odom dated 06 May 2010.

263. On 16 May 2011, the Trial Panel rejected the motion of Defence Counsel Haxhi Millaku for a handwriting expertise to examine the signatures on the prior statements of Witness K. The Panel found that there were no grounds for an expertise because the signatures in question did not purport to be that of the witness but rather that of the Prosecutor.
264. On 16 May 2011, Defence Counsel Haxhi Millaku moved to declare the prior statement of Witness K dated 21 April 2010 as inadmissible. Mr. Millaku objected to the statements due to the fact that neither the English nor Albanian versions had been signed by the witness. This point was raised by Mr. Millaku after the Prosecution had completed its direct examination of the witness during which the witness was confronted numerous times with statements he had made in the 21 April 2010 record. At no point during any of the Prosecution's confrontations of Witness K with his prior statement did any party object to the admissibility of the statement. The Prosecution's position is that the issue of admissibility should have been raised before the core testimony of the witness. By remaining silent on the issue both before the direct examination and during the testimony when the witness was repeatedly confronted with the prior statement, the Defence impliedly had accepted the admissibility of the document. In accordance with the Presiding Judge's statement on 16 May 2011 at p. 35, reliance was given to the sworn testimony given in the Court, and no account was taken or weight given to those portions of the unsigned statement which were not expressly repeated and that were accepted by the witness to be true during the sworn testimony.

X. SENTENCING

265. When imposing the criminal sanction, the Trial Panel must bear in mind both the general purpose of punishment to deter others from committing criminal activity, and the specific purpose to prevent the offender from re-offending and facilitate rehabilitation.⁴⁵⁵

⁴⁵⁵ Articles 34 & 64 of the CCK.

266. In determining the punishment, the Trial Panel must evaluate all mitigating and aggravating factors.⁴⁵⁶

267. With regard to Sabit Geci, the Trial Panel found as aggravating factors the following:

- The seniority of Geci’s position, and his power/authority to control and direct what happened during the detentions.
- The duration of the detentions of the victims at both camps.
- The number of victims.
- The impact of the detentions, beatings and maltreatment on the physical and psychological health of the victims, including the substantial loss of body weight (indicative of the extent of the deprivation they suffered) and permanent injuries suffered.
- The beatings of [REDACTED] who was at the time already suffering from pre-existing injuries from a recent prior car accident (relevant to Counts 2 and 3).

The Trial Panel found the following additional aggravating circumstances which are relevant to Count 2:

- The use of gratuitous, extensive and unjustified violence in this mass beating which Sabit Geci gave the command to commence and in which he also directly participated.
- The use of weapons, batons and sticks during the beatings of the victims.
- Vicious psychological and physical elements to the beatings such as the forcing of a female (Witness C) to witness the beating of her friends before she in turn was beaten.
- The sustained nature of the event (lasting many hours through the night until the following morning).

The Trial Panel found the further additional aggravating circumstances relevant to Count 3:

- The number of beatings of the victims.

⁴⁵⁶ Article 64 para (1) CCK.

268. The Trial Panel found as a mitigating circumstance the current state of Sabit Geci's health.
269. With regard to Riza Alija, the Trial Panel found as aggravating circumstances the following:
- The duration of the detentions of the victims at both camps.
 - The number of victims.
 - The impact of the beatings and maltreatment on the physical and psychological health of the victims, including the permanent injuries suffered.
 - The use of objects such as batons and iron bars during the beatings of the victims.
 - The evidence from a number of sources that Riza Alija was excessively violent and brutal, and more “undisciplined” than the others.
270. The Trial Panel found as a mitigating circumstance the current state of Riza Alija's health.
271. With regard to Haki Hajdari, the Trial Panel found as aggravating circumstances his use of wooden sticks and excessive gratuitous violence in the beating of Witness N. As a mitigating circumstance, the Trial Panel found the fact that several witnesses identified Haki Hajdari as taking positive steps to alleviate the burden and discomfort of their captivity.
272. With regard to Shaban Hoti, the Trial Panel found as aggravating circumstances his use of wooden sticks and excessive gratuitous violence in the beating of Witness N. The Trial Panel found no mitigating circumstances.
273. Each of the defendants is convicted of at least one count of War Crimes Against the Civilian Population pursuant to Article 142 of the CC SFRY. The CC SFRY foresees a minimum punishment of five years of imprisonment and a maximum

punishment of the death penalty for this criminal offence. The death penalty was later abolished in Kosovo and replaced with imprisonment of forty years.⁴⁵⁷

274. The Panel imposed the individual sentences for each separate conviction based on the context and circumstances of the individual criminal act and the aggravating and mitigating circumstances applicable to each individual defendant and criminal offence. In determining the aggregate punishment for those defendants convicted of more than one criminal offence, the Trial Panel was limited by the criminal law in effect at the time of the commission of the offence, the CC SFRY, which caps the maximum aggregate punishment at 15 years of imprisonment.⁴⁵⁸ The individual and aggregate sentences imposed against each defendant are laid out in the enacting clause.
275. Sabit Geci and Riza Alija are each to be credited with the time spent in detention on remand pursuant to Article 50 Paragraph (1) of the CC SFRY. Sabit Geci has been in detention since 06 May 2010 and Riza Alija has been in detention since 23 June 2010.

XI. CONFISCATED ITEMS

276. The weapon found in the personal possession of Sabit Geci, a semi-automatic Crvena Zastava M-57 Lux caliber 7.62x25mm pistol, is hereby confiscated pursuant to Article 60 Paragraph (1) of the CCK and Article 494 Paragraph (1) of the KCCP.

XII. COMPENSATION CLAIM

277. During the criminal proceedings, Witness N in his capacity as an Injured Party submitted a compensation claim for injuries sustained during his unlawful detention and beatings in the KLA Cahan camp. He continues to suffer physical ailments and permanent injury. As supporting documentation, he submitted

⁴⁵⁷ UNMIK Regulation 1999/24, 12 December 1999; UNMIK Regulation 2000/59 amending UNMIK Regulation 1999/24, 27 October 2000.

⁴⁵⁸ Article 48(3) CC SFRY.

copies of seven medical referrals to specialist doctors and a prescription issued by one specialist.

278. The documentation submitted together with the compensation claim provided insufficient information for the Trial Panel to establish to what extent the claims for physical injury, pain and suffering are justified and the fiscal amount sought in compensation. The claim itself did not reflect any monetary amount spent on medical costs and did not indicate any amount sought for mental and psychological pain and suffering. No receipts or other documentation of costs of medical services was submitted with the claim. Substantial further inquiries would have been necessary for determining the compensation claim, which would have resulted in significant delay of the criminal proceedings.
279. Therefore the Trial Panel instructs Injured Party Witness N to file a separate law suit in civil proceedings for his property claim pursuant to Article 112(2) KCCP.

XIII. COSTS

280. Having been convicted, each of the defendants must reimburse their part of the costs of the criminal proceedings pursuant to Article 102(1) KCCP, with the exception of the costs of interpretation and translation. Each share of the costs has been determined in the amounts as laid out in the enacting clause.

**District Court of Mitrovica
P. nr. 45/2010**

Prepared in English, an authorized language.

Tara Khan
Recording Officer

Jonathan Welford-Carroll
Presiding Judge

Xhevdet Abazi
Panel Member

Caroline Charpentier
Panel Member

Legal remedy:

Authorized persons may file an appeal in written form against this verdict to the Supreme Court of Kosovo through the District Court of Mitrovica within fifteen (15) days from the date the copy of the judgment has been received, pursuant to Article 398(1) of the KCCP.