

**Special Prosecution Office of the Republic of Kosovo**  
*Prokuroria Speciale e Republikës së Kosovës*  
*Kancelarija Specijalnog Tužilaštva Republike Kosovo*

Pristina, 18 February 2011

PPS 117/2010

**To the District Court of Mitrovicë/Mitrovica**

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Pursuant to Articles 304 (1), 305 and 306 of the Kosovo Code of Criminal Procedure (KCCP) the undersigned Prosecutor, files this:

**Indictment**

Against:

<b>Name and Surname:</b>	Shaban Hoti
<b>Pseudonym:</b>	None
<b>Date of birth:</b>	24.09.1971
<b>Place of birth:</b>	Polac, Skenderaj
<b>Father's name:</b>	██████████
<b>Mother's name:</b>	██████████
<b>Profession</b>	Unemployed
<b>Place of residence</b>	Skenderaj

For the following crimes:

- 1) **War crime against the civilian population**, provided for and punished by **Articles 22 and 142 of the Criminal Code of the Socialist Federal Republic of Yugoslavia (CCSFRY)**, currently criminalized under Articles 23 and 120 of the Criminal Code of Kosovo (CCK), because, in violation of **Article 3 common** to the four Geneva Conventions of 12 August 1949, and of **Articles 4 and 5(1) of Protocol II** of 8 June 1977, Additional to the 1949 Geneva Conventions (AP II), all rules of international law effective at the time of the internal armed conflict in Kosovo and at all times relevant to the present Ruling, **the defendant**, in his capacity as member of the KLA, in co-perpetration with Sali Rexhepi, Haki Hajdari and two other so far unidentified KLA members tortured Witness N, a Kosovo Albanian civilian detained in the Cahan camp, by attempting to obtain information and confessions from him while repeatedly beating him with wooden sticks; **in Cahan (Albania), on or about 3 May 1999.**
- 2) **War crime against the civilian population**, provided for and punished by **Articles 22 and 142 of the CCSFRY**, currently criminalized under Articles 23 and 120 of the CCK, because, in violation of **Common Article 3** and **Articles 4 and 5(1) of AP II**, all rules of international law effective at the time of the internal

armed conflict in Kosovo and at all times relevant to the present Ruling, **the defendant**, in his capacity as member of the KLA, in co-perpetration with Sali Rexhepi and another so far unidentified KLA member, tortured Witness N, a Kosovo Albanian civilian detained in the Cahan camp; more precisely, the defendant participated in the crime by attempting to obtain information and confessions from Witness N while a so far unidentified KLA soldier beat him with a wooden stick on his hands and legs; **in Cahan (Albania), on or about 9 May 1999.**

## **GROUNDS FOR THE INDICTMENT AND EVIDENCE OVERVIEW**

1. The investigation in the present case originated from the statements collected from several witnesses (Witness L, Witness N, Witness K, Witness M) during the investigation PPS 08/09 against Sabit Geci et al. Of particular relevance to the present investigation are the statements given by Witness N on 10 and 16 March 2010.
2. Witness N was additionally heard as a witness by the undersigned Prosecutor on 2 December 2010. Based on his additional statement, a new investigation was opened against Haki Hajdari and Sali Rexhepi.
3. The evidence collected, and in particular the statements given by Witness L, Witness N, Witness K, Witness M during the investigation no. 08/09, enables the Prosecutor to conclude that in 1999 the KLA ran a military camp consisting of a few barracks located Cahan (Krume municipality, Albania).
4. The KLA used some facilities within the camp to detain people including civilians such as Witness N, Witness L, Witness M and Witness K. Prisoners held in Cahan were subjected to various forms of physical and mental abuse. Prisoners were subjected to severe beating, torture, isolation, and were confined in crowded, unhealthy, and filthy conditions.
5. Witness N testified that upon his arrival in Cahan, on or about 3 May 1999, he was beaten by Haki "Drenica", Sali "Berisha", Shaban Hoti and two so far unidentified KLA soldiers.
6. These five persons first tied Witness N's hands behind his back and removed his shoes and socks. Then four of them, including Haki "Drenica", Sali "Berisha" and Shaban Hoti, with the exception of the fifth unknown person, beat him up on his legs and feet with wooden sticks. Witness N fell to the ground and could no longer move. The beatings were accompanied by questioning about the witness' alleged membership to the Serbian Socialist party and his wife's alleged membership to LDK. Because of the severe pain on his feet and legs, for the following five days Witness N could only crawl, as he was not able to walk.
7. In addition, Witness N also testified that five or six days after the first beating, i.e. on 8 or 9 May 1999, he was beaten by an unknown person. Sali "Berisha" and Shaban Hoti were present and, while the unknown person was beating Witness N with a wooden stick on his legs and hands, they were asking him questions. The unknown person would also ask questions while beating at the same time.
8. When presented with a photo line-up containing a picture of Shaban Hoti, Witness N pointed at Shaban Hoti's picture saying that he knew that person, but he was not sure whether he had seen him in Cahan.
9. On 1 February 2011 WCIU provided the undersigned Prosecutor with a document

confiscated during a search carried out in the residence of Riza Alija on 23.6.2010. The document, titled "List of superiors and soldiers in Cahan", lists thirteen names, of which Riza Alija's and Sali Rexhepi's are the first two. The list also indicates, at number 4, the name of Shaban Hoti, born on 24.9.1971, place of birth and residence Polac (Skenderaj), with the indication "KLA soldier 15.7.1998".

10. During his interrogation as a suspect by the undersigned prosecutor on 18 February 2011, Shaban Hoti confirmed that from the end of 1998 until the end of April 1999 he was a KLA soldier assigned to the Cahan camp. He stated that his role was to clean weapons, to look after horses, to load weapons onto horses, and then accompany them to the border with Kosovo.

11. While Mr. Hoti stated that he did not remember names of other KLA members who were in Cahan, he identified Haki Hajdari in a photo line-up as someone whom he would see in Cahan approximately every third day, bringing supplies of weapons and uniforms.

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12. There is a well established internal and international case-law stating that in March 1999 both an internal armed conflict between Serbian forces and KLA was ongoing on the territory of Kosovo.

13. The fact that the actions took place outside of the territory of Kosovo, as the Confirmation Judge already ruled in the parallel case PPS 08/09 against Sabit Geci et al., do not exclude the applicability of Common Article 3 and international humanitarian law in general.

14. The defendant's actions therefore amount to the offence of War crime against the civilian population, given that they clearly infringe the provisions of Articles 22 and 142 of the CCSFRY (the same conduct is currently criminalized under Articles 23 and 121, par. 2 of the CCK) and violate Article 3 common to the four Geneva Conventions of 12 August 1949 and Article 5 of Protocol II of 8 June 1977 Additional to the 1949 Geneva Conventions, all rules of international law effective at the time of the internal armed conflict in Kosovo.

15. Finally, there can be little doubt that the victims of Shaban Hoti's actions were civilians, taking no part whatsoever in the hostilities, who were targeted because of their real, perceived or alleged disloyalty to KLA.

## **PROPOSAL FOR TRIAL**

The Prosecutor proposes that the main trial of this case be scheduled and held in the District Court of Mitrovicë/Mitrovica.

The Prosecutor requests that the following persons be summoned to attend:

- The undersigned Prosecutor;
- The defendant Shaban Hoti, and his defence counsel;
- The injured parties Witness N, Witness L, Witness K and Witness M.

The Prosecutor proposes that at the main trial the following witnesses are heard:

- Witness N
- Witness L

- Witness K
- Witness M

The Prosecutor finally proposes that the statements of the accused are admitted as evidence.

**PROPOSAL FOR JOINDER OF PROCEEDINGS**

The Prosecutor proposes that, pursuant to Article 33(6) of the KCCP, the present proceeding against Shaban Hoti is joined to the proceeding against Haki Hajdari and Sali Rexhepi, since the acts the three defendants are charged with were committed in co-perpetration and the evidence is entirely common.

Maurizio Salustro

SPRK Prosecutor