

Public Redacted Version of

ANNEX 1 to

'Submission of revised Indictment for confirmation and related requests', filing

KSC-BC-2020-04/F00004/A01 dated 18 March 2020

Public



SPECIALIST PROSECUTOR'S OFFICE
ZYRA E PROKURORIT TË SPECIALIZUAR
SPECIJALIZOVANO TUŽILAŠTVO

In: KSC-BC-2020-04
Registrar: Dr Fidelma Donlon
Filing Participant: Specialist Prosecutor
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Public Redacted Version of

'Indictment', dated 18 March 2020

Specialist Prosecutor's Office

Jack Smith

The Specialist Prosecutor, pursuant to his authority under Articles 35(2)(i) and 38 of Law No.05/L-053 on Specialist Chamber and Specialist Prosecutor's Office ('Law'), charges:

PJETËR SHALA

with **War Crimes under International Law**, punishable under Articles 14 and 16(1) of the Law, and **Other Crimes under Kosovo Law**, punishable under the Criminal Code of the Socialist Federal Republic of Yugoslavia ('FRY Code') and Articles 15(1) and 16(2) of the Law, as set forth below:

THE ACCUSED

1. **Pjetër SHALA** aka 'Ujku' ('Wolf') was born on 17 September 1963 in Prizren, Kosovo, and was a citizen of the Federal Republic of Yugoslavia ('FRY') at all times relevant to this indictment. His last known address is [REDACTED]. **Pjetër SHALA** has Belgian nationality (national number [REDACTED]).

2. At all times relevant to this indictment, **Pjetër SHALA** was a member of the *Ushtria Çlirimtare e Kosovës* ('UÇK'), known in English as the Kosovo Liberation Army ('KLA'). In 1998, he served in the KLA in the Dukagjini Operational Zone, where he was appointed to the Military Police. Having travelled to Belgium later in 1998, **Pjetër SHALA** returned to Albania in early 1999 after the KLA General Staff called for a full mobilisation. Upon arriving at Durrës, Albania, he made contact with, and resumed his service in, the KLA.

STATEMENT OF FACTS

Contextual Elements

3. The crimes charged in this indictment took place in the context of and were associated with an armed conflict in Kosovo between the KLA and forces of the FRY

and Republic of Serbia, including units of the Yugoslav Army ('VJ'), police and other units of the Ministry of Internal Affairs ('MUP'), and other groups fighting on behalf of the FRY and Serbia.

4. The KLA had a command structure, controlled territory and planned and conducted operations in Kosovo and Albania. Armed hostilities, involving numerous forces, occurred before, during and after the period relevant to this indictment, in locations throughout Kosovo, including along the border with Albania.

5. During the spring of 1999, NATO forces conducted aerial bombing in Serbia and Kosovo. During that time, KLA members and large numbers of Kosovo Albanian civilians moved out of Kosovo into Albania, where the KLA already had established facilities and personnel. Many went to Kukës, Albania, and the surrounding area.

6. At all times relevant to this indictment, the KLA used a KLA base in a former metal works factory in Kukës, Albania ('Kukës Metal Factory') for a variety of military purposes, including: the receipt, storage, and distribution of equipment and supplies; the enlistment of volunteers; and as a preparation and transit point for KLA members moving to and from forward positions. The Kukës Metal Factory also served as a site for the detention and interrogation of persons suspected of having collaborated with the FRY and Serbia or of failing to support the KLA. The crimes charged in this indictment were committed by certain KLA members against persons detained at the Kukës Metal Factory. The victims of these crimes were all FRY citizens and were persons taking no active part in hostilities.

7. **Pjetër SHALA** was aware of the factual circumstances of the armed conflict and knew that the victims were persons taking no active part in hostilities.

Modes of Liability

8. Between approximately 17 May 1999 and 5 June 1999, **Pjetër SHALA** and certain other KLA soldiers, police, and guards shared a common purpose to interrogate and mistreat detainees at the Kukës Metal Factory. The common purpose involved the crimes of arbitrary detention, cruel treatment, torture, and murder.

9. **Pjetër SHALA** shared the intent for the commission of these crimes with other members of this joint criminal enterprise ('JCE'). Alternatively, it was foreseeable to **Pjetër SHALA** that the crime of murder might be perpetrated by one or more members of the JCE, or by persons used by any member of the JCE to carry out the crimes involved in the common purpose. With the awareness that murder was a possible consequence of the implementation of the common purpose of the JCE, **Pjetër SHALA** participated in the JCE and thus willingly took that risk.

10. Other members of the JCE included Sabit GECI aka 'Qopa', Xhemshit KRASNIQI, KLA soldiers [REDACTED], and certain other KLA soldiers, police, and guards present at the Kukës Metal Factory. Each member of the JCE, by their acts or omissions, contributed to achieving their common purpose. Alternatively, some or all of these individuals were not members of the JCE, but were used by members of the JCE to carry out crimes committed in furtherance of the common purpose.

11. **Pjetër SHALA** significantly contributed to achieving the common purpose in one or more of the following ways:

- a. Participating in acts continuing and enforcing arbitrary detention, including as alleged in paragraphs 15-16 below;
- b. Participating in acts of cruel treatment and torture, including as alleged in paragraphs 20-23 and 26 below;
- c. Failing to take adequate measures to ensure the humane treatment of detainees at the Kukës Metal Factory; and/or
- d. Otherwise aiding and abetting the charged crimes, including by encouraging and assisting the perpetrators, and/or by the example of his own participation in crimes.

12. Through these same acts and omissions, **Pjetër SHALA** provided practical assistance, encouragement and/or moral support, which had a substantial effect on the perpetration of the crimes charged in this indictment. He was aware of the probability that these crimes would be committed and that his acts or omissions would contribute to their commission.

13. Through the acts and omissions alleged in paragraphs 15-16, 20-23, and 26, **Pjetër SHALA** physically committed acts continuing and enforcing arbitrary detention, and of cruel treatment and torture. He intended the commission of these crimes and/or, in relation to arbitrary detention, acted in the reasonable knowledge that the act or omission was likely to cause arbitrary deprivation of liberty.

Illegal or Arbitrary Arrest and Detention

14. Between approximately 17 May 1999 and 5 June 1999, **Pjetër SHALA** and certain other KLA members, including Sabit GEÇI, Xhemshit KRASNIQI and KLA soldiers [REDACTED], deprived [REDACTED] persons of their liberty without due process of law at the Kukës Metal Factory. They were held under armed guard in makeshift cells, handcuffed and tied, relieved of travel documents and money, and subjected to acts of cruel treatment and torture, as described in paragraphs 18-24 and 26 below. These persons were arrested and detained without legal basis, not informed of the reason for their arrest or detention, and/or had no opportunity to challenge the basis for their detention.

15. On or about 17 May 1999, **Pjetër SHALA**, together with a KLA member nicknamed [REDACTED] and certain other KLA members, participated in the transfer of [REDACTED] under guard and threat of death from a location in or around [REDACTED] to the Kukës Metal Factory.

16. **Pjetër SHALA** participated in acts enforcing and continuing arbitrary detention at the Kukës Metal Factory, including through acts of cruel treatment and torture of detainees, as described in paragraphs 20-23 and 26 below.

17. As set out in paragraphs 9 and 12-13 above, **Pjetër SHALA** had the requisite intent and knowledge for the crime of arbitrary detention.

Cruel Treatment

18. Between approximately 17 May 1999 and 5 June 1999, **Pjetër SHALA** and certain other KLA members, including Sabit GEÇI, Xhemshit KRASNIQI and KLA

soldiers [REDACTED], established and maintained inhumane detention conditions at the Kukës Metal Factory. These conditions were characterised by deprivation of liberty without due process of law, as set out in paragraphs 14-16 above, and inadequate provisions of food, water, sanitation and hygiene, bedding and other accommodation, and medical care.

19. In addition, between approximately 17 May 1999 and 5 June 1999, **Pjetër SHALA** and certain other KLA members, including Sabit GEÇI, Xhemshit KRASNIQI and KLA soldiers [REDACTED], routinely assaulted detainees at the Kukës Metal Factory both physically, including through beatings with various instruments, and psychologically, including through threat of death and serious bodily injury, fear, humiliation, discrimination on political grounds, intimidation, harassment, interrogation, and forced or coerced statements and confessions. Detainees were physically and psychologically assaulted in front of other detainees. Some were forced to perform manual labour during their detention.

20. The detainees at the Kukës Metal Factory were beaten on an almost daily basis. **Pjetër SHALA** took no measures to prevent or curtail the violence, or to otherwise assist or ensure the humane treatment of the detainees.

21. On or about [REDACTED], **Pjetër SHALA** and certain other KLA members, including Xhemshit KRASNIQI and Sabit GEÇI, interrogated and physically and psychologically assaulted [REDACTED] detainees at the Kukës Metal Factory, including [REDACTED]. **Pjetër SHALA** and certain other KLA members ordered [REDACTED] to beat [REDACTED]. **Pjetër SHALA**, individually and in concert with certain other KLA members, beat [REDACTED], including with batons, metal bars, guns, a baseball bat and knives. In **Pjetër SHALA**'s presence, certain other KLA members beat and assaulted [REDACTED]. **Pjetër SHALA** and other KLA members threatened the detainees and accused them of collaborating with the Serbian authorities and/or of not supporting the KLA. One KLA member informed [REDACTED] that he had been sentenced to prison and execution, even though no trial had taken place.

22. On or about [REDACTED], Xhemshit KRASNIQI, a KLA soldier [REDACTED], and **Pjetër SHALA** beat [REDACTED]. Certain KLA members then forced these two detainees to [REDACTED] and shot at them with automatic weapons, wounding both men. [REDACTED].

23. On or about 4 June 1999, **Pjetër SHALA**, Sabit GEÇI, Xhemshit KRASNIQI, KLA soldiers [REDACTED], and certain other KLA members, individually and in concert, interrogated and beat [REDACTED], including with metal bars, baseball bats, and guns. As the beating continued through the night, KLA members participating in the mistreatment shot and wounded these detainees. The [REDACTED] detainees continued to be severely beaten despite their gunshot wounds, [REDACTED]. They were refused adequate medical attention. Within 24 hours of being shot, [REDACTED] died [REDACTED].

24. The acts and omissions described above, considered alone or together, caused serious mental and/or physical suffering or injury to the victims, and/or constituted a serious attack on human dignity. These acts and omissions violated the fundamental rights of the victims to liberty and security of person, freedom of movement, due process of law, and freedom from discrimination on political grounds. **Pjetër SHALA** and certain other KLA members tried to force the victims to act against their will and conscience. As a result of their treatment at the Kukës Metal Factory, the victims lost consciousness and control of bodily functions, sustained broken bones, were humiliated, disfigured, seriously bruised and wounded, and covered in blood, and had psychological and physical conditions that continued following their release.

25. As set out in paragraphs 9 and 12-13 above, **Pjetër SHALA** had the requisite intent and knowledge for the crime of cruel treatment.

Torture

26. Through the acts and omissions described in paragraphs 18-24 above, **Pjetër SHALA** and certain other KLA members, including Sabit GEÇI, Xhemshit KRASNIQI and KLA soldiers [REDACTED], inflicted severe pain or suffering with the aim of

obtaining information or confessions, punishing, intimidating, or coercing the victims, and/or discriminating, including on political grounds, against the victims. During the acts and omissions described above, **Pjetër SHALA** and certain other KLA members, including Sabit GEÇI, Xhemshit KRASNIQI and KLA soldiers [REDACTED], questioned the detainees and recorded confessions, and accused the victims of having collaborated with the Serbian authorities, and/or of not supporting the KLA.

27. As set out in paragraphs 9 and 12-13 above, **Pjetër SHALA** had the requisite intent and knowledge for the crime of torture.

Murder

28. On or about [REDACTED], certain KLA members, amongst whom **Pjetër SHALA** was present, forced [REDACTED] and shot at them with automatic weapons. On or about 4 June 1999, certain KLA members, amongst whom **Pjetër SHALA** was present, severely beat the [REDACTED] detainees. As the beating continued through the night, KLA members participating in the mistreatment shot and wounded these detainees. The [REDACTED] detainees continued to be severely beaten despite their gunshot wounds, [REDACTED]. The detainees received inadequate medical treatment. [REDACTED] died within 24 hours of being shot as a result of his injuries, even though a doctor advised the KLA members that the detainee needed to be taken to a hospital.

29. As set out in paragraphs 9 and 12 above, **Pjetër SHALA** had the requisite intent and knowledge for the crime of murder.

STATEMENT OF CRIMES

30. Through the acts and omissions described in paragraphs 13, 15-16, 20-23, and 26 above, **Pjetër SHALA** physically committed the crimes of arbitrary detention, cruel treatment and torture. Through the acts and omissions described in paragraphs 8-12, 14-16, 18-24, 26, and 28 above, **Pjetër SHALA** committed through his participation in

a joint criminal enterprise and/or aided and abetted the commission of the crimes of arbitrary detention, cruel treatment, torture, and murder.

31. **Pjetër SHALA** is individually criminally responsible for:

Count 1: ARBITRARY DETENTION at the Kukës Metal Factory between approximately 17 May 1999 and 5 June 1999, a WAR CRIME, punishable under Articles 14(1)(c) and 16(1)(a) of the Law, and Articles 22, 24, 26, 30, and 142 of the FRY Code, as incorporated in Articles 15(1)(a) and 16(2) of the Law;

Count 2: CRUEL TREATMENT at the Kukës Metal Factory between approximately 17 May 1999 and 5 June 1999, a WAR CRIME, punishable under Articles 14(1)(c)(i) and 16(1)(a) of the Law, and Articles 22, 24, 26, 30, and 142 of the FRY Code, as incorporated in Articles 15(1)(a) and 16(2) of the Law;

Count 3: TORTURE at the Kukës Metal Factory between approximately 17 May 1999 and 5 June 1999, a WAR CRIME, punishable under Articles 14(1)(c)(i) and 16(1)(a) of the Law, and Articles 22, 24, 26, 30, and 142 of the FRY Code, as incorporated in Articles 15(1)(a) and 16(2) of the Law; and

Count 4: MURDER at the Kukës Metal Factory on or about 5 June 1999, a WAR CRIME, punishable under Articles 14(1)(c)(i) and 16(1)(a) of the Law and Articles 22, 24, 26, and 142 of the FRY Code, as incorporated in Articles 15(1)(a) and 16(2) of the Law.



Jack Smith

Specialist Prosecutor

Monday, 26 April 2021

At The Hague, the Netherlands.