



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

In: KSC-BC-2020-04
Specialist Prosecutor v. Pjetër Shala

Before: **Trial Panel I**
Judge Mappie Veldt-Foglia, Presiding Judge
Judge Roland Dekkers
Judge Gilbert Bitti
Judge Vladimir Mikula, Reserve

Registrar: Dr Fidelma Donlon

Filing Party: Specialist Prosecutor's Office

Date: 25 March 2024

Language: English

Classification: Public

Public redacted version of
'Prosecution Final Trial Brief
with confidential Annexes 1 and 3 and public Annex 2'

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I. INTRODUCTION

1. The evidence in this case proves beyond reasonable doubt that between approximately 17 May and 5 June 1999, KLA members including **Pjetër SHALA**, the **Accused** in this case, Sabit GECI, Xhemshit KRASNIQI, and other KLA soldiers and policemen arbitrarily detained and tortured at least 18 civilians at the Kukës Metal Factory ('**KMF**'), a KLA base in the town of Kukës, Albania. One of the victims was murdered, dying as a result of gunshot injuries sustained during a brutal beating in which the **Accused** participated.

2. The victims were held in inhumane conditions and severely mistreated on a regular basis. They lived for weeks in a constant state of fear, unable even to sleep. As TW4-01 described it: '[w]e were expecting to be killed at every moment'.¹

3. The victims suffered severe, and permanent, physical and psychological harm as a result of their ordeal. They were left terrified, humiliated, bloodied, bruised, with broken bones and teeth, and with gunshot wounds. The **Accused** took active part in those mistreatments.

4. Some of the victims are no longer alive, and could not testify in this trial to tell their story. The account of their plight, however, lives in their prior testimonies, which are corroborated by the surviving victims, and by the **Accused's** own admissions. It also lives in the memory of their loved ones, who testified in this trial on their behalf.

¹ TW4-01, 31 May 2023, p.1539

This brief tells the story of each of these victims, of the cruelty of their tormentors, and of the impact the perpetrators' crimes had on the victims' lives and on those of their families.

5. In the following sections, this brief demonstrates how the evidence presented at trial proves beyond reasonable doubt the responsibility of the **Accused** for the offences of arbitrary detention, cruel treatment, torture, and murder. It also provides submissions on appropriate sentencing. Annex 1 to the brief contains, for ease of reference, certain photograph and diagrams illustrating the evidence, which are referenced where relevant throughout.

II. GENERAL EVIDENTIARY CONSIDERATIONS

6. The Law and Rules, in particular Article 21(3) and Rules 139 and 140, explicitly regulate the standard of proof to be applied by Trial Panel I (**Panel**), as well as a number of considerations in relation to the assessment of evidence for the purposes of the judgment.

A. Standard and Burden of Proof

7. The Specialist Prosecutor's Office (**SPO**) must prove the guilt of the **Accused** beyond reasonable doubt.² Reasonable doubt cannot consist of imaginary or frivolous doubt based on empathy or prejudice, but must have a rational link to the evidence, lack of evidence, or inconsistencies in the evidence,³ – it must be grounded in reason.⁴

8. The beyond reasonable doubt standard applies to the facts underlying the crimes and modes of liability charged in the Indictment, as well as to other facts on which the **Accused's** responsibility depends.⁵ The standard does not apply to individual pieces of evidence.⁶

² See Article 21(3), Rules 140(1) and 158(3); *Mustafa* TJ, para.27; *Gucati and Haradinaj* TJ, para.34.

³ Rule 140(2); *Mustafa* TJ, para.27; *Gucati and Haradinaj* TJ, para.36; *Halilović* AJ, para.109; *Rutaganda* AJ, para.488; *Delalić et al.* TJ, para.601.

⁴ *Ongwen* TJ, para.228.

⁵ *Mustafa* AJ, para.368.

⁶ Rule 140(2).

9. Circumstantial evidence can satisfy the standard of proof beyond reasonable doubt when the inference drawn from that evidence is the only reasonable one that could be drawn.⁷ If a trial panel bases a conviction solely or to a decisive extent on circumstantial evidence, it must assess this evidence with caution and provide reasoned findings, in particular regarding the consistency and intrinsic coherence of such evidence.⁸

10. A conviction may not be based solely or to a decisive extent on *inter alia*: (a) the statement of a witness whom the Defence had no opportunity to examine; or (b) the evidence of witnesses whose identity was not disclosed to the Defence.⁹ However, otherwise, the Panel shall not impose a legal requirement that corroboration is required in order to prove any crime or criminal conduct within the jurisdiction of the Kosovo Specialist Chambers ('KSC').¹⁰ The Panel retains discretion to consider whether a single piece of evidence or the sum of different pieces of evidence suffice to prove a specific fact.¹¹

⁷ Rule 140(3); *Mustafa* TJ, para.29; *Gucati and Haradinaj* TJ, para.37; *Kvočka et al.* AJ, para.237; *Šainović et al.* AJ, para.995; *Karadžić* TJ, para.14.

⁸ Rule 139(5); *Mustafa* TJ, para.45.

⁹ Rule 140(4); *Mustafa* TJ, para.40.

¹⁰ Rule 139(3); *Taylor* AJ, para.78.

¹¹ *Mustafa* TJ, para.43; *Gucati and Haradinaj* TJ, para.39.

B. Assessment of Evidence

11. The Panel must assess each piece of evidence in light of the entire body of evidence admitted at trial, and carry out a holistic evaluation and weighing of the evidence before it, as required by Rule 139(2), to determine whether the facts at issue have been established.¹²

12. In determining the weight to be given to the testimony of witnesses, the Panel shall assess the credibility and the reliability of their evidence.¹³ This assessment should be made on a case-by-case basis. In the *Mustafa* case, the Panel provided a non-exhaustive list of factors relevant to this assessment.¹⁴ The Panel retains broad discretion in assessing inconsistencies in a witness's account, which, in accordance with Rule 139(6), do not *per se* render that account unreliable.¹⁵ In this regard, the Panel shall consider the nature, extent and seriousness of the inconsistencies, any explanations provided for them, and factors such as trauma and passage of time.¹⁶ Minor discrepancies between the evidence of different witnesses, or between the testimony of a particular witness and his or her prior statement, should not be

¹² *Mustafa* TJ, paras 28, 32; *Gucati and Haradinaj* TJ, para.35.

¹³ Rule 139(4); *Mustafa* TJ, para.34; *Mustafa* AJ, para.229.

¹⁴ *Mustafa* TJ, para.35; *Mustafa* AJ, para.233; *Ongwen* TJ, para.260.

¹⁵ *Mustafa* TJ, para.36; *Mustafa* AJ, paras 272, 307.

¹⁶ *Mustafa* TJ, para.36.

regarded as discrediting such evidence.¹⁷ The Panel may accept parts of a piece of evidence and reject others.¹⁸

13. In assessing the credibility of documentary evidence, the Panel may consider, *inter alia*, indicia of authenticity and reliability, the source of a document, its content, its purported use, and its coherence and consistency with other evidence on record.¹⁹

14. Just as for any other evidence presented, it is for the Panel to assess the reliability and probative value of expert reports and testimony.²⁰ Relevant factors are the experts' competence in their field of expertise, the methodology used, the coherence of the findings with other evidence in the case, and the general reliability of the experts' evidence.²¹

15. Hearsay evidence is admissible before the KSC, and its probative value is not necessarily lower than direct evidence.²² While a Panel may assess certain hearsay with caution,²³ its probative value will ultimately depend on the circumstances surrounding each piece of evidence.²⁴

¹⁷ *Gucati and Haradinaj* TJ, para.38.

¹⁸ *Mustafa* TJ, para.37; *Ngirabatware* TJ, para.53.

¹⁹ *Mustafa* TJ, para.42; *Musema* TJ, paras 59-60, 63-67, 70-72.

²⁰ *Nahimana et al.* AJ, para.199.

²¹ *Mustafa* TJ, para.41.

²² *Mustafa* TJ, para.44.

²³ *Mustafa* TJ, para.44; *Mustafa* AJ, para.125.

²⁴ *Mustafa* TJ, para.44.

16. The credibility, reliability, and weight of evidence presented by the SPO and the **Accused**, respectively, is to be assessed in the same manner.²⁵

17. The Panel may rely on evidence that falls outside of the temporal scope of the charges in certain circumstances, including: (i) to clarify a given context; (ii) to establish by inference the elements, in particular the *mens rea*, of criminal conduct occurring during the indictment period; or (iii) to demonstrate a deliberate pattern of conduct.²⁶

III. THE KUKËS METAL FACTORY AND THE KLA

A. Location

18. Kukës is a town in the northern part of Albania, located approximately 20 kilometres south-west of the Kosovo border.²⁷

19. In 1999, the KLA converted a former factory located in the outskirts of Kukës town²⁸ into a military base.²⁹ The KMF rests on the road going towards Has or Krume.³⁰

²⁵ *Ntaganda AJ*, paras 13, 587.

²⁶ *Khieu Samphan and Nuon Chea TJ*, para.60; *Taylor TJ*, para.101.

²⁷ Common Knowledge Facts List, fact no.1; SPOE00127400-00127400; **Annex 1, figure 1.**

²⁸ Common Knowledge Facts List, fact no.2.

²⁹ Adjudicated Facts List, fact no.51; 060124-TR-ET Part 1 Revised RED, pp.14-15, 18, 21-28; W04754, 23 October 2023, p.2922.

³⁰ SPOE00330362-00330362; 060653-060663-ET, p.060653; 060664-TR-ET Part 3, pp.1, 3; 060124-TR-ET Part 1 Revised RED, pp.52, 56-57; **Annex 1, figure 2.**

While the KMF was operational as a KLA base already at the end of March 1999,³¹ the crimes charged in the Indictment took place at this location between approximately 17 May and 5 June 1999 (**‘Indictment Period’**).³² During the Indictment Period, the KMF was referred to variously as ‘KLA headquarters’,³³ ‘logistics headquarter, or staff’,³⁴ ‘barracks’,³⁵ ‘Headquarters 2’³⁶ or ‘Pavillion 2’.³⁷

20. The KLA had a second base in Kukës,³⁸ close to the KMF.³⁹ It was initially used by Ruzhdi SARAMATI’s group as a mobilisation and registration centre,⁴⁰ before such activity was moved to the KMF following the KLA’s general call for mobilisation on or around the end of March 1999.⁴¹ This other, smaller base was a one-storey house,⁴²

³¹ 060124-TR-ET Part 1 Revised RED, pp.21-25. *See also* W04754, 23 October 2023, p.2920.

³² Pre-Trial Brief, para.1.

³³ TW4-01, 30 May 2023, pp.1401-1402; SITF00014088-00014120RED, p.SITF00014092.

³⁴ TW4-10, 1 May 2023, p.1035.

³⁵ W03887, 20 November 2023, p.3174.

³⁶ SITF00014088-00014120RED, p.SITF00014093; SITF00016908-00016964RED, p.SITF00016912.

³⁷ DW4-02, 2 October 2023, pp.2745-2747, 2790; TW4-10, 1 May 2023, p.1062.

³⁸ TW4-10, 1 May 2023, p.1092.

³⁹ DW4-02, 2 October 2023, p.2790.

⁴⁰ TW4-10, 1 May 2023, p.1092; DW4-02, 2 October 2023, pp.2738-2741; W04405, 9 January 2024, pp.3957-3960; W04754, 23 October 2023, p.2929; W04754, 24 October 2023, p.3069.

⁴¹ 060124-TR-ET Part 1 Revised RED, pp.14-15, 18, 21-28; DW4-05, 3 October 2023, p.2816.

⁴² DW4-02, 2 October 2023, pp.2740-2741; W04405, 9 January 2024, pp.3957-3960.

called 'Headquarter 1',⁴³ 'Pavillion 1',⁴⁴ or referred to as Ruzhdi SARAMATI's location.⁴⁵

B. KLA presence at the KMF

1. **Use of the KMF by the KLA**

21. At the end of March 1999, **W04379 (Asllan ELEZAJ)**, an Albanian civilian who had become the owner of the KMF after its privatisation,⁴⁶ made the KMF available to Ruzhdi SARAMATI,⁴⁷ who, from that moment, used it as the base of operations of his group of KLA soldiers.⁴⁸ SARAMATI was the person in charge at the KMF until the arrival of Xheladin GASHI, aka Plaku, at the beginning of April 1999.⁴⁹ From this time, and until the end of the war in June 1999,⁵⁰ the KMF became a main recruitment and logistics base of the KLA in Albania.⁵¹

⁴³ TW4-10, 1 May 2023, p.1092; SITF00014088-00014120RED, p.SITF00014093; SITF00016908-00016964RED, p.SITF00016912.

⁴⁴ DW4-02, 2 October 2023, p.2739; TW4-10, 1 May 2023, p.1107.

⁴⁵ SITF00014088-00014120RED, p.SITF00014093.

⁴⁶ 060124-TR-ET Part 1 Revised RED, pp.5-6, 12-13; W04754, 23 October 2023, p.2988.

⁴⁷ 060124-TR-ET Part 1 Revised RED, pp.13-21, 30.

⁴⁸ 060124-TR-ET Part 1 Revised RED, pp.36-37; 066888-TR-ET Part 1 Revised, p.98; Adjudicated Facts List, fact no.51.

⁴⁹ 060124-TR-ET Part 1 Revised RED, pp.33-37.

⁵⁰ 060124-TR-ET Part 1 Revised RED, pp.25-26; SPOE00133847-00133847, p.SPOE00133847.

⁵¹ W03887, 20 November 2023, p.3198; 060124-TR-ET Part 1 Revised RED, pp.25, 39-41; 060664-TR-ET Part 2, pp.9, 18; W04754, 24 October 2023, pp.3012-3013, 3098.

22. The KMF was used by the KLA as a base for mobilisation,⁵² logistics,⁵³ training,⁵⁴ and operations.⁵⁵ From March to May 1999, several thousand people were mobilised at the KMF.⁵⁶ Volunteers came from Kosovo, Albania, and abroad.⁵⁷ KLA recruits were provided with uniforms and weapons,⁵⁸ sent for training to other KLA bases in Albania,⁵⁹ and then deployed to fight at the frontline.⁶⁰ The KMF was a busy place, with people constantly arriving and leaving.⁶¹

⁵² 060124-TR-ET Part 1 Revised RED, pp.38, 42; TW4-10, 1 May 2023, pp.1038, 1090, 1092; W04754, 23 October 2023, pp.2922, 2929; 060664-TR-ET Part 2, pp.9-10.

⁵³ W04754, 23 October 2023, p.2922; 066888-TR-ET Part 1 Revised, p.103; 060124-TR-ET Part 1 Revised RED, pp.44-45.

⁵⁴ SPOE40010298-SPOE40010298-ET; TW4-10, 1 May 2023, p.1091; 060124-TR-ET Part 1 Revised RED, p.45; 108826-TR-ET Part 1 RED, p.5; 064716-TR-ET Part 5, p.2.

⁵⁵ W04754, 23 October 2023, p.2922.

⁵⁶ SPOE40010298-SPOE40010298-ET. *See also* 060124-TR-ET Part 1 Revised RED, pp.29-30.

⁵⁷ 060664-TR-ET Part 2, pp.8-9, 19; W04754, 23 October 2023, p.2929.

⁵⁸ 060124-TR-ET Part 1 Revised RED, pp.44-45.

⁵⁹ 060664-TR-ET Part 2, pp.9-10; 060124-TR-ET Part 1 Revised RED, pp.39-40, 42; W04405, 9 January 2024, p.3960. Some training took place also at the KMF: 060124-TR-ET Part 1 Revised RED, pp.45-46; U003-2231-U003-2231-ET.

⁶⁰ 060124-TR-ET Part 1 Revised RED, pp.39, 41-43; TW4-10, 1 May 2023, pp.1032-1036, 1080, 1097-1098, 1100, 1108.

⁶¹ W03887, 20 November 2023, p.3183; W03887, 22 November 2023, p.3440; DW4-05, 3 October 2023, p.2871.

23. The KMF was also used to store weapons and ammunition,⁶² military equipment,⁶³ and food.⁶⁴ From early April 1999,⁶⁵ it served as a primary KLA centre in Albania for the preparation of Operation Arrow,⁶⁶ a military operation aimed at clearing the border between Kosovo and Albania of FRY forces.⁶⁷ Around 20 May 1999,⁶⁸ Ruzhdi SARAMATI and his men left from Kukës to join Operation Arrow, which began around 26 May 1999.⁶⁹

24. As addressed below, in addition to being used as a military base, the KMF was also used to illegally detain, interrogate, and mistreat individuals considered to be spies, traitors, or collaborators of Serbia.

⁶² W04754, 23 October 2023, pp.2952-2953.

⁶³ TW4-01, 30 May 2023, pp.1409-1410; W04754, 23 October 2023, p.2922; W03887, 20 November 2023, p.3196; 066888-TR-ET Part 1 Revised, p.101.

⁶⁴ TW4-01, 30 May 2023, pp.1409-1410; W03887, 20 November 2023, p.3198; 066888-TR-ET Part 1 Revised, p.101.

⁶⁵ W04754, 23 October 2023, p.2920; W04754, 24 October 2023, pp.3020, 3119; 077978-077982-ET Revised, p.077981.

⁶⁶ W03887, 22 November 2023, pp.3439-3440.

⁶⁷ SPOE00055399-SPOE00055399-ET.

⁶⁸ W04754, 23 October 2023, p.3000.

⁶⁹ SPOE00055399-SPOE00055399-ET; 108011-108040-ET, pp.108019-108020; W04754, 24 October 2023, pp.3023, 3093, 3096-3097; W04754, 25 October 2023, p.3133.

2. KLA command structure at the KMF

25. The evidence shows that from the end of March 1999 until the end of the war there was a command structure within the KLA at the KMF.⁷⁰

26. As early as March 1999, Ruzhdi SARAMATI's group – which became known as Brigade 128⁷¹ - was involved in the mobilisation of individuals who wanted to join the KLA at the KMF.⁷² During the Indictment Period, a number of members of Brigade 128 were stationed at the KMF.⁷³ Brigade 128 was part of the Pashtrik Operational Zone of the KLA,⁷⁴ and covered parts of the territory of Kosovo and the north of Albania.⁷⁵

⁷⁰ 060124-TR-ET Part 1 Revised RED, pp.18-26; 060124-TR-ET Part 2 Revised RED4, pp.10, 14-15.

⁷¹ DW4-02, 2 October 2023, pp.2753, 2773; TW4-10, 1 May 2023, pp.1091-1092; W04754, 23 October 2024, p.2976; W04754, 24 October 2023, p.3093; DW4-05, 3 October 2023, pp.2828, 2830; 058048-058112-ET; 060124-TR-ET Part 2 Revised RED4, pp.34, 140; W04405, 9 January 2024, p.3907.

⁷² SPOE40010298-SPOE40010298-ET.

⁷³ 058048-058112-ET, p.058049; TW4-10, 1 May 2023, pp.1034-1035; DW4-05, 3 October 2023, pp.2817, 2828.

⁷⁴ 058048-058112-ET, p.058049.

⁷⁵ W04754, 24 October 2023, p.3018; 066843-066855-ET Revised, p.066848; 060124-TR-ET Part 2 Revised RED4, pp.18-20.

27. Towards the end of April 1999,⁷⁶ Ruzhdi SARAMATI went with a group of soldiers from Kukës to a training centre in Burrel,⁷⁷ coming back in May 1999.⁷⁸ The **Accused** went to Burrel with SARAMATI, where he was arrested for the killing of a KLA soldier on 2 May 1999, and later released.⁷⁹

28. Upon his return from Burrel, SARAMATI was appointed commander of the Kukës-Gorožup/Gorozhup-Morine/Qafë Morinë axis of Operation Arrow,⁸⁰ and moved to the frontline in Gorožup/Gorozhup after 20 May 1999.⁸¹ SARAMATI and his men fought in the battle of Gorožup/Gorozhup, at the end of May 1999,⁸² suffering casualties on 31 May 1999.⁸³ Many of SARAMATI's soldiers returned to Kukës for the

⁷⁶ This is established by the timeline provided by W04848 about his arrival to Kukës, his meeting with Ruzhdi SARAMATI, and SARAMATI's subsequent departure for Burrel with his soldiers: SITF00014088-00014120RED, pp.SITF00014089-SITF00014093.

⁷⁷ SITF00014088-00014120RED, pp.SITF00014093-SITF00014094; 060124-TR-ET Part 2 RED4, p.99.

⁷⁸ That SARAMATI came back in May is established by the evidence of W04848 who stated that he was arrested for the killing of Halil GASHI, which took place on 1 or 2 May 1999, SITF00014088-00014120RED, pp.SITF00014093-SITF00014094; DW4-02, 2 October 2023, pp.2761-2763.

⁷⁹ T000-2748-T000-2748-Alb and Eng Transcript-1, pp.31-34; W04754, 23 October 2023, pp.2966, 2983; SITF00014088-00014120RED, pp.SITF00014093-SITF00014094; DW4-02, 2 October 2023, pp.2761-2763.

⁸⁰ W04754, 23 October 2023, p.2999; W04754, 25 October 2023, p.3150; 058048-058112-ET, p.058056.

⁸¹ W04754, 23 October 2023, p.3000. *See also* 064716-TR-ET Part 3 RED4, pp.29-30.

⁸² 060124-TR-ET Part 2 Revised RED4, pp.66-67; 108011-108040-ET, pp.108019-108020.

⁸³ W03887, 20 November 2023, pp.3227, 3234; 060124-TR-ET Part 2 Revised RED4, pp.22-24, 66; W04405, 9 January 2024, pp.3974-3975; 108011-108040-ET, p.108019.

funerals of the fallen soldiers held at the Kukës cemetery⁸⁴ between 1 and 4 June 1999,⁸⁵ and then returned to the front lines.⁸⁶

29. Joint Criminal Enterprise ('JCE') member Xhemshit KRASNIQI was a high ranking KLA member mainly stationed at the KMF.⁸⁷ Witnesses have described him as the chief of the military police in Kukës,⁸⁸ and in charge of detainees.⁸⁹ Sabit GEÇI was another high-ranking KLA member regularly present at the KMF.⁹⁰ As discussed in Section V, they were both heavily involved in the crimes committed at the KMF. Xheladin GASHI, aka 'Plaku', was also a high-ranking KLA officer in charge of the mobilisation process,⁹¹ who was present at the KMF during the relevant timeframe.

30. Although not primarily stationed at the KMF, Bislim ZYRAPI was the officer in charge of the preparations for Operation Arrow, until Fatmir LIMAJ replaced him in May 1999.⁹² When the KLA launched Operation Arrow, Fatmir LIMAJ appointed

⁸⁴ W03887, 20 November 2023, pp.3216, 3247, 3273-3274; REG00992-REG00992; TW4-01, 31 May 2023, p.1545.

⁸⁵ 060124-TR-ET Part 2 Revised RED4, pp.25-28; W03887, 20 November 2023, p.3267.

⁸⁶ W03887, 20 November 2023, p.3274; 060124-TR-ET Part 2 Revised RED4, pp.25-28.

⁸⁷ SITF00014088-00014120RED, p.SITF00014098; TW4-10, 1 May 2023, p.1068.

⁸⁸ 060664-TR-ET Part 3, pp.21-22; SITF00013262-00013315RED, p.SITF00013276; SPOE00014669-00014751RED, p.SPOE00014694.

⁸⁹ TW4-01, 6 June 2023, p.1929; TW4-10, 1 May 2023; Section V.H.3.b.

⁹⁰ SITF00014088-00014120RED, p.SITF00014098; SITF00013833-00013847RED4, p.SITF00013838; SITF00013736-SITF00013800RED5, pp.SITF00013743, SITF00013763; TW4-01, 31 May 2023, p.1559; TW4-01, 6 June 2023, p.1930.

⁹¹ W04754, 23 October 2023, pp.2928, 2994; 060124-TR-ET Part 1 Revised RED, pp.33-34; W04280, 28 November 2023, pp.3770, 3781-3782; 066888-TR-ET Part 1 Revised, p.104.

⁹² W04754, 24 October 2023, pp.3093, 3096; 077978-077982-ET Revised, p.077981.

operational commanders to lead KLA forces in battle, which included Ruzhdi SARAMATI.⁹³

C. Layout of the KMF

31. The KMF had an entrance gate,⁹⁴ accessible from the road going to Krumë,⁹⁵ with a guard booth.⁹⁶ The gate was guarded at all times by KLA soldiers.⁹⁷ A fence surrounded the rectangular-shaped premises.⁹⁸

⁹³ W04754, 23 October 2023, pp.2999-3001; Section III.A.

⁹⁴ TW4-01, 30 May 2023, pp.1409, 1411, REG00954-REG00954; TW4-10, 1 May 2023, pp.1040-1043, REG00947-REG00947, 065594-065596, p.065596; 066888-TR-ET Part 1 Revised, pp.99-100, 066883-066886, p.2; W04754, 23 October 2023, pp.2924, 2948, 083525-083534RED, p.083525, REG00974-REG00974; 060664-TR-ET Part 3, pp.2-3, 5; 060653-060663-ET, pp.060653-060654; W03887, 20 November 2023, pp.3261-3262, 075138-02 from 12:41 to 13:01; **Annex 1, figure 3.**

⁹⁵ 060653-060663-ET, p.060653.

⁹⁶ TW4-10, 1 May 2023, pp.1043-1045; 065597-065612, p.065597, REG00947-REG00947; W04754, 23 October 2023, pp.2962-2963, REG00975-REG00975; **Annex 1, figure 4.**

⁹⁷ TW4-10, 1 May 2023, pp.1037-1038; DW4-05, 3 October 2023, p.2902.

⁹⁸ SPOE40010264-40010559, p.SPOE40010267; 083525-083534RED, p.083534; 060664-TR-ET Part 3, p.2.

32. Past the entrance gate, on the left-hand side,⁹⁹ there was a two-storey building,¹⁰⁰ referred to as the '**Command Building**',¹⁰¹ where KLA soldiers and officers slept,¹⁰² and had office space.¹⁰³

33. On the ground floor of the Command Building there was a narrow corridor,¹⁰⁴ offices used by the mobilisation officers,¹⁰⁵ and sleeping quarters.¹⁰⁶ A staircase led to the first floor,¹⁰⁷ which hosted the operations centre¹⁰⁸ and a number of other offices

⁹⁹ TW4-01, 30 May 2023, p.1410.

¹⁰⁰ W04754, 23 October 2023, p.2925; TW4-10, 1 May 2023, pp.1045-1046; 065597-065612, p.065597.

¹⁰¹ W04754, 23 October 2023, pp.2924-2925, 083525-083534RED, p.083525; TW4-01, 30 May 2023, pp.1412-1413, 1450, REG00954-REG00954; 060664-TR-ET Part 3, p.9; 060653-060663-ET, p.060653; 060653-060663, p.060655; W03887, 20 November 2023, p.3178; REG00983-REG00983. The Command Building was also referred to as 'headquarters': TW4-01, 30 May 2023, p.1450; W03887, 20 November 2023, p.3178; **Annex 1, figure 5.**

¹⁰² W04754, 23 October 2023, p.2926; TW4-10, 1 May 2023, pp.1037-1038, 1041-1042 1045, REG00947-REG00947; 082892-TR-AT-ET Part 9 RED2, p.15; 060664-TR-ET Part 3, pp.1-2.

¹⁰³ W04754, 23 October 2023, pp.2922, 2949, REG00974-REG00974; 066888-TR-ET Part 1 Revised, p.103; TW4-01, 30 May 2023, p.1412; 060124-TR-ET Part 1 Revised RED, p.44; W03887, 20 November 2023, p.3181.

¹⁰⁴ TW4-01, 30 May 2023, p.1467; SITF00013852-00013869RED6, p.SITF00013856; SITF00018740-00018767RED, p.SITF00018744; W04754, 23 October 2023, p.2925.

¹⁰⁵ W04754, 23 October 2023, pp.2925, 2928; 060664-TR-ET Part 3, pp.14-15; 060653-060663-ET, p.060653; SITF00013852-00013869RED6, p.SITF00013856.

¹⁰⁶ W04754, 23 October 2023, p.2925.

¹⁰⁷ W04754, 23 October 2023, p.2925; SITF00013852-00013869RED6, p.SITF00013856; SITF00018740-00018767RED, p.SITF00018741.

¹⁰⁸ W04754, 23 October 2023, p.2925.

and sleeping quarters.¹⁰⁹ An infirmary¹¹⁰ and a 'lawyer's office'¹¹¹ were also located inside the Command Building. Next to the Command Building was a kitchen or canteen.¹¹²

34. Opposite the entrance gate there was a warehouse or 'depot'¹¹³ a part of which was used to store uniforms ('**Uniforms Warehouse**').¹¹⁴ Food was stored in another part of the warehouse, next to the Uniforms Warehouse ('**Food Warehouse**').¹¹⁵ The two warehouses were part of the same building and connected internally,¹¹⁶ with a single entrance from the KMF's courtyard.¹¹⁷ **W03887 (Zijadin Hoxha)**, a KLA member

¹⁰⁹ W04754, 23 October 2023, pp.2925-2926, 2949, REG00974-REG00974; TW4-10, 1 May 2023, pp.1046-1047, 1049; SITF00013852-00013869RED6, p.SITF00013856.

¹¹⁰ TW4-01, 30 May 2023, pp.1412, 1451; TW4-10, 1 May 2023, p.1047; SITF00013852-00013869RED5, p.SITF00013856; 060124-TR-ET Part 1 Revised RED, p.46; 060124-TR-ET Part 2 Revised RED4, p.16; W03887, 20 November 2023, pp.3183-3188; REG00984-REG00984; SPOE00185335-00185363RED3, p.SPOE00185343; W04280, 28 November 2023, p.3824; **Annex 1, figure 6.**

¹¹¹ 082892-TR-AT-ET Part 9 RED2, p.16. *See also* SITF00014088-00014120RED, p.SITF00014099.

¹¹² 082892-TR-AT-ET Part 9 RED2, p.15; 060664-TR-ET Part 3, p.2; 060653-060663-ET, p.060653; TW4-01, 30 May 2023, p.1410, REG00947-REG00947; W04754, 23 October 2023, p.2949; W03887, 20 November 2023, pp.3190, 3266, REG00985-REG00985, 075138-02, 13:14; **Annex 1, figure 7.**

¹¹³ TW4-01, 30 May 2023, p.1409; DW4-05, 3 October 2023, p.2856; TW4-10, 1 May 2023, p.1050; 066888-TR-ET Part 1 Revised, p.100; 066883-066886, p.2; 060664-TR-ET Part 3, pp.4, 6; 060653-060663-ET, p.060653; W03887, 20 November 2023, pp.3178, 3193, 3195-3196, REG00982-REG00982, REG00986-REG00986, REG00987-REG00987.

¹¹⁴ TW4-01, 30 May 2023, pp.1407, 1411-1412, REG00954-REG00954; TW4-10, 1 May 2023, p.1050; TW4-10, 2 May 2023, p.1145; DW4-05, 3 October 2023, p.2856, REG00968-REG00968; W04754, 23 October 2023, pp.2956-2957; 066888-TR-ET Part 1 Revised, pp.100-101; **Annex 1, figure 8.**

¹¹⁵ W04754, 23 October 2023, pp.2950, 2957; **Annex 1, figure 9.**

¹¹⁶ TW4-01, 30 May 2023, pp.1411-1412; DW4-05, 3 October 2023, pp.2861, 2867-2868; W03887, 20 November 2023, pp.3196, 3199, REG00987-REG00987.

¹¹⁷ W04754, 23 October 2023, pp.2956-2957; DW4-05, 3 October 2023, pp.2861, 2867-2868; W03887, 20 November 2023, p.3195, REG00987-REG00987.

in charge of weapons maintenance at the KMF¹¹⁸ during the Indictment Period,¹¹⁹ had a small weapons repair workshop inside the Food Warehouse.¹²⁰ All of the KMF buildings overlooked an internal courtyard.¹²¹

35. To the right of the entrance gate there was another warehouse (**Dormitory Warehouse**), which hosted sleeping quarters for newly mobilised KLA soldiers.¹²² In front of it, always on the right-hand side of the KMF entrance gate,¹²³ rose a long and narrow building protruding inside the courtyard. As illustrated below, this building was used as a prison (**Detention Building**).¹²⁴ There was a toilet located outside the

¹¹⁸ W03887, 20 November 2023, p.3175; W04754, 23 October 2023, p.2953.

¹¹⁹ W03887, 20 November 2023, pp.3173-3174; W03887, 21 November 2023, pp.3317-3319.

¹²⁰ W03887, 20 November 2023, pp.3196-3199, REG00988-REG00988; W03887, 21 November 2023, pp.3366-3367, REG00994-REG00994.

¹²¹ TW4-10, 1 May 2023, p.1052, REG00947-REG00947; 060664-TR-ET Part 3, pp.7, 10, 060653-060663, pp.060653, 060656.

¹²² 060124-TR-ET Part 1 Revised RED, p.54, 065437-065439 and 065437-065439-ET; W04754, 23 October 2023, p.2957, D00044; W04754, 24 October 2023, pp.3047-3048, SPOE40010264-40010559, p.SPOE40010281; **Annex 1, figure 10.**

¹²³ TW4-01, 30 May 2023, p.1410.

¹²⁴ TW4-10, 1 May 2023, p.1101; 060664-TR-ET Part 3, p.2; **Annex 1, figure 11**; Sections V.A. and B.

Detention Building, in the Dormitory Warehouse.¹²⁵ Based on the evidence above, the relevant locations within the KMF are identified in Figure 12 of Annex 1.¹²⁶

D. Locations where crimes were committed

36. The crimes charged in the Indictment principally took place in two locations within the KMF: the Command Building and the Detention Building.

37. **TW4-01**, a Kosovar Albanian [REDACTED],¹²⁷ who was detained at the KMF between [REDACTED] May 1999¹²⁸ and [REDACTED] June 1999,¹²⁹ identified the room where he and other victims were mistreated on or around 20 May 1999 (**'20 May 1999 Incident'**),¹³⁰ as 'the third office' on the ground floor of the Command Building (**'Office Room'**).¹³¹ **W01448** similarly stated that, as one entered the Command

¹²⁵ TW4-01, 30 May 2023, pp.1445-1446, REG00954-REG00954, REG00955-REG00955; SITF00013852-00013869RED6, p.SITF00013858; 060664-TR-ET Part 3, p.27; 060664-TR-ET Part 4 RED3, pp.2-4, 060653-060663, p.060662, 108850-TR-ET Part 1 RED, pp.9-10, 108837-108849RED, p.108847, 060664b Part 4 at 05:40 to 07:29; SITF00013736-SITF00013800RED5, p.SITF00013749; 108816-108825RED, p.108822; Adjudicated Facts List, fact no.55; **Annex 1, figure 21**. There may have been another toilet within the premises of the KMF, *see* W03887, 21 November 2023, pp.3377-3378. However, as illustrated by the evidence cited above in this footnote, the detainees held in the Detention Building used the toilets placed in the Dormitory Warehouse.

¹²⁶ The Detention Building no longer existed when the photo in SPOE00330362-00330362 was taken, but its existence, shape, and position as superimposed on SPOE00330364-00330364 are confirmed by 065437-065439, p.065437.

¹²⁷ TW4-01, 30 May 2023, p.1387.

¹²⁸ TW4-01, 30 May 2023, pp.1388, 1418-1419.

¹²⁹ TW4-01, 30 May 2023, p.1422; TW4-01, 31 May 2023, p.1539.

¹³⁰ Section V.D.

¹³¹ TW4-01, 30 May 2023, pp.1450-1453, 1463, REG00956-REG00956; **Annex 1, figure 13**.

Building, on the right-hand side, there were several rooms, the third of which 'was the room where they beat us'.¹³² **W04733** corroborates TW4-01 and W01448's evidence by stating that this room overlooked the internal courtyard of the KMF,¹³³ and was on the ground floor.¹³⁴ TW4-01, W01448 and W04733 also provided consistent descriptions of the furniture in this room which included benches,¹³⁵ a table,¹³⁶ chairs,¹³⁷ and a bed.¹³⁸

38. **W03887** identified that room as the office of Latif FEJZULLAHU,¹³⁹ where he and other KLA members gathered on or around 2 June 1999, after Abdurrahman GERDELLAJ's funeral ceremony.¹⁴⁰ Its interior can be seen in a video shot by

¹³² SITF00013852-00013869RED6, p.SITF00013856; U003-2231-U003-2231-ET; **Annex 1, figure 14.**

¹³³ 082892-TR-AT-ET Part 6, pp.6-7, 10, 20-21.

¹³⁴ 082892-TR-AT-ET Part 6, pp.20-21. W04733 stated this room had a sign reading 'the Lawyer' on the door: 082892-TR-AT-ET Part 4 RED3, pp.4, 23-24.

¹³⁵ TW4-01, 30 May 2023, p.1453; TW4-01, 2 June 2023, p.1646; 082892-TR-AT-ET Part 4 RED3, p.24.

¹³⁶ TW4-01, 2 June 2023, p.1646; SITF00013852-00013869RED6, p.SITF00013856; 082892-TR-AT-ET Part 4 RED3, p.24.

¹³⁷ TW4-01, 30 May 2023, p.1452; TW4-01, 2 June 2023, p.1646; 082892-TR-AT-ET Part 4 RED3, p.24.

¹³⁸ SITF00013736-SITF00013800RED5, p.SITF00013743 (W01448 stated that Sabit GECI was lying on the bed in the Office Room during the 20 May 1999 Incident); 082892-TR-AT-ET Part 4 RED3, pp.3, 25-26.

¹³⁹ *Cfr.* marking in blue in REG00956-REG00956 and number 3 in sketch U003-2231-U003-2231-ET with number 2 in REG00983-REG00983; **Annex 1, figures 13-15.**

¹⁴⁰ W03887, 21 November 2023, pp.3289-3292; W03887, 22 November 2023, pp.3456-3557; REG00983-REG00983, no.2.

W03887,¹⁴¹ which clearly shows the table, the chairs behind the table, and the bed.¹⁴²

Next to this room, there was another room where detainees were interrogated.¹⁴³

39. One of the rooms in the upper floor of the Command Building ('**Command Building Detention Room**')¹⁴⁴ was used to detain a number of individuals, namely W04733, W01448 and [REDACTED],¹⁴⁵ before they were moved to the Detention Building.

40. The Detention Building, a one-storey building¹⁴⁶ located on the right-hand side of the courtyard once one entered the premises through the gate,¹⁴⁷ stood 40 to 50 meters¹⁴⁸ from the Command Building. Several witnesses recognised the Detention

¹⁴¹ 078252-01, 00:08 to 16:07.

¹⁴² See 078252-01, 00:08 to 16:07. *Cfr.* marking in blue in REG00956-REG00956 and number 3 in sketch U003-2231-U003-2231-ET with number 2 in REG00983-REG00983; **Annex 1, figure 8**; Section III.C.

¹⁴³ SITF00013852-00013869RED6, p.SITF00013856; U003-2231-U003-2231-ET; SITF00014088-00014120RED, pp.SITF00014099-SITF00014100.

¹⁴⁴ **Annex 1, figure 16.**

¹⁴⁵ SITF00018740-00018767RED, p.SITF00018741; SITF00013852-00013869RED6, p.SITF00013856; TW4-01, 30 May 2023, p.1471; TW4-01, 6 June 2023, p.1915. Section V.A.

¹⁴⁶ TW4-10, 1 May 2023, p.1052, REG00947-REG00947; TW4-01, 30 May 2023, p.1423; 108826-TR-ET Part 1 RED, p.5; TW4-11, 2 May 2023, p.1198.

¹⁴⁷ TW4-11, 2 May 2023, pp.1196-1198; TW4-01, 30 May 2023, pp.1420-1421, REG00954-REG00954; SITF00013852-00013869RED6, p.SITF00013868; U003-2231-U003-2231-ET.

¹⁴⁸ SPOE00330365-00330365; TW4-01, 31 May 2023, pp.1554-1555; 108850-TR-ET Part 1 RED, p.11; SITF00013736-SITF00013800RED5, p.SITF00013748. *See also* TW4-10, 1 May 2023, p.1054.

Building in a picture taken in 2009.¹⁴⁹ While this building no longer exists today,¹⁵⁰ it can be seen in a planimetry of the KMF dated January 1996,¹⁵¹ between the buildings marked with numbers 2 and 4.¹⁵²

41. An entrance to the side of the Detention Building¹⁵³ led inside, where there were a corridor and three rooms¹⁵⁴ ('Room 1', 'Room 2' and 'Room 3').¹⁵⁵ The corridor separated Rooms 1 and 2.¹⁵⁶ Rooms 1 and 3 were used to hold detainees,¹⁵⁷ while Room

¹⁴⁹ TW4-01, 30 May 2023, pp.1423-1424; TW4-10, 1 May 2023, pp.1054-1055, 1101, REG00947-REG00947; TW4-11, 2 May 2023, pp.1200-1205; 108837-108849RED, p.108847; 108850-TR-ET Part 1 RED, pp.8-9; 074390-074391, p.074390; **Annex 1, figure 11.**

¹⁵⁰ SPOE40010264-40010559, pp.SPOE40010273, SPOE40010282, SPOE40010285, SPOE40010290, SPOE40010291; **Annex 1, figure 17.**

¹⁵¹ 065437-065439, p.065437; **Annex 1, figure 18.** See also 060653-060663, p.060653; 060664-TR-ET Part 4 RED3, p.2, 060664B Part 4 at 04:28 to 04:34.

¹⁵² The shapes of the buildings in 074390-074391, p.074390 and in 065437-065439, p.065437 further confirm that they are the same building.

¹⁵³ TW4-01, 30 May 2023, pp.1426-1429, REG00955-REG00955; 108850-TR-ET Part 1 RED, p.6, 060653-060663, p.060661; 060664-TR-ET Part 4 RED3, pp.1-2; 108816-108825RED, p.108822; TW4-10, 1 May 2023, p.1055, REG00950-REG00950; 108850-TR-ET Part 1 RED, pp.8-9; 108837-108849RED, p.108847; REG00951-REG00951.

¹⁵⁴ TW4-01, 30 May 2023, pp.1421, 1426, 1428; SITF00013852-00013869RED6, p.SITF00013858; 064716-TR-ET Part 5 RED4, pp.7-8.

¹⁵⁵ 060664-TR-ET Part 3, pp.4-6; 060653-060663-ET, p.060653; SITF00013852-00013869RED6, p.SITF00013858; **Annex 1, figure 19.**

¹⁵⁶ TW4-01, 30 May 2023, p.1428, REG00955-REG00955; 108850-TR-ET Part 1 RED, pp.6-7; SITF00013852-00013869RED6, p.SITF00013858; TW4-11, 2 May 2023, pp.1198-1199.

¹⁵⁷ TW4-01, 30 May 2023, pp.1421, 1426-1428. The witnesses are consistent with TW4-01 in stating that the Detention Building had two detention rooms and a corridor: 060664-TR-ET Part 3, pp.4-6; SITF00013852-00013869RED6, p.SITF00013858; 108826-TR-ET Part 1 RED, p.6; 108816-108825RED, p.108822; 108837-108849RED, p.108839.

2 'was mostly used to beat people up'.¹⁵⁸ The rooms measured between 3 to 5 meters per side.¹⁵⁹ The windows had bars,¹⁶⁰ but no glass.¹⁶¹

42. The window on the short side of Room 1 overlooked the internal courtyard, and from there one could see the entire KMF.¹⁶² The door to Room 1 was made of wooden planks with a frame, which were slightly detached so it was possible to see through the gaps.¹⁶³ A guard was stationed inside the building, between the two prison rooms.¹⁶⁴ TW4-01,¹⁶⁵ TW4-02,¹⁶⁶ and W01448¹⁶⁷ provided almost identical sketches of the internal layout of the Detention Building.

¹⁵⁸ TW4-01, 30 May 2023, pp.1421, 1424-1425, 074390-074391, p.074391, REG00954-REG00954, REG00955-REG00955.

¹⁵⁹ TW4-01, 30 May 2023, pp.1430, 1432; TW4-01, 31 May 2023, p.1529; TW4-11, 2 May 2023, p.1199; SITF00013736-SITF00013800RED5, pp.SITF00013748-SITF00013749; TW4-10, 1 May 2023, p.1056.

¹⁶⁰ TW4-01, 30 May 2023, p.1431; TW4-10, 1 May 2023, p.1055, 074390-074391, p.1; 060664-TR-ET Part 3, pp.25-26; SITF00013736-SITF00013800RED5, p.SITF00013749; SITF00016140-00016220RED3, p.SITF00016147; TW4-08, 27 March 2023, p.683.

¹⁶¹ TW4-01, 30 May 2023, p.1430; TW4-08, 27 March 2023, p.683.

¹⁶² TW4-01, 30 May 2023, pp.1423-1424; 074390-074391, p.074390.

¹⁶³ TW4-01, 30 May 2023, pp.1426-1427, 1448; TW4-01, 31 May 2023, p.1524.

¹⁶⁴ TW4-01, 30 May 2023, p.1446; TW4-11, 2 May 2023, p.1207; 060664-TR-ET Part 3, pp.4-6, 060653-060663-ET, p.060653; 108850-TR-ET Part 1 RED, p.7; SITF00013852-00013869RED5, p.SITF00013858; U003-2231-U003-2231-ET.

¹⁶⁵ **Annex 1, figure 19.**

¹⁶⁶ **Annex 1, figure 23.**

¹⁶⁷ **Annex 1, figure 20.**

IV. THE ACCUSED

A. Background

43. Pjetër SHALA (**'Accused'**), son of Ndue,¹⁶⁸ was born in Prizren, Kosovo, on 17 September 1963.¹⁶⁹ During the war, he was known by the *nom de guerre* 'Ujku'/wolf/.¹⁷⁰ On 3 March 2006 he acquired Belgian citizenship.¹⁷¹

44. In the 1980s, the **Accused** spent four years in Serb prisons for his involvement in separatist activities.¹⁷² Released in 1987, he worked in construction around Kosovo.¹⁷³ In the 1990s, he joined groups advocating for Kosovo's liberation through the use of force.¹⁷⁴ Starting in 1992-1993, the **Accused** began carrying out armed actions against Serb police installations.¹⁷⁵

¹⁶⁸ T000-2742-T000-2742-Alb and Eng Transcript-A, p.10; U009-9245-U009-9258-ET, p.1.

¹⁶⁹ 066864-TR-ET Part 1 Revised 1, p.3; U009-9245-U009-9258-ET, p.1.

¹⁷⁰ 074117-074129-ET Revised 1, p.074120.

¹⁷¹ 074117-074129-ET Revised 1, p.074120.

¹⁷² T001-0105-1-A-TR, p.22; 066864-TR-ET Part 1 Revised 1, pp.46-51; U009-9230-U009-9235-ET, p.U009-9230.

¹⁷³ 066864-TR-ET Part 1 Revised 1, pp.56-58, 69.

¹⁷⁴ T000-2742-T000-2742-Alb and Eng Transcript-A, pp.22-29; 066864-TR-ET Part 1 Revised 1, pp.58-60.

¹⁷⁵ 066864-TR-ET Part 1 Revised 1, pp.65-70.

B. KLA membership in 1998 in the Dukagjini area and move to Belgium in summer of the same year

45. In 1996 and 1997, the **Accused** underwent some military training in Albania.¹⁷⁶ In March 1998, shortly after the killing of Adem JASHARI, he decided to join the KLA,¹⁷⁷ and entered Kosovo with a group of 30 to 50 people.¹⁷⁸ The **Accused** went to Jablanica/Jabllanicë,¹⁷⁹ where the KLA was already organised.¹⁸⁰

46. In Jablanica/Jabllanicë, Nazmi BRAHIMAJ appointed the **Accused** to lead a military police unit.¹⁸¹ The **Accused** received orders from and reported to Nazmi BRAHIMAJ.¹⁸²

47. The **Accused** enjoyed freedom of movement within the Dukagjini region.¹⁸³ His responsibilities included organising people to dig trenches,¹⁸⁴ addressing disputes

¹⁷⁶ T000-2742-T000-2742-Alb and Eng Transcript-A, pp.35-36; T001-0105-1-A-TR, pp.33-34; 066864-TR-ET Part 2 Revised 1, pp.2, 10-11, 18.

¹⁷⁷ T000-2745-T000-2745-Alb and Eng Transcript-B, p.1; T001-0105-1-A-TR, pp.32-33; 066864-TR-ET Part 2 Revised 1, pp.13-14.

¹⁷⁸ T000-2742-T000-2742-Alb and Eng Transcript-A, pp.44-45; 066864-TR-ET Part 2 Revised 1, pp.21, 24-26, 36-39.

¹⁷⁹ T000-2742-T000-2742-Alb and Eng Transcript-A, pp.32-34, 51.

¹⁸⁰ T000-2745-T000-2745-Alb and Eng Transcript-B, pp.3-4; 066864-TR-ET Part 1 Revised 1, pp.49-51.

¹⁸¹ 066845-066855-ET Revised, p.066853; 066864-TR-ET Part 2 Revised 1, pp.83-88, 119; U009-9230-U009-9235-ET, p.U009-9230; W04754, 23 October 2023, p.2978.

¹⁸² T000-2742-T000-2742-Alb and Eng Transcript-3-B, pp.8-11, 21; T001-0105-1-A-TR, p.57.

¹⁸³ U009-9399-U009-9402-ET, p.4; T000-2748-T000-2748-Alb and Eng Transcript-1, p.42; 066864-TR-ET Part 1 Revised 1, pp.19-20. *See also* U009-9230-U009-9235-ET, p.1.

¹⁸⁴ T000-2742-T000-2742-Alb and Eng Transcript-3-B, pp.6, 22.

amongst villagers, overseeing the arrival of recruits and weapons,¹⁸⁵ and conducting interrogations.¹⁸⁶ He slept in Jablanica/Jabllanicë, at the house of Nazmi BRAHIMAJ, and in other places.¹⁸⁷

48. On 2 July 1998, Ramush HARADINAJ re-assigned the **Accused** as a commander to the village of Dujake/Dujak.¹⁸⁸ In August 1998, the **Accused** left for Belgium.¹⁸⁹ He did not re-enter Kosovo until 2007.¹⁹⁰

C. Return to Albania in March 1999

49. At the end of March 1999, the **Accused** travelled back from Belgium to Albania. On or around 22 or 23 March 1999, in Durrës,¹⁹¹ a member of the KLA directed him to

¹⁸⁵ T000-2742-T000-2742-Alb and Eng Transcript-3-B, pp.10-11.

¹⁸⁶ T000-2742-T000-2742-Alb and Eng Transcript-3-B, pp.28-30.

¹⁸⁷ T000-2742-T000-2742-Alb and Eng Transcript-3-B, pp.1-4, 26-27; T001-0105-1-A-TR, pp.52-56; 066864-TR-ET Part 2 Revised 1, pp.51, 54, 82.

¹⁸⁸ T000-2745-T000-2745-Alb and Eng Transcript-A, pp.13-14; T001-0105-1-A-TR, p.52; 066864-TR-ET Part 1 Revised 1, pp.23-26; U009-9399-U009-9402-ET, p.1; 066864-TR-ET Part 2 Revised 1, p.119; 066888-TR-ET Part 1 Revised, pp.18-20, 29-30; 066843-066855-ET Revised, p.066847; 066866-066882-ET Revised, p.066870.

¹⁸⁹ T000-2748-T000-2748-Alb and Eng Transcript-1, pp.27-29; 066888-TR-ET Part 1 Revised, pp.5-6; 066866-066882-ET Revised, p.066869.

¹⁹⁰ T000-2748-T000-2748-Alb and Eng Transcript-1, p.39; 074117-074129-ET Revised 1, pp.074121, 074123. *See also* 066888-TR-ET Part 1 Revised, p.118.

¹⁹¹ 066888-TR-ET Part 1 Revised, pp.80-81.

go to Kukës,¹⁹² to join KLA Brigade 128.¹⁹³ The **Accused** went first to Tirana,¹⁹⁴ and then to the KMF.¹⁹⁵ He remained in Albania for approximately four months, returning to Belgium after Serb forces left Kosovo.¹⁹⁶ During this time, the **Accused** continued to go by the nickname 'Ujku'.¹⁹⁷ Evidence on the **Accused's** presence and criminal conduct at the KMF during the Indictment Period is discussed in Sections V.A to V.H. below.

D. Accused's role and responsibilities in Albania in 1999

50. In Durrës, the **Accused** had understood that he would assume command of Brigade 128.¹⁹⁸ However, once in Kukës, he realised that that was not going to be the case,¹⁹⁹ as Ruzhdi SARAMATI was already there, from the end of March 1999, in command of the KLA soldiers mobilised at the KMF.²⁰⁰

¹⁹² T000-2748-T000-2748-Alb and Eng Transcript-1, pp.29-31; 074117-074129-ET Revised 1, p.074121; 066864-TR-ET Part 1 Revised 1, pp.35-36, 42-43; U009-9398-U009-9398-ET; 066888-TR-ET Part 1 Revised, pp.67, 71-72. *See also* W04754, 23 October 2024, pp.2966-2967.

¹⁹³ 066845-066855-ET Revised, p.066848; 066888-TR-ET Part 1 Revised, p.76.

¹⁹⁴ 066888-TR-ET Part 1 Revised, p.98.

¹⁹⁵ 066888-TR-ET Part 1 Revised, pp.83-84, 88, 98-103; 066883-066886, pp.066884-066886.

¹⁹⁶ 066888-TR-ET Part 1 Revised, p.121.

¹⁹⁷ 066888-TR-ET Part 1 Revised, pp.132-133, 146.

¹⁹⁸ 066888-TR-ET Part 1 Revised, pp.77-78.

¹⁹⁹ 066888-TR-ET Part 1 Revised, pp.79-83, 110-112.

²⁰⁰ 066888-TR-ET Part 1 Revised, p.83; W04754, 23 October 2023, p.2999; 060124-TR-ET Part 1 Revised RED, pp.18-19,21-23, 36-37; Section III.B.

51. The **Accused's** *de jure* or *de facto* membership in a specific unit of the KLA is not determinative of his criminal responsibility as charged in the Indictment. The evidence shows, however, that upon his arrival in Kukës, he was associated with Ruzhdi SARAMATI and the military formation²⁰¹ which became known as Brigade 128.²⁰²

52. The **Accused** did not hold a particular rank during the Indictment Period.²⁰³ While at the KMF, however, the **Accused** enjoyed a significant degree of freedom of movement. Unlike other soldiers,²⁰⁴ the **Accused** could move in and out of the KMF without having to request permission.²⁰⁵ Inside the KMF, he had access to the Command Building,²⁰⁶ which the **Accused** defined as 'the very heart of the headquarters'.²⁰⁷ Evidence of the **Accused's** involvement in the charged crimes, discussed below, also shows the **Accused's** close association with JCE members Sabit

²⁰¹ W04754, 24 October 2023, pp.3069, 3092-3093; W04754, 23 October 2023, pp.2968, 2977-2978; 060124-TR-ET Part 2 Revised RED4, pp.138-141, 146-147; U009-9245-U009-9258-ET, p.U009-9256; U009-9230-U009-9235-ET, p.U009-9230.

²⁰² Section III.B.

²⁰³ 060124-TR-ET Part 2 Revised RED4, pp.147-148; W04754, 23 October 2023, pp.2978, 2980-2981. However, W04754 understood that he was the commander of a military police platoon while in Burrel, before the Indictment Period (W04754, 23 October 2023, pp.2978, 2980).

²⁰⁴ 060124-TR-ET Part 2 Revised RED4, pp.14-15; TW4-10, 1 May 2023, p.1118.

²⁰⁵ TW4-10, 1 May 2023, pp.1110, 1116-1119; 066866-066882-ET Revised, p.066880.

²⁰⁶ 066888-TR-ET Part 1 Revised, pp.180-181, 188.

²⁰⁷ 066888-TR-ET Part 1 Revised, pp.188-189.

GECI and Xhemshit KRASNIQI,²⁰⁸ who were amongst the most powerful individuals at the KMF,²⁰⁹ and directly involved with the arrests, detentions, and mistreatments.²¹⁰

V. THE CHARGES ARE PROVEN BEYOND REASONABLE DOUBT

A. The victims individual accounts: Abduction, detention, mistreatment

1. TW4-01 [REDACTED] were arrested, detained, and mistreated at the KMF

53. TW4-01 is a Kosovar Albanian who in May 1999 [REDACTED], Kosovo.²¹¹ Around [REDACTED] May 1999,²¹² [REDACTED].²¹³

²⁰⁸ Sections V.D, V.F, and V.H.

²⁰⁹ SITF00014088-00014120RED, pp.SITF00014097-SITF00014098; TW4-01, 31 May 2023, p.1559; TW4-01, 6 June 2023, p.1929.

²¹⁰ Sections V.A-V.F.

²¹¹ TW4-01, 30 May 2023, pp.1387-1388.

²¹² The exact timing of this event is further discussed in Section V.D., together with the evidence of W04733 and W01448.

²¹³ TW4-01, 30 May 2023, pp.1388-1392, 1394; SITF00374132-00374148RED2, p.SITF00374134.

54. [REDACTED].²¹⁴ [REDACTED].²¹⁵ [REDACTED],²¹⁶ [REDACTED].²¹⁷
[REDACTED]²¹⁸ – [REDACTED],²¹⁹ [REDACTED].²²⁰

55. [REDACTED].²²¹ [REDACTED].²²² While TW4-01 [REDACTED], the **Accused** went in and out of the KMF.²²³

56. [REDACTED] KLA military policemen arrested TW4-01, [REDACTED].²²⁴
[REDACTED].²²⁵ TW4-01 was refused an explanation for his arrest.²²⁶ [REDACTED].²²⁷
TW4-01 was mistreated.²²⁸

²¹⁴ TW4-01, 30 May 2023, pp.1394-1395; SITF00374132-00374148RED2, p.SITF00374136.

²¹⁵ TW4-01, 30 May 2023, p.1396.

²¹⁶ TW4-01, 30 May 2023, pp.1396-1397; SPOE00185335-00185363RED3, p.SPOE00185341.

²¹⁷ TW4-01, 30 May 2023, pp.1397, 1401-1403; TW4-10, 1 May 2023, p.1074.

²¹⁸ Section V.H.1.

²¹⁹ TW4-01, 30 May 2023, pp.1407-1408; TW4-10, 1 May 2023, pp.1074-1075.

²²⁰ TW4-01, 30 May 2023, p.1477; TW4-01, 2 June 2023, p.1690; TW4-01, 6 June 2023, pp.1925-1926.

²²¹ TW4-01, 30 May 2023, pp.1403, 1407, 1411, 1413-1414, 1417-1418; REG00954-REG00954.

²²² TW4-01, 30 May 2023, p.1407; TW4-01, 2 June 2023, p.1684.

²²³ TW4-01, 6 June 2023, pp.1931-1932. *See also* TW4-10, 1 May 2023, pp.1110, 1116-1119.

²²⁴ TW4-01, 30 May 2023, pp.1418-1419.

²²⁵ TW4-01, 30 May 2023, pp.1418-1419.

²²⁶ TW4-01, 30 May 2023, p.1419.

²²⁷ TW4-01, 30 May 2023, p.1419.

²²⁸ TW4-01, 30 May 2023, p.1419.

57. [REDACTED] TW4-01 [REDACTED] brought to Room 1 of the Detention Building,²²⁹ [REDACTED]²³⁰ [REDACTED].²³¹ [REDACTED].²³²

58. Throughout TW4-01's detention, there were between five and 12 detainees held at any one time in Room 1.²³³ They included Roma prisoners, a person [REDACTED],²³⁴ W04733,²³⁵ and a man from Drenica – deceased at the time of TW4-01's testimony – who had come from Germany to Durrës, who was freed by International Kosovo Forces ('KFOR') [REDACTED],²³⁶ and who was in fact W01448.²³⁷ TW4-01 also recalls two sisters from Đakovica/Gjakovë in their early twenties who were detained in Room 3 of the Detention Building,²³⁸ where [REDACTED].²³⁹ TW4-01 testified that people were held on account of having conducted business, or even just socialised, with Serbs.²⁴⁰

²²⁹ TW4-01, 30 May 2023, pp.1420-1429, REG00954-REG00954, REG00955-REG00955; 074390-074391.

²³⁰ TW4-01, 30 May 2023, p.1422.

²³¹ TW4-01, 31 May 2023, pp.1529, 1532.

²³² TW4-01, 30 May 2023, pp.1421-1422.

²³³ TW4-01, 30 May 2023, p.1431; TW4-01, 6 June 2023, p.1917.

²³⁴ TW4-01, 30 May 2023, pp.1432-1434. *See also* U003-2232-U003-2232-ET, where W01448 listed the names of the other people detained with him, including [REDACTED].

²³⁵ TW4-01, 30 May 2023, p.1438; TW4-01, 5 June 2023, pp.1811-1814; 059113-059144, pp.059115, 059127. *See also* Section V.A.3.

²³⁶ TW4-01, 30 May 2023, p.1440.

²³⁷ Section V.A.4.

²³⁸ TW4-01, 31 May 2023, pp.1565-1567. TW4-04, who was also detained [REDACTED], *see* 064716-TR-ET Part 5 RED4, p.28.

²³⁹ TW4-01, 30 May 2023, p.1434

²⁴⁰ TW4-01, 31 May 2023, pp.1555-1556.

59. TW4-01 [REDACTED] were kept in harsh and unsanitary conditions, with inadequate amounts of food being provided to them.²⁴¹ [REDACTED].²⁴² TW4-01 [REDACTED], like the other detainees held at the KMF, were also routinely beaten, harassed, and humiliated.²⁴³ Three incidents of mistreatment of TW4-01, [REDACTED] are discussed in specific sections of this brief in light of their particular brutality and the direct participation of the **Accused**.²⁴⁴ [REDACTED].²⁴⁵

60. [REDACTED],²⁴⁶ [REDACTED].²⁴⁷ [REDACTED].²⁴⁸ [REDACTED].²⁴⁹ [REDACTED].²⁵⁰ [REDACTED].²⁵¹

²⁴¹ Evidence on the conditions in the Detention Building is discussed in Section V.B.

²⁴² TW4-01, 30 May 2023, p.1447.

²⁴³ Evidence of mistreatments is discussed in Section V.C.

²⁴⁴ [REDACTED].

²⁴⁵ [REDACTED].

²⁴⁶ [REDACTED]: 071136-TR-ET Part 2 RED, p.11; SITF00016140-00016220RED3, pp.SITF00016142, SITF00016148. Despite the variance, TW4-01 remains otherwise reliable and his testimony corroborated.

²⁴⁷ TW4-01, 31 May 2023, pp.1539-1541; TW4-01, 2 June 2023, p.1697.

²⁴⁸ TW4-01, 31 May 2023, p.1540; TW4-01, 2 June 2023, p.1694; SITF00013852-00013869RED6, pp.SITF00013861-SITF00013862.

²⁴⁹ TW4-01, 31 May 2023, p.1541; SITF00013852-00013869RED6, p.SITF00013862.

²⁵⁰ TW4-01, 31 May 2023, pp.1540-1541; TW4-01, 2 June 2023, pp.1698, 1700.

²⁵¹ TW4-01, 31 May 2023, p.1542.

61. [REDACTED].²⁵² [REDACTED].²⁵³ [REDACTED].²⁵⁴

62. After his release, TW4-01 [REDACTED] medical treatment for the injuries suffered in Kukës.²⁵⁵ He did not go [REDACTED] because he was afraid, [REDACTED].²⁵⁶

63. During his detention in Kukës, TW4-01 was counting the minutes left to him before his death.²⁵⁷ Today, TW4-01 still suffers, mentally and physically, from the wounds and harm that the **Accused** and the other JCE members and perpetrators inflicted on him at the KMF.²⁵⁸ His symptoms include [REDACTED].²⁵⁹ His experience in Kukës left a lingering sense of fear in TW4-01, who never feels he is safe.²⁶⁰ Medical professionals who conducted an evaluation of TW4-01 concluded that he suffers from chronic PTSD related to the violence he experienced in 1999.²⁶¹

²⁵² TW4-01, 31 May 2023, pp.1539-1541; TW4-01, 2 June 2023, pp.1697, 1719, REG00957-REG00957, [REDACTED], 050084-01, 02:36 to 02:45; 071136-TR-ET Part 2 RED, pp.11-12; 071142-071313-ET Revised 1 RED, p.071180.

²⁵³ 072508-01, 06:09-06:15; 072508-01-TR-ET.

²⁵⁴ SITF00012895-00012913RED, p.SITF00012910, photograph n.53.

²⁵⁵ TW4-01, 31 May 2023, pp.1553-1554; TW4-01, 5 June 2023, pp.1741-1742.

²⁵⁶ TW4-01, 5 June 2023, pp.1743-1745.

²⁵⁷ TW4-01, 31 May 2023, p.1539.

²⁵⁸ TW4-01, 31 May 2023, p.1570.

²⁵⁹ TW4-01, 31 May 2023, pp.1570, 1572.

²⁶⁰ TW4-01, 31 May 2023, pp.1574, 1577.

²⁶¹ V4010023-V4010044, pp.V4010040-V4010041.

64. [REDACTED].²⁶² TW4-01 testified that he will never be able to leave behind the memories of what happened to him in Kukës.²⁶³

2. TW4-11 was arrested, detained, and mistreated at the KMF

65. TW4-11 is a Kosovar Albanian who worked as a [REDACTED] until the end of April 1999. On [REDACTED] April 1999, under pressure by Serb paramilitaries, TW4-11 and his family left Kosovo for Kukës.²⁶⁴

66. In early to mid-May 1999, TW4-11 and his family were staying [REDACTED], when [REDACTED] and another man appeared and told TW4-11 to go with them to give a statement.²⁶⁵ They brought TW4-11 to the KMF.²⁶⁶

67. Upon arrival to the KMF, TW4-11 was put in Room 1 of the Detention Building,²⁶⁷ where he was held [REDACTED].²⁶⁸ TW4-11 found seven or eight people already in Room 1.²⁶⁹ TW4-11's co-detainees included three musicians of Roma

²⁶² TW4-01, 31 May 2023, p.1569.

²⁶³ TW4-01, 31 May 2023, p.1572; TW4-01, 5 June 2023, p.1760.

²⁶⁴ TW4-11, 2 May 2023, pp.1183-1186.

²⁶⁵ TW4-11, 2 May 2023, pp.1186-1191; SITF00013100-00013122RED3, pp.SITF00013102, SITF00013107, SITF00013115; TW4-11, 3 May 2023, pp.1329-1330.

²⁶⁶ TW4-11, 2 May 2023, pp.1192-1193; 059341-059350, p.059342.

²⁶⁷ TW4-11, 2 May 2023, pp.1193-1199, 1204-1207; TW4-11, 3 May 2023, p.1248; 074390-074391, p.074390; 064716-TR-ET Part 5 RED4, p.31. *See also* Sections V.A.4., V.A.6., and V.A.8.

²⁶⁸ TW4-11, 2 May 2023, pp.1187, 1193, 1195, 1199; TW4-11, 3 May 2023, p.1266.

²⁶⁹ TW4-11, 2 May 2023, p.1207; TW4-11, 3 May 2023, p.1337.

ethnicity,²⁷⁰ W04733,²⁷¹ TW4-01 [REDACTED],²⁷² with the composition changing over time.²⁷³

68. TW4-11's account of the detention conditions and his mistreatment at the KMF are discussed respectively in Sections V.B. and V.C. As discussed in Section V.F, TW4-11 was in Room 1 when [REDACTED] bled to death there after being shot [REDACTED] June 1999.

69. TW4-11 testified that nobody told him the reasons for his detention,²⁷⁴ including when, approximately one month into it, he was brought before **Osman KRYEZIU (W04848)**.²⁷⁵ TW4-11 was ultimately released from the KMF.²⁷⁶

70. TW4-11 felt unsafe at the KMF, and frightened by all the violence he experienced, not knowing what could happen to him.²⁷⁷ This experience had severe negative repercussions on TW4-11's well-being.²⁷⁸

²⁷⁰ TW4-11, 2 May 2023, pp.1208-1209; 059341-059350, p.059348.

²⁷¹ TW4-11, 3 May 2023, pp.1307-1309, 1326-1328; 059341-059350, p.059350.

²⁷² TW4-11, 2 May 2023, pp.1210-1215; 059341-059350, p.059349.

²⁷³ TW4-11, 3 May 2023, pp.1338-1339.

²⁷⁴ TW4-11, 2 May 2023, pp.1187, 1193, 1195; TW4-11, 3 May 2023, pp.1266, 1283-1286, 1336.

²⁷⁵ TW4-11, 3 May 2023, pp.1261-1262, 1265-1267, 1331-1333; SITF00013100-00013122RED3, p.SITF00013119, picture n.74. According to W01448, the reason may have been that he had failed to surrender his work weapons to the KLA, SITF00013736-SITF00013800RED5, p.SITF00013757.

²⁷⁶ TW4-11, 3 May 2023, pp.1260, 1306.

²⁷⁷ TW4-11, 2 May 2023, p.1229; TW4-11, 3 May 2023, p.1259.

²⁷⁸ TW4-11, 3 May 2023, p.1268.

3. W04733 was arrested, detained, and mistreated at the KMF

71. W04733, a Kosovar Albanian living with his family in [REDACTED], worked as a police officer from 1968 until his dismissal at the end of 1997 [REDACTED]. In this capacity, W04733 often visited the village of Jablanica/Jabllanicë.²⁷⁹

72. In April 1999, W04733 and his family fled to Durrës, Albania.²⁸⁰ Shortly after their arrival in Durrës, KLA members, including Xhemshit KRASNIQI, repeatedly visited the home where W04733 and his family had found shelter, harassing them.²⁸¹ On or around 18 May 1999, four KLA soldiers, armed and wearing black uniforms with KLA insignia, kidnapped W04733.²⁸² W04733's family and his landlord at the time reported W04733's abduction to the Albanian authorities and international institutions.²⁸³

73. W04733 was held for two or three days in Romanat, between Durrës and Tirana. On or about 20 May 1999, KLA personnel dressed him in a black KLA uniform

²⁷⁹ 106978-107020, p.107003; U017-4058-U017-4062RED2, p.U0174059; [REDACTED].

²⁸⁰ 082892-TR-AT-ET Part 1 RED3, p.51; SITF00390625-00390626, pp.SITF00390625-SITF00390626.

²⁸¹ SPOE00013793-SPOE00013847RED2, pp.SPOE00013802-SPOE00013803; [REDACTED].

²⁸² 082892-TR-AT-ET Part 2 RED3, pp.28-29; [REDACTED].

²⁸³ [REDACTED]; 082892-TR-AT-ET Part 7, pp.2-5.

to hide that he was a detainee, and drove him to a nearby petrol station, where he was handed over to another group of KLA soldiers which included the **Accused**.²⁸⁴

74. They drove W04733 to Kukës, where he was interrogated by Fatmir LIMAJ,²⁸⁵ who addressed him as a 'shkie' officer, and then put into the Command Building Detention Room of the KMF.²⁸⁶ During the trip to Kukës, the KLA soldiers who transported W04733 called him a Serb commander, and threatened to kill him if he tried to escape.²⁸⁷ The **Accused**, whom the other KLA on the bus called by his nickname 'Ujku',²⁸⁸ was howling like a wolf during the ride.²⁸⁹

75. In the Command Building, W04733 was placed, still dressed in a black KLA uniform, in the same detention room as W01448.²⁹⁰ At some point during W04733's detention, the black KLA uniform was swapped with a camouflage one.²⁹¹ Shortly

²⁸⁴ 082892-TR-AT-ET Part 3 RED2, pp.2-9, 11; SITF00019824-00019876RED2, pp.SITF00019831, SITF00019836-SITF00019837.

²⁸⁵ Fatmir LIMAJ's presence at the KMF during this time is corroborated by TW4-10 and W01448 (TW4-10, 1 May 2023, p.1104; SITF00013852-00013869RED6, p.SITF00013860; SITF00013886-00013908RED, p.SITF00013886), and consistent with his role as commander of Operation Arrow starting from mid-May 1999 (W04754, 24 October 2023, p.3093). *See also* Section III.B.2.

²⁸⁶ SITF00013181-SITF00013189RED3, p.SITF00013185; 082892-TR-AT-ET Part 4 RED3, p.11.

²⁸⁷ 082892-TR-AT-ET Part 3 RED2, pp.10, 16-17.

²⁸⁸ SITF00018740-00018767RED, p.SITF00018741.

²⁸⁹ SITF00019824-00019876RED2, p.SITF00019837; 082892-TR-ET Part 3 RED2, p.12.

²⁹⁰ 082892-TR-AT-ET Part 4 RED3, pp.7-8, 15.

²⁹¹ SITF00013181-SITF00013189RED3, p.SITF00013186; SITF00019824-00019876RED2, pp.SITF00019832-SITF00019833; 082892-TR-AT-ET Part 4 RED3, pp.15, 19-20. In two other statements, W04733 described these clothes as workers' clothes dirty with paint: SITF00018740-00018767RED, p.SITF00018741; SPOE00013793-SPOE00013847RED2, p.SPOE00013810.

after his arrival, on the same day, W04733 was taken for a brutal beating discussed under Section V.D., in which the **Accused** participated.

76. About two days after his arrival at the KMF, W04733 and his co-detainees were transferred from the Command Building Detention Room to Room 1 in the Detention Building.²⁹² There, W04733 was detained with three Roma musicians [REDACTED],²⁹³ [REDACTED] TW4-11, [REDACTED] TW4-05,²⁹⁴ TW4-01, [REDACTED],²⁹⁵ and W01448.²⁹⁶ There were nine detainees in total.²⁹⁷

77. During his detention at the KMF, W04733 was held in harsh conditions and repeatedly mistreated, as discussed in Sections V.B., V.C. and V.D.

78. The KLA released W04733 unwillingly and under pressure from [REDACTED] on or around 1 June 1999.²⁹⁸ [REDACTED].²⁹⁹

²⁹² SPOE00013793-SPOE00013847RED2, pp.SPOE00013812-SPOE00013813, SPOE00013822; SITF00013181-SITF00013189RED3, p.SITF00013186.

²⁹³ 082892-TR-AT-ET Part 4 RED3, pp.5-6; SPOE00013793-SPOE00013847RED2, pp.SPOE00013811-SPOE00013812.

²⁹⁴ SITF00019824-00019876RED2, p.SITF00019831.

²⁹⁵ 082892-TR-AT-ET Part 4 RED3, p.6.

²⁹⁶ Section V.A.4.

²⁹⁷ 082892-TR-AT-ET Part 4 RED3, pp.5-6; SPOE00013793-00013847RED2, pp.SPOE00013812-SPOE00013813; SITF00019824-00019876RED2, p.SITF00019831; SITF00013181-SITF00013189RED3, p.SITF00013186.

²⁹⁸ 082892-TR-AT-ET Part 7, pp.2, 6-7, 10-13; [REDACTED]. *See also* TW4-01, 30 May 2023, p.1456; SITF00013736-SITF00013800RED5, p.SITF00013761.

²⁹⁹ SITF00018740-00018767RED, p.SITF00018746.

79. W04733 was broken when he was released.³⁰⁰ When he arrived home, he was covered in dried blood, almost fainting, weak, and had lost a lot of weight.³⁰¹ He had a wound on his forehead, a cut wrist, bruises and burn marks from cigarettes, broken teeth, broken ribs, a broken foot and a broken elbow; his legs, hands, feet and the soles of his feet were swollen.³⁰² Despite all of these injuries, W04733 was too afraid to go to the hospital.³⁰³ W04733 suffered severe physical and mental health issues for years after his detention at the KMF.³⁰⁴

4. W01448 was arrested, detained, and mistreated at the KMF

80. W01448, a Kosovo Albanian, was an immigrant worker in Germany. Around 14 May 1999, he travelled to Albania.³⁰⁵ Upon arrival, two persons approached him and took him to Durrës,³⁰⁶ complaining that he had not contributed enough to KLA funding.³⁰⁷

³⁰⁰ 082892-TR-AT-ET Part 9 RED2, p.18; [REDACTED].

³⁰¹ [REDACTED].

³⁰² 082892-TR-AT-ET Part 9 RED2, pp.17-20; [REDACTED].

³⁰³ SPOE00185335-00185363RED3, p.SPOE00185337.

³⁰⁴ 082892-TR-AT-ET Part 9 RED2, pp.17-21; 106978-107020, p.106982; [REDACTED].

³⁰⁵ SITF00013736-SITF00013800RED5, p.SITF00013737.

³⁰⁶ SITF00013852-00013869RED6, p.SITF00013854.

³⁰⁷ SITF00013736-SITF00013800RED5, pp.SITF00013737-SITF00013738, SITF00013742, SITF00013766.

81. In Durrës, W01448 was interrogated and detained for four days.³⁰⁸ Thereafter, KLA soldiers picked up W01448,³⁰⁹ and took him to the KMF, which they reached after midnight.³¹⁰ W01448 was handcuffed and put in the Uniforms Warehouse.³¹¹ His money and passport were confiscated.³¹² W01448 was then brought to the Command Building Detention Room, where he was joined a few days later by W04733, dressed in a black KLA uniform.³¹³

82. After approximately one week of detention in the Command Building, W01448 and his co-detainees were brought to Room 1 in the Detention Building.³¹⁴ There, they joined further detainees: three Romas [REDACTED], and TW4-05.³¹⁵ They were later

³⁰⁸ SITF00016221-00016285RED4, pp.SITF00016227-SITF00016228; SITF00013852-00013869RED6, p.SITF00013855.

³⁰⁹ SITF00013736-SITF00013800RED5, p.SITF00013739; SITF00013852-00013869RED6, pp.SITF00013855-SITF00013856.

³¹⁰ SITF00016221-00016285RED4, pp.SITF00016228-SITF00016229; SITF00013736-SITF00013800RED5, p.SITF00013739.

³¹¹ SITF00013736-SITF00013800RED5, p.SITF00013739.

³¹² SITF00016221-00016285RED4, p.SITF00016229; The money was later returned to W01448: SITF00013736-SITF00013800RED5, p.SITF00013740.

³¹³ SITF00016221-00016285RED4, pp.SITF00016229-SITF00016231; SITF00013852-00013869RED6, p.SITF00013856; U003-2231-U003-2231-ET.

³¹⁴ SITF00016221-00016285RED4, p.SITF00016236; SITF00016140-00016220RED3, p.SITF00016144; SITF00013736-SITF00013800RED5, p.SITF00013748; SITF00013852-00013869RED6, p.SITF00013858; U003-2231-U003-2231-ET.

³¹⁵ SITF00013852-00013869RED6, p.SITF00013858. *See also* SITF00016140-00016220RED3, pp.SITF00016142-SITF00016143.

joined by TW4-11,³¹⁶ [REDACTED],³¹⁷ [REDACTED],³¹⁸ a teacher from Dakovica/Gjakovë, a person from Smocica/Smolica and somebody from Krume,³¹⁹ and four FARK soldiers.³²⁰ TW4-01 [REDACTED] were also detained there.³²¹

83. During his detention at the KMF, W01448 was regularly mistreated. His account of the detention conditions and his mistreatment at the KMF is discussed in Sections V.B., V.C. and V.D.

84. W01448 was detained at the KMF for 30 days.³²² On 17 June 1999, W01448, [REDACTED] and further co-detainees were taken to Prizren. They were put into a van and told not to move, 'otherwise you will get a bullet'.³²³ At the border, they passed KFOR soldiers, but W01448 was too afraid to alarm them. They were brought to the MUP building in Prizren, where German KFOR released them the following day.³²⁴

³¹⁶ SITF00016221-00016285RED4, p.SITF00016225; SITF00016140-00016220RED3, p.SITF00016142.

³¹⁷ SITF00013848-00013851RED2, p.SITF0013848.

³¹⁸ SITF00013848-00013851RED2, p.SITF0013848.

³¹⁹ SITF00016221-00016285RED4, pp.SITF00016225, SITF00016236, SITF00016237; SITF00013736-SITF00013800RED5, p.SITF00013762; SITF00013852-00013869RED6, p.SITF00013858.

³²⁰ SITF00016221-00016285RED4, p.SITF00016238; SITF00013833-00013847RED4, p.SITF00013837.

³²¹ Section V.A.1.

³²² SITF00013736-SITF00013800RED5, p.SITF00013750.

³²³ SITF00013852-00013869RED6, p.SITF00013862.

³²⁴ SITF00013852-00013869RED6, pp.SITF00013861-SITF00013863.

5. TW4-02 was arrested, detained, and mistreated at the KMF

85. TW4-02, a Kosovar Albanian [REDACTED], arrived with his family from Kosovo to Kukës, Albania, on [REDACTED].³²⁵ On [REDACTED],³²⁶ TW4-02 and [REDACTED].³²⁷ There, TW4-02 [REDACTED].³²⁸ [REDACTED].³²⁹

86. In early June 1999, [REDACTED] arrested TW4-02 at the [REDACTED] and took him to the KMF.³³⁰ TW4-02 was detained in [REDACTED] the Detention Building³³¹ for [REDACTED] days before being released,³³² [REDACTED].³³³

87. The evidence is unclear on TW4-02's exact arrival date to the KMF, with TW4-02 stating that he was arrested on [REDACTED],³³⁴ [REDACTED]³³⁵ or [REDACTED]³³⁶

³²⁵ 060664-TR-ET Part 1 RED3, pp.3-4, 18-19; 060664-TR-ET Part 2, p.1.

³²⁶ 060664-TR-ET Part 3, pp.16, 20.

³²⁷ 060664-TR-ET Part 2, p.10.

³²⁸ 060664-TR-ET Part 3, pp.17-20.

³²⁹ 060664-TR-ET Part 1 RED3, p.19; 060664-TR-ET Part 2, pp.6-7, 10, 16.

³³⁰ 060664-TR-ET Part 2, p.3; 060664-TR-ET Part 3, p.19.

³³¹ 060664-TR-ET Part 2, p.3.

³³² 060664-TR-ET Part 2, p.3; 060664-TR-ET Part 3, pp.4, 6, 23-25; 060664-TR-ET Part 4, p.5; 060653-060663-ET, p.060653; 108850-TR-ET Part 1 RED, p.5.

³³³ 060664-TR-ET Part 2, pp.4-5; 060664-TR-ET Part 5 RED4, pp.2, 14-16; SITF00013262-00013315RED, p.SITF00013278; 064716-TR-ET Part 5 RED4, p.30.

³³⁴ 108850-TR-ET Part 1 RED, p.5.

³³⁵ 060664-TR-ET Part 1 RED3, p.19; 108850-TR-ET Part 1 RED, p.5.

³³⁶ 060664-TR-ET Part 2, p.3; 060664-TR-ET Part 5 RED4, p.2.

[REDACTED], and other evidence indicating that he arrived to the KMF at an earlier time.³³⁷

88. During his detention, TW4-02 was afraid of being killed. He felt terrified and humiliated. His detention left a 'heavy burden' on him and he had problems sleeping for years.³³⁸

³³⁷ TW4-01, 30 May 2023, p.1449; TW4-01, 6 June 2023, pp.1904-1905; 060664-TR-ET Part 3, p.23 (stating that [REDACTED] happened '[e]ither two to three days before [TW4-02's arrival at the KMF] or when I was there, but it seems two to three days before' (emphasis added)). TW4-01 testified that he saw TW4-02 twice, once when the latter was taken 'to the office' escorted by military police, and another time when TW4-01 went to the toilet, both times before [REDACTED]. TW4-02 was indeed taken out to be interrogated by W04848, 060664-TR-ET Part 3, p.26.

³³⁸ 060664-TR-ET Part 1 RED3, p.18; 060664-TR-ET Part 2, p.3; 060664-TR-ET Part 4, pp.20-22.

6. TW4-04 was arrested, detained, and mistreated at the KMF

89. TW4-04, a Kosovar Albanian from the [REDACTED].³³⁹ TW4-04 left Kosovo on [REDACTED] March 1999 due to the conflict.³⁴⁰ He was detained by the KLA [REDACTED]³⁴¹ before being transferred to the KMF [REDACTED].³⁴²

90. At the KMF, TW4-04 was [REDACTED] the Detention Building, where he was initially alone.³⁴³ [REDACTED],³⁴⁴ [REDACTED].³⁴⁵ Later, [REDACTED], a father and a son, and TW4-02 [REDACTED].³⁴⁶ [REDACTED].³⁴⁷ TW4-04 also recalled three

³³⁹ SITF00013336-00013347RED, p.2; SITF00013262-00013315RED, pp.SITF00013262-SITF00013263; 064716-TR-ET Part 1 RED3, pp.5-7; 064716-TR-ET Part 2 RED3, pp.1-3.

³⁴⁰ SITF00013262-00013315RED, p.SITF00013263; SITF00015825-00015925RED, p.SITF00015828; SPOE00014669-00014751RED, p.SPOE00014674; SITF00013336-00013347RED, p.SITF00013338.

³⁴¹ SITF00013336-00013347RED, pp.SITF00013338-SITF00013339; SITF00013262-00013315RED, pp.SITF00013263-SITF00013269; 064716-TR-ET Part 3 RED4, pp.3-4, 7-8, 20, 22-25; SITF00015825-00015925RED, pp.SITF00015828-SITF00015830; SPOE00014669-00014751RED, pp.SPOE00014674-SPOE00014675, SPOE00014678, SPOE00014680, SPOE00014682, SPOE00014687; 064716-TR-ET Part 2 RED3, pp.9, 14-15; 064716-TR-ET Part 3 RED4, pp.4, 6, 8; 064716-TR-ET Part 4 RED3, p.2.

³⁴² SITF00013262-00013315RED, p.SITF00013275; SPOE00014669-00014751RED, p.SPOE00014691; 064716-TR-ET Part 5 RED4, pp.1-3; 108826-TR-ET Part 1 RED, p.7; 108816-108825RED, p.108822; SITF00013262-00013315RED, p.SITF00013278; SITF00015825-00015925RED, p.SITF00015854.

³⁴³ SITF00013262-00013315RED, p.SITF00013275; 108826-TR-ET Part 1 RED, pp.5, 7-8, 9; 108816-108825RED, p.108822; 064716-TR-ET Part 5 RED4, pp.4, 7; SPOE00014669-00014751RED, pp.SPOE00014691, SPOE00014692.

³⁴⁴ 064716-TR-ET PART 5 RED4, p.29.

³⁴⁵ SITF00013336-00013347RED, p.SITF00013340; SITF00013262-00013315RED, pp.SITF00013272-00013273; SITF00015825-00015925RED, p.SITF00015844; SPOE00014669-00014751RED, pp.SPOE00014693-00014694; 064716-TR-ET Part 5 RED4, pp.28-29.

³⁴⁶ SITF00013262-00013315RED, pp.SITF00013272-SITF00013273, SITF00013278; 064716-TR-ET Part 5 RED4, p.30; 064716-TR-ET Part 3 RED4, p.14; SITF00015825-00015925RED, pp.SITF00015844, SITF00015846, SITF00015854-SITF00015855; SITF00013336-00013347RED, p.SITF00013340.

³⁴⁷ 064716-TR-ET Part 3 RED4, p.14; 064716-TR-ET Part 5 RED4, pp.4, 11.

Romas [REDACTED], and TW4-11, [REDACTED], among those detained at the KMF.³⁴⁸ Before and during his detention, [REDACTED].³⁴⁹

91. During TW4-04's first night at the KMF, [REDACTED].³⁵⁰ [REDACTED] prisoners were mistreated when people came back from the frontline. [REDACTED].³⁵¹

92. TW4-04 stated that he was not physically mistreated at the KMF,³⁵² which contradicts the evidence of another witness.³⁵³ He was kept at the KMF for [REDACTED], then taken to W04848 [REDACTED]. According to TW4-04, W04848 'was just making something official that had been already decided by somebody else.' [REDACTED]. Shortly after that, TW4-04 was released.³⁵⁴

³⁴⁸ SITF00015825-00015925RED, p.SITF00015846; SITF00013336-00013347RED, p.SITF00013340; SPOE00014669-00014751RED, p.SPOE00014694; 064716-TR-ET Part 5 RED4, pp.27, 31-32.

³⁴⁹ SITF00013262-00013315RED, p.SITF00013271-00013272; 064716-TR-ET Part 5 RED4, pp.7-8; 064716-TR-ET Part 3 RED4, p.6.

³⁵⁰ 064716-TR-ET Part 5 RED4, pp.11-12.

³⁵¹ 064716-TR-ET Part 5 RED4, pp.13-14. *See also* Section V.E.

³⁵² SITF00013336-00013347RED, pp.SITF0001339-SITF0001340.

³⁵³ Section V.A.C.

³⁵⁴ SITF00013262-00013315RED, pp.SITF00013273-SITF00013274; SITF00015825-00015925RED, p.SITF00015854; SPOE00014669-00014751RED, pp.SPOE00014692-SPOE00014698; SPOE00014669-00014751RED, pp.SPOE00014697-SPOE00014698; 064716-TR-ET Part 4 RED3, p.19; 064716-TR-ET Part 5 RED4, pp.3-4, 9-10; 108826-TR-ET Part 1 RED, p.7.

7. TW4-05 was arrested, detained, and mistreated at the KMF

93. TW4-05, a Kosovar Albanian [REDACTED], arrived in Kukës as a refugee around [REDACTED].³⁵⁵ TW4-05 had moved [REDACTED] after they were expelled by the Serbs.³⁵⁶ On or around [REDACTED] two KLA members in black uniforms took TW4-05 to the 'headquarters'.³⁵⁷ At the KMF, [REDACTED] and another person aggressively interrogated TW4-05, accusing him of having friendly relationships with Serbs, [REDACTED], and [REDACTED].³⁵⁸

94. Thereafter, TW4-05 was put in Room 1. He recalled being detained with up to nine people, including three Romas and W01448.³⁵⁹ [REDACTED].³⁶⁰

95. At night, TW4-05 and his co-detainees were taken for interrogation.³⁶¹ [REDACTED] interrogated TW4-05 three times.³⁶²

³⁵⁵ SITF00372498-00372510RED4, p.SITF00372500; SITF00013123-SITF00013153RED, pp.SITF00013125, SITF00013127.

³⁵⁶ SITF00013123-SITF00013153RED, p.SITF00013125.

³⁵⁷ SITF00372498-00372510RED4, pp.SITF00372500-SITF00372501; SITF00013123-SITF00013153RED, p.SITF00013126.

³⁵⁸ SITF00013123-SITF00013153RED, pp.SITF00013127-SITF00013128.

³⁵⁹ SITF00013123-SITF00013153RED, pp.SITF00013129, SITF00013132; SITF00372498-00372510RED4, p.SITF00372500.

³⁶⁰ SITF00013123-SITF00013153RED, p.SITF00013128-SITF00013130, SITF00013133, SITF00013136.

³⁶¹ SITF00013123-SITF00013153RED, p.SITF00013130.

³⁶² SITF00013123-SITF00013153RED, pp.SITF00013129, SITF00013131.

96. TW4-05 stated that he was not mistreated at the KMF, which contradicts the evidence of another witness.³⁶³ TW4-05 was detained at the KMF [REDACTED].³⁶⁴ [REDACTED].³⁶⁵

8. Other individuals detained and mistreated at the KMF during the Indictment Period

97. A number of other individuals were held at the KMF during the Indictment Period, including **three musicians of Roma ethnicity**³⁶⁶ [REDACTED],³⁶⁷ [REDACTED]. TW4-11 identified a photograph of one of them.³⁶⁸ The Romas were detained in the Uniforms Warehouse and then in Room 1 of the Detention Building.³⁶⁹

³⁶³ Section V.C.

³⁶⁴ SITF00013123-SITF00013153RED, p.SITF00013128.

³⁶⁵ SITF00372498-00372510RED4, p.SITF00372502; SITF00013123-SITF00013153RED, p.SITF00013135; SITF00013852-00013869RED6, pp.SITF00013861, SITF00013863.

³⁶⁶ TW4-01, 30 May 2023, pp.1414-1415, 1432; TW4-11, 2 May 2023, pp.1208-1209, 059341-059350, p.059348; 082892-TR-AT-ET Part 4 RED3, pp.5-6; SITF00013852-00013869RED6, p.SITF00013858; 060664-TR-ET Part 5 RED4, p.1; SITF00372498-00372510RED4, p.SITF00312500.

³⁶⁷ TW4-11, 2 May 2023, p.1209; 082892-TR-AT-ET Part 4 RED3, p.6.

³⁶⁸ TW4-11, 2 May 2023, p.1209; 059341-059350, p.059348.

³⁶⁹ TW4-01, 30 May 2023, pp.1414-1415, 1432-1434; TW4-11, 2 May 2023, pp.1208-1209; 059341-059350, p.059348; SITF00016221-00016285RED4, pp.SITF00016225, SITF00016236; SITF00013852-00013869RED6, pp.SITF00013858, SITF00013861; SITF00013736-SITF00013800RED5, pp.SITF00013748, SITF00013762; SPOE00185335-00185363RED3, pp.SPOE00185341-SPOE00185342; 064716-TR-ET Part 5 RED4, p.27; 060664-TR-ET Part 5 RED4, p.1; TW4-10, 1 May 2023, p.1098; Adjudicated Facts List, fact no.53. *See also* U003-2232-U003-2232-ET.

They were subjected to forced labour and mistreatment, as set out in Sections V.B. and V.C., respectively, and released from the KMF on 17 June 1999.³⁷⁰

98. [REDACTED],³⁷¹ [REDACTED], was detained in both Room 1 and Room 3 and severely mistreated. He was accused of being a collaborator. He passed away after the war.³⁷²

99. [REDACTED],³⁷³ a Kosovar Albanian [REDACTED], was initially detained in Room 1 and then taken to Room 3. He was severely mistreated, including having his teeth broken from beatings, and threatened. He was accused of being a Serb collaborator. He was freed by KFOR in Prizren on 18 June 1999. He passed away after the war.³⁷⁴

100. [REDACTED], was a Kosovar Albanian [REDACTED]. He was detained together with [REDACTED] in both Rooms 1 and 3,³⁷⁵ and was mistreated during his

³⁷⁰ SITF00016140-00016220RED3, p.SITF00016143.

³⁷¹ SITF00013852-00013869RED6, p.SITF00013858.

³⁷² SITF00013852-00013869RED6, p.SITF00013858; SITF00013848-00013851RED2, p.SITF00013848; 060664-TR-ET Part 3, pp.23-24; 060664-TR-ET Part 4, p.12; SITF00016221-00016285RED4, p.SITF00016225; SITF00013736-00013767RED5, p.27. *See also*, TW4-01, 31 May 2023, pp.1530, 1538, 1556; TW4-01, 5 June 2023, p.1787.

³⁷³ TW4-11, 2 May 2023, p.1216; SITF00013852-00013869RED6, p.SITF00013858.

³⁷⁴ 060664-TR-ET Part 3, pp.23-24; 060664-TR-ET Part 4, pp.5-7; SITF00016221-00016285RED4, p.SITF00016225; SITF00013852-00013869RED6, pp.SITF00013858, SITF00013861, SITF00013863; SITF00013736-00013767RED2, pp.SITF00013760-00013762; 064716-TR-ET Part 5 RED4, pp.30-31.

³⁷⁵ TW4-01, 30 May 2023, pp.1433-1434; SITF00013736-SITF00013800RED5, p.SITF00013762.

detention. He had worked with the Serb administration. He passed away after the war.³⁷⁶

101. A **person from Mitrovica**,³⁷⁷ who had worked as a driver, was detained in Room 3 and mistreated. TW4-02 was told by the other detainees that this person had raped a young girl, which is why he was detained at the KMF.³⁷⁸

102. [REDACTED], a young woman [REDACTED], was also detained at the KMF.³⁷⁹ [REDACTED] was severely mistreated by Xhemshit KRASNIQI.³⁸⁰ At some point, she

³⁷⁶ SITF00016221-00016285RED4, p.SITF00016237; SITF00013736-00013800RED5, p.SITF00013762; SITF00013848-00013851RED2, p.SITF00013848; 060664-TR-ET Part 3, p.24; 060664-TR-ET Part 4, pp.8-10; TW4-01, 30 May 2023, pp.1433-1434. While W01448 stated that [REDACTED] came to Kukes 'shortly after [REDACTED] death' (SITF00013848-00013851RED2, p.SITF00013848), other evidence indicates that he may be misremembering the time of his arrival. In particular, TW4-02 stated that [REDACTED] told him he had been mistreated, and the evidence is consistent in indicating that mistreatments stopped after [REDACTED] death (Section V.B.). Furthermore, W01448 listed [REDACTED] among the detainees in Room 1 (SITF00013736-00013800RED4, p.SITF00013762), and drew the two individuals together in the same room (U003-2232-U003-2232-ET).

³⁷⁷ 060664-TR-ET Part 4, p.11.

³⁷⁸ 060664-TR-ET Part 4, pp.11-12; 060664-TR-ET Part 3, pp.23-24.

³⁷⁹ TW4-01, 30 May 2023, pp.1388, 1419, 1421-1422, 1477; TW4-01, 31 May 2023, pp.1561-1562; SITF00013852-00013869RED6, p.SITF00013857; SITF00013736-SITF00013800RED5, p.SITF00013747; TW4-10, 1 May 2023, pp.1073-1074; Adjudicated Facts List, fact no.53.

³⁸⁰ Section V.D.

was detained in Room 3 of the Detention Building.³⁸¹ She was also made to work in the kitchen of the KMF.³⁸²

103. **Two women from Đakovica/Gjakovë**³⁸³ were detained for some time in Room 3 and beaten by Xhemshit KRASNIQI. The woman referred to by W01448 as [REDACTED], who was beaten in the Office Room during the 20 May 1999 Incident, may be one of these two women.³⁸⁴

104. A group of **FARK or KLA soldiers** were at some point detained in Room 1 on accusations of desertion.³⁸⁵ They were severely mistreated, as set out in Section V.C.

105. Towards the end of May 1999, a **Serb soldier**³⁸⁶ member of Arkan's group, was captured in Đakovica/Gjakovë and taken to the KMF. He was blindfolded, and his

³⁸¹ 064716-TR-ET Part 5 RED4, p.29; SITF00016221-00016285RED4, pp.SITF00016225, SITF00016235; SITF00013336-00013347RED, p.SITF00013340; SITF00013262-00013315RED, pp.SITF00013272-SITF00013273; SITF00015825-00015925RED, p.SITF00015844; SPOE00014669-00014751RED, pp.SPOE00014693-SPOE00014694.

³⁸² TW4-01, 31 May 2023, pp.1563-1564; TW4-01, 6 June 2023, p.1916.

³⁸³ TW4-01, 31 May 2023, p.1565; SITF00016221-00016285RED4, p.SITF00016235.

³⁸⁴ TW4-01, 31 May 2023, pp.1565-1567; SITF00016221-00016285RED4, p.SITF00016235; SITF00013736-SITF00013800RED5, pp.SITF00013746-SITF00013747; SITF00013852-00013869RED6, p.SITF00013858; Section V.D.

³⁸⁵ SITF00016221-00016285RED4, p.SITF00016238; SITF00013852-00013869RED6, p.SITF00013860; TW4-01, 31 May 2023, pp.1507, 1512; SITF00014088-00014120RED, pp.SITF00014095-SITF00014096; SITF00016908-00016964RED, pp.SITF00016913-SITF00016914; SITF00013833-00013847RED4, p.SITF00013837.

³⁸⁶ 060124-TR-ET Part 2 Revised RED4, pp.56-66; TW4-01, 6 June 2023, p.1913.

hands were tied; he was interrogated and taken into detention. After some time, the Kukës police went to the KMF and took the Serb soldier away.³⁸⁷

B. Conditions of detention

106. The detainees kept at the KMF were held in conditions which W04733 described as unsuitable even for animals.³⁸⁸

107. The Command Building Detention Room was situated on the first floor.³⁸⁹ It was a very narrow space, measuring approximately two by two and a half metres, and had a slanting roof, which did not allow the detainees to stand straight up, or to lie down at the same time.³⁹⁰ The room had no windows, and the only light came in from under the door.³⁹¹ There was no insulation: when it rained it was cold, and once the temperature rose it became hot.³⁹² There were bottles filled with urine on the floor.³⁹³ The detainees had to repeatedly ask for drinking water, and were afraid to do so.³⁹⁴

³⁸⁷ 060124-TR-ET Part 2 Revised RED4, pp.56-66.

³⁸⁸ 106978-107020, p.106990.

³⁸⁹ Section III.D.

³⁹⁰ SITF00016140-00016220RED3, pp.SITF00016144-SITF00016145; SITF00019824-00019876RED2, pp.SITF00019829-SITF00019830. The number and identity of individuals held in this room is further discussed in Section V.H.3.c.

³⁹¹ SITF00013736-SITF00013800RED5, p.SITF00013752; SITF00019824-00019876RED2, p.SITF00019831; SITF00019824-00019876RED2, p.SITF00019831.

³⁹² SITF00016140-00016220RED3, p.SITF00016145; SITF00013736-SITF00013800RED5, p.SITF00013752; SITF00019824-00019876RED2, p.SITF00019830.

³⁹³ SITF00016221-00016285RED4, p.SITF00016229; SITF00016140-00016220RED3, p.SITF00016144.

³⁹⁴ SITF00013736-SITF00013800RED5, p.SITF00013752.

The room had no furniture but blankets and thin sponge mattresses.³⁹⁵ The detainees were locked up inside,³⁹⁶ and handcuffed.³⁹⁷

108. In the Detention Building, detainees were locked in two separate rooms, and were not allowed to go out or move around freely.³⁹⁸ The doors were guarded by armed KLA soldiers.³⁹⁹ The temperature in the Detention Building was extremely hot.⁴⁰⁰ W01448 could barely breath,⁴⁰¹ and fell unconscious multiple times because of the heat.⁴⁰²

109. Water tanks outside the Detention Building, close to the toilets, were the only place the detainees could get water from.⁴⁰³ However, their access to water depended on the goodwill of the KLA soldiers.⁴⁰⁴ On their way to the water tanks, KLA soldiers

³⁹⁵ SITF00016221-00016285RED4, p.SITF00016229; SITF00013736-SITF00013800RED5, p.SITF00013741; SITF00016140-00016220RED3, p.SITF00016144; SPOE00013793-SPOE00013847RED2, p.SPOE00013809.

³⁹⁶ SITF00019824-00019876RED2, p.SITF00019829; SITF00016221-00016285RED4, pp.SITF00016229-SITF00016230.

³⁹⁷ SITF00013852-00013869RED6, p.SITF00013857.

³⁹⁸ TW4-10, 2 May 2023, p.1169; SPOE00013793-SPOE00013847RED2, p.SPOE00013822.

³⁹⁹ SPOE00185335-00185363RED3, pp.SPOE00185343-SPOE00185344; SITF00013262-00013315RED, p.SITF00013275; SPOE00014669-00014751RED, pp.SPOE00014690-SPOE00014691; 108826-TR-ET Part 1 RED, p.6, 108816-108825RED, p.108822.

⁴⁰⁰ 060664-TR-ET Part 3, pp.26-27; SITF00016140-00016220RED3, p.SITF00016147.

⁴⁰¹ SITF00013736-SITF00013800RED5, p.SITF00013750.

⁴⁰² SITF00013736-SITF00013800RED5, p.SITF00013750.

⁴⁰³ SITF00013736-SITF00013800RED5, p.SITF00013748; SITF00016140-00016220RED3, p.SITF00016146.

⁴⁰⁴ TW4-01, 30 May 2023, p.1431; TW4-11, 2 May 2023, p.1207; 060664-TR-ET Part 3, p.27; SITF00016140-00016220RED3, p.SITF00016146.

insulted and harassed the detainees,⁴⁰⁵ including by kicking them, hitting them with a stick and stabbing them with a knife.⁴⁰⁶ Despite the hot temperatures at the time and the number of people crammed into the small room,⁴⁰⁷ the detainees would rather stay thirsty than face the mistreatment.⁴⁰⁸

110. Similarly, when the detainees had to use the nearby toilets,⁴⁰⁹ they had to ask for permission to the guard, who would escort them there.⁴¹⁰ KLA soldiers also harassed the detainees when they went to the toilet, so they tried to limit their use of those facilities.⁴¹¹ The toilets were dirty and not fit for use.⁴¹²

⁴⁰⁵ SITF00016140-00016220RED3, pp.SITF00016146-SITF00016147; SITF00013852-00013869RED6, p.SITF00013858; 060664-TR-ET Part 3, pp.27-28.

⁴⁰⁶ SITF00016140-00016220RED3, p.SITF00016146; SITF00013852-00013869RED6, p.SITF00013858.

⁴⁰⁷ SITF00013736-SITF00013800RED5, p.SITF00013750. *See also* SITF00013852-00013869RED6, p.SITF00013858.

⁴⁰⁸ SITF00013736-SITF00013800RED5, pp.SITF00013750, SITF00013752; SITF00013833-00013847RED4, p.SITF00013838.

⁴⁰⁹ Section III.C.

⁴¹⁰ TW4-01, 30 May 2023, pp.1446-1447; TW4-11, 2 May 2023, p.1219; 060664-TR-ET Part 3, p.27; SITF00016140-00016220RED3, p.SITF00016146; SITF00013123-SITF00013153RED, p.SITF00013130; 106978-107020, pp.106990, 107001; Adjudicated Facts List, fact no.55.

⁴¹¹ SITF00016140-00016220RED3, p.SITF00016145; 060664-TR-ET Part 3, pp.27-28.

⁴¹² SITF00013736-SITF00013800RED5, p.SITF00013749.

111. Room 1 was about three to five meters per side,⁴¹³ and held up to 13 detainees.⁴¹⁴ It had windows with iron bars, but no glass.⁴¹⁵ There was no furniture, only a light bulb hanging from the ceiling.⁴¹⁶ The room had a concrete floor with soil and dust seeping through cracks in it.⁴¹⁷

112. Some blankets and thin mattresses were provided, but were not available at all times,⁴¹⁸ so the detainees slept on the broken concrete floor, or would lean against the wall, using their hands as pillows as they were not allowed to rest their heads on their jackets or shoes.⁴¹⁹

⁴¹³ TW4-01, 30 May 2023, p.1432; TW4-11, 2 May 2023, p.1199; SITF00016140-00016220RED3, p.SITF00016145; SITF00013123-SITF00013153RED, pp.SITF00013129-SITF00013130.

⁴¹⁴ TW4-01, 30 May 2023, pp.1431-1434, 1438-1440; TW4-01, 6 June 2023, p.1917; TW4-11, 2 May 2023, p.1207; TW4-11, 3 May 2023, pp.1337-1339; SITF00013736-SITF00013800RED5, p.SITF00013748; 082892-TR-AT-ET Part 4 RED3, pp.5-6.

⁴¹⁵ TW4-01, 30 May 2023, pp.1430-1431; TW4-10, 1 May 2023, p.1055, 074390-074391, p.074390; 060664-TR-ET Part 3, pp.25-26; SITF00013736-SITF00013800RED5, p.SITF00013749.

⁴¹⁶ SITF00013736-SITF00013800RED5, p.SITF00013749; SITF00013123-SITF00013153RED, p.SITF00013130.

⁴¹⁷ TW4-01, 30 May 2023, p.1430; TW4-11, 2 May 2023, p.1199; SITF00013852-00013869RED6, p.SITF00013858.

⁴¹⁸ TW4-01, 30 May 2023, pp.1430-1432; TW4-11, 3 May 2023, pp.1289, 1324; SITF00013736-SITF00013800RED5, pp.SITF00013749-SITF00013750; SPOE00013793-SPOE00013847RED2, p.SPOE00013822.

⁴¹⁹ TW4-01, 30 May 2023, p.1431; TW4-11, 2 May 2023, p.1218; SITF00016140-00016220RED3, p.SITF00016146; SITF00013736-SITF00013800RED5, p.SITF00013749; SITF00013852-00013869RED6, p.SITF00013858. *See also* TW4-07, 29 March 2023, p.906.

113. The detainees in Room 1 consistently reported that the food was scarce,⁴²⁰ and not provided on a regular basis.⁴²¹ Sometimes they were given a boiled egg, a fish or leftovers to share after the KLA soldiers had eaten their meal.⁴²² Some days they did not eat anything at all.⁴²³ When they were given food, it was always inside the detention room.⁴²⁴ In some instances, the Roma musicians brought back small food items unloaded from the trucks.⁴²⁵ TW4-01, W01448, and W04733 lost a lot of weight during their detention.⁴²⁶

114. Those in Room 1 could not wash themselves or change their clothes,⁴²⁷ and 'would smell like animals'.⁴²⁸ W01448 wore the same clothes throughout his detention at the KMF.⁴²⁹ W04733 stated: 'I myself, after I was released, was ashamed to go home

⁴²⁰ TW4-01, 30 May 2023, p.1431; TW4-07, 29 March 2023, p.906.

⁴²¹ TW4-01, 30 May 2023, p.1431; SPOE00013793-SPOE00013847RED2, p.SPOE00013823; SITF00013736-SITF00013800, p.SITF00013751. This is corroborated by TW4-10: TW4-10, 2 May 2023, pp.1168-1169. *See also* SITF00374132-00374148RED2, p.SITF00374136; TW4-06, 28 March 2023, pp.809, 816; TW4-07, 29 March 2023, p.906.

⁴²² SITF00016140-00016220RED3, p.SITF00016147; SITF00013736-SITF00013800RED5, p.SITF00013751; 082892-TR-AT-ET Part 9 RED2, p.15; 106978-107020, p.106990. *See also* TW4-10, 2 May 2023, p.1169.

⁴²³ SITF00013736-SITF00013800RED5, p.SITF00013751.

⁴²⁴ SITF00013123-SITF00013153RED, p.SITF00013130.

⁴²⁵ SITF00016140-00016220RED3, p.SITF00016147; SITF00013736-SITF00013800RED5, p.SITF00013751.

⁴²⁶ TW4-01 lost considerable weight during his detention: TW4-01, 31 May 2023, p.1552; SITF00374132-00374148RED2, p.SITF00374136. W01448 lost 14-17 kg during his detention: SITF00013852-00013869RED6, p.SITF00013858; SITF00013736-SITF00013800RED5, p.SITF00013751. W04733 lost over 16kg during his detention: SPOE00013793-SPOE00013847RED2, p.SPOE00013823; [REDACTED].

⁴²⁷ TW4-01, 30 May 2023, pp.1447-1448; SPOE00013793-SPOE00013847RED2, p.SPOE00013823; 082892-TR-AT-ET Part 7, p.13; TW4-06, 28 March 2023, pp.809, 816.

⁴²⁸ SPOE00013793-SPOE00013847RED2, p.SPOE00013823.

⁴²⁹ SITF00016140-00016220RED3, p.SITF00016148; SITF00013736-SITF00013800RED5, p.SITF00013750.

because of the way I looked.⁴³⁰ [REDACTED] was not allowed to wash or change clothes until the arrival of W04820, after the death [REDACTED].⁴³¹

115. At least six people were detained in Room 3 of the Detention Building.⁴³² There, detainees were provided with food.⁴³³ Room 3 had a small window with bars on it.⁴³⁴ It had no furniture, and, except for [REDACTED], who was provided with a mattress,⁴³⁵ the other detainees slept on the floor with only some blankets to put on the concrete.⁴³⁶

116. Some detainees held at the KMF were subjected to forced labour, having to clean rooms.⁴³⁷ The three Roma detainees [REDACTED] were forced to work every day, sometimes until 22:00hrs, unloading trucks and cleaning toilets and other

⁴³⁰ 106978-107020, p.106990.

⁴³¹ [REDACTED].

⁴³² TW4-01, 31 May 2023, pp.1565-1567; 060664-TR-ET Part 2, p.3; 060664-TR-ET Part 3, pp.23-24; 108826-TR-ET Part 1 RED, pp.7-8; 108816-108825RED, p.108822.

⁴³³ 060664-TR-ET Part 3, p.27; SITF00013262-00013315RED, p.SITF00013275: [REDACTED].

⁴³⁴ 060664-TR-ET Part 3, pp.25-26.

⁴³⁵ SITF00015825-00015925RED, p.SITF00015843; SPOE00014669-00014751RED, p.SPOE00014691.

⁴³⁶ 060664-TR-ET Part 3, p.25; SPOE00014669-00014751RED, p.SPOE00014691.

⁴³⁷ SITF00013736-SITF00013800RED5, p.SITF00013748.

facilities.⁴³⁸ Their work outside the Detention Building at least allowed them better access to food and washing facilities.⁴³⁹

117. Even though the KMF had an infirmary⁴⁴⁰ and medical staff,⁴⁴¹ the detainees were denied suitable medical care. If they received treatment at all, it was immediately thwarted by KLA soldiers. For example, immediately after the medical team bandaged the deep head wound W04733 suffered during the 20 May 1999 Incident, KLA soldiers cut it off with a knife.⁴⁴² W04733 was bandaged a second time as the wound was bleeding profusely, but the bandage was cut again.⁴⁴³ W04733 was also denied medication [REDACTED] even though the KLA soldiers were aware of his condition.⁴⁴⁴ For [REDACTED], the denial of medical care had fatal consequences.⁴⁴⁵

⁴³⁸ TW4-11, 2 May 2023, p.1219; TW4-11, 3 May 2023, p.1340; 064716-TR-ET Part 5 RED4, pp.27-28; SITF00013123-SITF00013153RED, pp.SITF00013128-SITF00013130, SITF00013133, SITF00013136; SPOE00185335-00185363RED3, p.SPOE00185342; SITF00016140-00016220RED3, p.SITF00016143; SITF00018740-00018767RED, pp.SITF00018745-SITF00018746; SITF00015825-00015925RED, p.SITF00015846; 106978-107020, p.106989.

⁴³⁹ SITF00013123-SITF00013153RED, p.SITF00013130; 064716-TR-ET Part 5 RED4, p.27.

⁴⁴⁰ Section III.C.

⁴⁴¹ TW4-01, 31 May 2023, pp.1529, 1547; TW4-01, 5 June 2023, p.1834; TW4-11, 3 May 2023, p.1346; 082892-TR-AT-ET Part 4 RED3, pp.29-32; Section V.H.3.d.

⁴⁴² 082892-TR-AT-ET Part 4 RED3, pp.29, 32-33; Section V.D.

⁴⁴³ 082892-TR-AT-ET Part 4 RED3, pp.32-33.

⁴⁴⁴ 082892-TR-AT-ET Part 4 RED3, p.33; 082892-TR-AT-ET Part 8 RED2, pp.5-7.

⁴⁴⁵ Section V.F.

118. Several victims described how KLA soldiers whom they knew and recognised at the KMF were careful in approaching them, and tried to avoid being seen having contact with them, for fear of being associated with the detainees.⁴⁴⁶

C. Mistreatment

119. In addition to the specific incidents of mistreatment discussed in detail in Sections V.D., V.E and V.F., the detainees in Room 1 of the Detention Building were harassed, sleep-deprived, threatened, and mistreated almost every day, by KLA members including Sabit GECI, Xhemshit KRASNIQI and soldiers returning from the frontline.⁴⁴⁷

120. Detainees in Room 1 were made to face the wall and beaten from behind in the presence of each other with whatever the perpetrators had at their disposal - batons,

⁴⁴⁶ 060664-TR-ET Part 3, pp.27-29; TW4-01, 31 May 2023, p.1535; TW4-01, 5 June 2023, pp.1790-1791; SITF00013123-SITF00013153RED, p.SITF00013135. *See also* TW4-01, 6 June 2023, p.1909.

⁴⁴⁷ TW4-01, 31 May 2023, pp.1512-1513 1524; TW4-01, 6 June 2023, p.1919; TW4-11, 2 May 2023, pp.1222, 1233; SITF00013852-00013869RED6, p.SITF00013858; SITF00013736-SITF00013800RED5, pp.SITF00013753-SITF00013754; 082892-TR-AT-ET Part 8 RED2, p.29; 082892-TR-AT-ET Part 9 RED2, p.7; SPOE00013793-SPOE00013847RED2, pp.SPOE00013823-SPOE00013825; 106978-107020, pp.106988-106989; SITF00018740-00018767RED, pp.SITF00018745-SITF00018746; SITF00013262-00013315RED, p.SITF00013273; SITF00015825-00015925RED, pp.SITF00015844-SITF00015845; 064716-TR-ET Part 5 RED4, pp.14-15; TW4-07, 29 March 2023, pp.906-907, 909.

metal bars and belts.⁴⁴⁸ They were deliberately made to witness the mistreatments of co-detainees.⁴⁴⁹

121. On one occasion, when Sabit GECI was present, the detainees in Room 1 were forced to slap one another as hard as they could,⁴⁵⁰ with W01448 stating that they had to beat each other also on the genitals, and to pretend to have sexual intercourse with each other.⁴⁵¹ On another occasion, W04733 was kicked in his mouth, breaking his teeth.⁴⁵² TW4-11 was punched hard in the eye, which bled and bruised, with repercussions for his eyesight still present in 2023.⁴⁵³ Yet another time, the detained FARK or KLA soldiers (and in parallel other detainees) were beaten by Sabit GECI and other KLA members so severely that the baton used broke.⁴⁵⁴

⁴⁴⁸ TW4-11, 2 May 2023, pp.1220, 1230-1231; 106978-107020, p.106988; SPOE00013793-SPOE00013847RED2, p.SPOE00013825; 082892-TR-AT-ET Part 9 RED2, p.9-10, 13; SITF00013736-SITF00013800RED5, pp.SITF00013753-SITF00013754, SITF00013759; SITF00013852-00013869RED6, p.SITF00013859.

⁴⁴⁹ TW4-01, 30 May 2023, p.1448; TW4-01, 31 May 2023, p.1507; TW4-11, 2 May 2023, pp.1221-1222; SITF00013852-00013869RED6, p.SITF00013858; SITF00016140-00016220RED3, pp.SITF00016147.

⁴⁵⁰ TW4-01, 31 May 2023, pp.1512-1513; TW4-11, 2 May 2023, p.1233; SITF00016221-00016285RED4, p.SITF00016237; SITF00013852-00013869RED6, p.SITF00013858; SITF00013736-SITF00013800RED5, pp.SITF00013753-SITF00013754.

⁴⁵¹ SITF00013852-00013869RED6, p.SITF00013858; SITF00013848-00013851RED2, p.SITF00013849.

⁴⁵² 082892-TR-AT-ET Part 9 RED2, pp.9-10; SITF00018740-00018767RED, p.SITF00018744; SITF00013736-SITF00013800RED5, p.SITF00013751; SITF00013852-00013869RED6, p.SITF00013859.

⁴⁵³ TW4-11, 2 May 2023, pp.1231-1233.

⁴⁵⁴ TW4-01, 31 May 2023, pp.1507, 1512; SITF00013852-00013869RED6, p.SITF00013860; SITF00016221-00016285RED4, p.SITF00016238; SITF00013736-SITF00013800RED5, p.SITF00013759.

122. When beatings took place, the detainees were scared to look at what was happening to the others.⁴⁵⁵ They were also scared of talking to each other as they feared being beaten for doing so.⁴⁵⁶ KLA soldiers would also utter threats and insults against the detainees from the windows of the Detention Building,⁴⁵⁷ or when they were going to the toilets.⁴⁵⁸

123. In addition to being beaten inside Room 1, the detainees were also beaten outside that room,⁴⁵⁹ with those remaining in Room 1 hearing their screams.⁴⁶⁰ When the victims were brought back, they showed signs of the beatings.⁴⁶¹

124. Detainees were also repeatedly taken out for harsh interrogations and beatings in the Command Building,⁴⁶² including by the **Accused**,⁴⁶³ Sabit GECI, Xhemshit KRASNIQI, and others.⁴⁶⁴

⁴⁵⁵ TW4-11, 2 May 2023, p.1231; SITF00013736-SITF00013800RED5, p.SITF00013760.

⁴⁵⁶ TW4-01, 30 May 2023, p.1448; TW4-11, 2 May 2023, p.1228; TW4-11, 3 May 2023, p.1243.

⁴⁵⁷ TW4-01, 30 May 2023, pp.1466-1467; TW4-01, 31 May 2023, p.1539; TW4-01, 6 June 2023, p.1919.

⁴⁵⁸ 060664-TR-ET Part 3, pp.27-28.

⁴⁵⁹ SITF00013736-SITF00013800RED5, p.SITF00013753; TW4-01, 30 May 2023, pp.1421, 1424-1425.

⁴⁶⁰ SPOE00185335-00185363RED3, p.SPOE00185343; SITF00013736-SITF00013800RED5, pp.SITF00013754-SITF00013755.

⁴⁶¹ TW4-01, 31 May 2023, pp.1538-1539; SITF00013736-SITF00013800RED5, pp.SITF00013754-SITF00013755.

⁴⁶² TW4-11, 2 May 2023, pp.1219, 1222-1226; TW4-01, 31 May 2023, p.1510; TW4-10, 1 May 2023, p.1101; 060664-TR-ET Part 3, p.26.

⁴⁶³ Section V.D.

⁴⁶⁴ SPOE00185335-00185363RED3, p.SPOE00185343; 082892-TR-AT-ET Part 4 RED3, pp.7, 25; 082892-TR-AT-ET Part 6, pp.4-7; SITF00013852-00013869RED6, p.SITF00013861. In 2009, W01448 recognised

125. [REDACTED],⁴⁶⁵ [REDACTED].⁴⁶⁶ They beat him with different types of instruments, including iron rods and truncheons,⁴⁶⁷ throughout the night and until the morning.⁴⁶⁸ TW4-11 testified that one morning, after had been taken out for interrogation, [REDACTED].⁴⁶⁹ This is telling of the level of mistreatment [REDACTED] must have endured, considering that the detention rooms were described as unbearably hot.⁴⁷⁰

126. The Roma musicians were also severely mistreated,⁴⁷¹ with W04733 indicating that they were 'treated worse' and discriminated against due to their ethnicity,⁴⁷² and that they were 'beaten up like horses, as if they were animals'.⁴⁷³ W04733 learnt from the Romas that the **Accused** was one of those who mistreated them during their work.⁴⁷⁴

LIMAJ and GECI in a photo board identification, stating that they were in Kukës: SITF00013886-00013908RED, pp.SITF00013887, SITF00013898, SITF00013901.

⁴⁶⁵ Section V.D.

⁴⁶⁶ TW4-01, 31 May 2023, pp.1497-1498.

⁴⁶⁷ TW4-01, 31 May 2023, pp.1507-1508, 1510.

⁴⁶⁸ TW4-01, 31 May 2023, p.1510.

⁴⁶⁹ TW4-11, 2 May 2023, p.1224; TW4-11, 3 May 2023, pp.1242-1244; 059341-059350, p.059349.

⁴⁷⁰ SITF00016140-00016220RED3, p.SITF00016147; 060664-TR-ET Part 3, pp.26-27.

⁴⁷¹ TW4-01, 30 May 2023, p.1417; TW4-01, 31 May 2023, p.1512; TW4-01, 6 June 2023, p.1918; TW4-11, 2 May 2023, p.1220; 082892-TR-AT-ET Part 4 RED3, p.5; SITF00013336-00013347RED, p.SITF00013340; SPOE00185335-00185363RED3, p.SPOE00185342; SITF00016140-00016220RED3, p.SITF00016143.

⁴⁷² SPOE00185335-00185363RED3, p.SPOE00185342.

⁴⁷³ 082892-TR-AT-ET Part 4 RED3, p.5.

⁴⁷⁴ 082892-TR-AT-ET Part 9 RED2, pp.6-7.

127. Some of the victims, namely TW4-02, TW4-04 and TW4-05, stated they were not physically mistreated during their detention at the KMF,⁴⁷⁵ although evidence exists to the contrary.⁴⁷⁶ It is apparent that TW4-02, TW4-04 and TW4-05 all downplayed their own mistreatment, possibly due to intimidation, [REDACTED].

128. With regard to TW4-02, TW4-01 recalled that TW4-02 was beaten during his detention at the KMF and that [REDACTED] was involved in the mistreatment.⁴⁷⁷ TW4-02, however, only marginally involved [REDACTED] in his ordeal. In particular, TW4-02 omitted information concerning [REDACTED],⁴⁷⁸ [REDACTED].⁴⁷⁹

129. Similarly, with regard to TW4-05, W01448 remembered that he was beaten.⁴⁸⁰ At the same time, certain aspects of TW4-05's own account are markedly inconsistent with one another, and with other evidence on record. For example, TW4-05 reported that his treatment at the KMF 'was very good',⁴⁸¹ but at the same time feared for his life, considering himself 'a dead person already' due to [REDACTED].⁴⁸² He stated that he was never held in a locked room but described the place he was held as a

⁴⁷⁵ 060664-TR-ET Part 3, p.26; SITF00013336-00013347RED, pp.SITF00013339-SITF00013340; SITF00013123-SITF00013153RED, p.SITF00013131.

⁴⁷⁶ TW4-01, 6 June 2023, pp.1904-1907; 060664-TR-ET Part 5 RED4, p.6; SITF00013736-SITF00013800RED5, p.SITF00013758; SITF00013833-00013847RED4, p.SITF00013836.

⁴⁷⁷ TW4-01, 6 June 2023, pp.1906-1907.

⁴⁷⁸ TW4-01, 6 June 2023, p.1911; 060664-TR-ET Part 3, pp.17, 20.

⁴⁷⁹ TW4-01, 6 June 2023, pp.1907, 1910-1911.

⁴⁸⁰ SITF00013833-00013847RED4, p.SITF00013836; SITF00013736-SITF00013800RED5, p.SITF00013758.

⁴⁸¹ SITF00372498-00372510RED4, p.SITF00372500.

⁴⁸² SITF00013123-SITF00013153RED, p.SITF00013134.

prison.⁴⁸³ [REDACTED].⁴⁸⁴ TW4-05 expressed [REDACTED] for saving his life, since he expected to be killed as a traitor.⁴⁸⁵ The Panel should give due consideration to these statements in assessing TW4-05's account of his treatment at the KMF.

130. Regarding TW4-04, TW4-02 stated that TW4-04 was mistreated during his detention at the KMF.⁴⁸⁶ TW4-04, too, had attempted to soften the narrative of his detention in Kukës by downplaying the conditions of his detention,⁴⁸⁷ and proactively trying to [REDACTED],⁴⁸⁸ which appears to be connected to [REDACTED].⁴⁸⁹

D. 20 May 1999 Incident

131. On or about 20 May 1999,⁴⁹⁰ in the evening and throughout the night, a group of KLA soldiers including the **Accused**, Sabit GEÇI, Xhemshit KRASNIQI, W04848, a

⁴⁸³ SITF00372498-00372510RED4, p.SITF00372500.

⁴⁸⁴ SITF00372498-00372510RED4, p.SITF00372500.

⁴⁸⁵ SITF00013123-00013167RED, p.SITF00013134.

⁴⁸⁶ 060664-TR-ET Part 5 RED4, p.6.

⁴⁸⁷ 108826-TR-ET Part 1 RED, pp.12-13.

⁴⁸⁸ SPOE00014669-00014751RED, p.SPOE00014705; 064716-TR-ET Part 1 RED3, pp.15-17.

⁴⁸⁹ See e.g., SPOE00014669-00014751RED, p.SPOE00014705; 064716-TR-ET Part 1 RED3, pp.15-20.

⁴⁹⁰ Witnesses provided slightly different indications on the exact date of this incident, which can be determined took place on or around 20 May 1999. **W04733** was kidnapped on or around 18 May 1999 (Section V.A.3. and [REDACTED]), and stated that this beating happened on 21/22 May 1999, during the night of the first day he arrived the KMF (082892-TR-AT-ET Part 4 RED3, pp.21-23). **W01448** stated that this incident took place on 'Thursday evening' (SITF00013736-SITF00013800RED5, p.SITF00013743). In 1999, May the 20th was a Thursday. **TW4-01**, too, testified that this incident took place the same night in which W04733 had arrived at the KMF (TW4-01, 30 May 2023, p.1455). TW4-01 also testified that [REDACTED]. According to this timeline, the mistreatment in the Command Building should have occurred around 15 May 1999. However, TW4-01 had in the past stated that he was

man from Suva Reka, and others, severely mistreated TW4-01, W04733, [REDACTED], W01448 and [REDACTED] in the Office Room.⁴⁹¹ W01448 stated that he 'never saw such tortures happening, even in movies.'⁴⁹²

132. On the same day of his arrival at the KMF,⁴⁹³ W04733 was taken out of the Command Building Detention Room,⁴⁹⁴ and brought downstairs to an office with a sign reading 'the Lawyer' on the door.⁴⁹⁵ W04733 stated in this regard: '[w]hen [...] I saw THE LAWYER sign, I said to myself, there's salvation here, there's going to be justice, except that there was no justice there at all.'⁴⁹⁶ Initially, W04733 was the only

[REDACTED], which would place this incident closer to the date provided by W04733 and W01448. In light of the consistent evidence from W04733, [REDACTED], and W01448, and of TW4-01's original timeline, the mistreatment in the office of the Command Building must have taken place on or around 20 May 1999.

⁴⁹¹ Evidence of the presence of these individuals is discussed below in this section. *See also* Section III.D. for the precise identification of this location.

⁴⁹² SITF00013736-SITF00013800RED5, p.SITF00013747.

⁴⁹³ 082892-TR-AT-ET Part 4 RED3, pp.21-23; TW4-01, 30 May 2023, p.1455.

⁴⁹⁴ SITF00016221-00016285RED4, p.SITF00016231; SITF00013852-00013869RED6, p.SITF00013856. *See* Section III.D. for the precise identification of this location.

⁴⁹⁵ 082892-TR-AT-ET Part 4 RED3, pp.4, 23-24; SPOE00013793-SPOE00013847RED2, pp.SPOE00013810-SPOE00013812; SITF00019824-00019876RED2, p.SITF00019834; SITF00013181-SITF00013189RED3, p.SITF00013186.

⁴⁹⁶ 082892-TR-AT-ET Part 4 RED3, p.24.

detainee in there.⁴⁹⁷ The KLA soldiers told W04733 that they had been waiting for him, and that they were holding a party in his honour.⁴⁹⁸

133. Once in the room, three KLA soldiers sat W04733 on a bench or chair⁴⁹⁹ in front of Sabit GECI,⁵⁰⁰ while the **Accused** and Xhemshit KRASNIQI were behind him.⁵⁰¹ Sabit GECI asked W04733 why he worked for the Serbs. He called him an idiot, a traitor, and punched him.⁵⁰² The **Accused** hit W04733 with a baseball bat and a rubber baton,⁵⁰³ all over his body, including his back, chest and head,⁵⁰⁴ and called him a spy.⁵⁰⁵ The **Accused** and Xhemshit KRASNIQI also hit W04733 with a rubber baton on his hands and on the soles of his feet, 'as hard as they could'. W04733's hands and feet became swollen,⁵⁰⁶ to a point that W04733 could not put his shoes on.⁵⁰⁷

⁴⁹⁷ SPOE00013793-SPOE00013847RED2, p.SPOE00013813; SITF00019824-00019876RED2, p.SITF00019841.

⁴⁹⁸ SITF00013181-SITF00013189RED3, p.SITF00013186; SPOE00013793-SPOE00013847RED2, p.SPOE00013813.

⁴⁹⁹ SITF00013852-00013869RED6, p.SITF00013856; TW4-01, 30 May 2023, p.1452.

⁵⁰⁰ 082892-TR-AT-ET Part 4 RED3, p.24.

⁵⁰¹ SITF00019824-00019876RED2, p.SITF00019834; 082892-TR-AT-ET Part 4, p.24.

⁵⁰² 082892-TR-AT-ET Part 4 RED3, p.25; SITF00019824-00019876RED2, pp.SITF00019838, SITF00019841-SITF00019842.

⁵⁰³ 082892-TR-AT-ET Part 5 RED2, pp.9-10; 106978-107020, p.106980; SITF00019824-00019876RED2, pp.SITF00019842, SITF00019844.

⁵⁰⁴ 106978-107020, p.106980; U003-2283-U003-2289RED2, p.U0032286; 082892-TR-AT-ET Part 5 RED2, p.10; SITF00013852-00013869RED6, p.SITF00013857.

⁵⁰⁵ 082892-TR-AT-ET Part 5 RED2, p.10.

⁵⁰⁶ 082892-TR-AT-ET Part 5 RED2, p.11; SITF00018740-00018767RED, p.SITF00018743; SITF00019824-00019876RED2, p.SITF00019846.

⁵⁰⁷ 082892-TR-AT-ET Part 5 RED2, p.11.

134. During that night, W04733 was severely kicked and beaten with metal bars, baseball bats, rubber batons, and whatever else the KLA soldiers could grab.⁵⁰⁸ They accused W04733 of being a traitor for his work with the Serb institutions, and of having killed, burnt Albanian houses, and raped women.⁵⁰⁹ Xhemshit KRASNIQI repeatedly burned W04733 with a cigarette, until he put it out on his chest,⁵¹⁰ broke W04733's elbow with a rubber baton,⁵¹¹ and pushed the baton into W04733's mouth, breaking W04733's teeth and making him bleed.⁵¹²

135. Eventually, Xhemshit KRASNIQI took out his revolver and hit W04733 with its barrel on the head.⁵¹³ W04733 was bleeding profusely.⁵¹⁴ W04733 stood up but could

⁵⁰⁸ SITF00018740-00018767RED, p.SITF00018743; 082892-TR-AT-ET Part 4 RED3, p.25; SPOE00013793-SPOE00013847RED2, p.SPOE00013814; SITF00019824-00019876RED2, p.SITF00019838; SITF00013852-00013869RED6, pp.SITF00013856-SITF00013857; SITF00016221-00016285RED4, p.SITF00016232. [REDACTED].

⁵⁰⁹ SPOE00013793-SPOE00013847RED2, p.SPOE00013814; SITF00019824-00019876RED2, p.SITF00019841; SITF00013736-SITF00013800RED5, p.SITF00013744; TW4-01, 30 May 2023, p.1455; [REDACTED].

⁵¹⁰ 082892-TR-AT-ET Part 4 RED3, p.27; SPOE00013793-SPOE00013847RED2, pp.SPOE00013815-SPOE00013816; 106978-107020, p.106983; SITF00018740-00018767RED, pp.SITF00018742-SITF00018743.[REDACTED].

⁵¹¹ SITF00018740-00018767RED, p.SITF00018742.

⁵¹² 082892-TR-AT-ET Part 5 RED2, pp.7-8; SPOE00013793-SPOE00013847RED2, p.SPOE00013818; 106978-107020, p.106982; SITF00013181-SITF00013189RED3, p.SITF00013187.

⁵¹³ 082892-TR-AT-ET Part 4 RED3, p.28; 082892-TR-AT-ET Part 5 RED2, p.12; SPOE00013793-SPOE00013847RED2, p.SPOE00013814; SITF00018740-00018767RED, pp.SITF00018742, SITF00018743; [REDACTED].

⁵¹⁴ 082892-TR-AT-ET Part 4 RED3, p.32; TW4-01, 30 May 2023, p.1452; TW4-01, 31 May 2023, pp.1491-1492; SITF00013852-00013869RED6, pp.SITF00013856-SITF00013857.

not keep standing due to the pain; W04733 lost consciousness and fell to the ground.⁵¹⁵ At this point, medical personnel were called in to bandage W04733.⁵¹⁶ A bucket of water was thrown on W04733 to make him regain consciousness.⁵¹⁷

136. About 30 minutes after W04733 was taken from the Command Building Detention Room to the Office Room for the beating, KLA soldiers also brought W01448 to the Office Room.⁵¹⁸ In the corridor, just outside the Office Room, W01448 saw TW4-01 [REDACTED].⁵¹⁹ About 10 to 12 KLA members, some sporting KLA uniforms, and others in civilian clothes, were inside the room.⁵²⁰ They included the **Accused**,⁵²¹ Sabit GECI, Xhemshit KRASNIQI,⁵²² and W04848.⁵²³

⁵¹⁵ 082892-TR-AT-ET Part 4 RED3, p.28; SPOE00013793-SPOE00013847RED2, p.SPOE00013818; 106978-107020, p.106979; SITF00018740-00018767RED, p.SITF00018744.

⁵¹⁶ 082892-TR-AT-ET Part 4 RED3, pp.31-32.

⁵¹⁷ 082892-TR-AT-ET Part 4 RED3, p.35; SPOE00013793-SPOE00013847RED2, p.SPOE00013818; 106978-107020, p.106979; SITF00018740-00018767RED, p.SITF00018744.

⁵¹⁸ 106978-107020, p.106985; SITF00013852-00013869RED6, p.SITF00013856; SPOE00013793-SPOE00013847RED2, pp.SPOE00013808-SPOE00013809, SPOE00013818.

⁵¹⁹ SITF00013852-00013869RED6, p.SITF00013856. *See also* TW4-01, 30 May 2023, pp.1450-1452, and REG00954-REG00954, where [REDACTED].

⁵²⁰ SITF00016221-00016285RED4, p.SITF00016234; SITF00013736-SITF00013800RED5, pp.SITF00013743-SITF00013744.

⁵²¹ TW4-01, 30 May 2023, p.1453; SITF00019824-00019876RED2, p.SITF00019834; SITF00013852-00013869RED6, p.SITF00013857; SITF00013736-SITF00013800RED5, pp.SITF00013743-SITF00013744.

⁵²² TW4-01, 30 May 2023, p.1453; SITF00019824-00019876RED2, p.SITF00019834; 082892-TR-AT-ET Part 4, p.24; SITF00013736-SITF00013800RED5, p.SITF00013743; SITF00013852-00013869RED6, p.SITF00013857.

⁵²³ TW4-01, 30 May 2023, p.1453; TW4-01, 5 June 2023, pp.1817-1821.

137. W01448 was made to witness W04733's mistreatment, and characterised its severity as follows:

'Seeing [REDACTED] in that position, I felt like dying. [...] A normal man can not torture anybody like that. It looked as if all of them were in some sort of competition to beat and humiliate him.'⁵²⁴

138. W01448, too, was beaten that night. W01448's legs were put into cold water up until the knees.⁵²⁵ A KLA soldier unbuttoned W01448's shirt and threatened to cut a cross on his chest.⁵²⁶ Instead, he started beating W01448, and was then joined by the **Accused**.⁵²⁷ The KLA soldier and the **Accused** beat W01448 with batons on his upper body and hands for about 30 minutes,⁵²⁸ so hard that he almost fainted, until Sabit GECEI told them to stop.⁵²⁹

139. When Xhemshit KRASNIQI hit him with a rubber baton on his nose, W01448 lost consciousness.⁵³⁰ The perpetrators threw a bucket of water on him to bring him

⁵²⁴ SITF00013852-00013869RED6, p.SITF00013857.

⁵²⁵ SITF00013852-00013869RED6, p.SITF00013857; SITF00013736-SITF00013800RED5, p.SITF00013743.

⁵²⁶ SITF00013852-00013869RED6, p.SITF00013857; SITF00016140-00016220RED3, p.SITF00016167; SITF00013736-SITF00013800RED5, p.SITF00013745.

⁵²⁷ SITF00013852-00013869RED6, p.SITF00013857; SITF00013736-SITF00013800RED5, p.SITF00013743.

⁵²⁸ SITF00016140-00016220RED3, pp.SITF00016167-SITF00016168; SITF00016221-00016285RED4, pp.SITF00016231-SITF00016232; SITF00013852-00013869RED6, p.SITF00013857; SITF00013736-SITF00013800RED5, p.SITF00013745; 082892-TR-AT-ET Part 4 RED3, p.26; SPOE00013793-SPOE00013847RED2, p.SPOE00013820; 106978-107020, p.106984; SITF00018740-00018767RED, p.SITF00018744.

⁵²⁹ SITF00016221-00016285RED4, p.SITF00016231; SITF00013736-SITF00013800RED5, p.SITF00013743.

⁵³⁰ SITF00013852-00013869RED6, p.SITF00013857.

back to his senses.⁵³¹ W01448 was interrogated and made to write a sort of a 'CV', where he had to list his friends in the Serb MUP.⁵³² W01448 stated that Sabit GECE and Xhemshit KRASNIQI were in charge in the room, with Sabit GECE being the higher ranking one.⁵³³

140. At some point, TW4-01 [REDACTED] were brought inside the Office Room.⁵³⁴ There, they met [REDACTED].⁵³⁵ TW4-01 [REDACTED] arrived while W04733 was still being beaten,⁵³⁶ but after W04733's head – which TW4-01 recalls being 'totally covered in blood' – had already been bandaged.⁵³⁷ TW4-01 recalls the **Accused**, Sabit GECE, Xhemshit KRASNIQI, W04848, and other people, including one holding a handgun in his hand, amongst those present in the room.⁵³⁸

141. Someone in the room – either Sabit GECE, Xhemshit KRASNIQI, or the **Accused** [REDACTED] to beat W04733 – 'this Serb' – with a baton.⁵³⁹ W04733 said that he was

⁵³¹ SITF00013852-00013869RED6, p.SITF00013857.

⁵³² SITF00013736-SITF00013800RED5, p.SITF00013746.

⁵³³ SITF00013736-SITF00013800RED5, p.SITF00013743.

⁵³⁴ TW4-01, 30 May 2023, p.1452.

⁵³⁵ TW4-01, 30 May 2023, pp.1421-1422, 1452.

⁵³⁶ TW4-01, 30 May 2023, p.1452; SITF00018740-00018767RED, p.SITF00018742.

⁵³⁷ TW4-01, 30 May 2023, p.1452; TW4-01, 31 May 2023, pp.1491-1492.

⁵³⁸ TW4-01, 30 May 2023, p.1453; TW4-01, 5 June 2023, pp.1817-1821.

⁵³⁹ [REDACTED]; 082892-TR-AT-ET Part 4 RED3, p.27; SPOE00013793-SPOE00013847RED2, p.SPOE00013819; 106978-107020, p.106981; SITF00018740-00018767RED, p.SITF00018743; SPOE00185335-00185363RED3, p.SPOE00185340.

not a Serb,⁵⁴⁰ [REDACTED].⁵⁴¹ TW4-01 witnessed the **Accused** and others in the room hitting W04733, including with a wooden bar, and throwing salt in his eyes. TW4-01 testified that W04733 had been beaten very badly, and was crying.⁵⁴²

142. When they were finished with W04733, Xhemshit KRASNIQI told two of the people in the room to take him out.⁵⁴³ W04733 was not able to walk.⁵⁴⁴

143. KLA members dragged W04733 back to the detention room, and cut W04733's wrist with a knife.⁵⁴⁵ W04733 bled profusely.⁵⁴⁶ In 2010, **W04826** documented a linear scar on W04733's left wrist compatible with an injury caused by a sharp object.⁵⁴⁷

⁵⁴⁰ 082892-TR-AT-ET Part 4 RED3, p.27; SPOE00013793-SPOE00013847RED2, p.SPOE00013819; 106978-107020, p.106981; SITF00018740-00018767RED, p.SITF00018743; SPOE00185335-00185363RED3, p.SPOE00185340.

⁵⁴¹ [REDACTED].

⁵⁴² TW4-01, 30 May 2023, p.1454.

⁵⁴³ 082892-TR-AT-ET Part 4 RED3, p.34; TW4-01, 30 May 2023, p.1455.

⁵⁴⁴ SITF00013852-00013869RED6, p.SITF00013857.

⁵⁴⁵ 106978-107020, p.106983; 082892-TR-AT-ET Part 5 RED2, p.4; SITF00018740-00018767RED, p.SITF00018744; [REDACTED].

⁵⁴⁶ 082892-TR-AT-ET Part 5 RED2, p.4.

⁵⁴⁷ W04826, 27 June 2023, pp.2131-2132; SITF00019793-00019810, pp.SITF00019795, SITF00019801, SITF00019806.

144. [REDACTED].⁵⁴⁸ [REDACTED].⁵⁴⁹ [REDACTED],⁵⁵⁰ [REDACTED].⁵⁵¹ TW4-01 provided a further, chilling detail about this moment: [REDACTED].⁵⁵² That night, the **Accused** beat TW4-01 as much as he could.⁵⁵³ [REDACTED],⁵⁵⁴ [REDACTED].⁵⁵⁵ As the beating continued [REDACTED].⁵⁵⁶ Others present in the office also repeatedly hit TW4-01 with baseball bats and iron and wooden bars [REDACTED].⁵⁵⁷ [REDACTED].⁵⁵⁸ [REDACTED].⁵⁵⁹

145. During his beating, those present interrogated TW4-01, [REDACTED].⁵⁶⁰ They asked him about other people, and accused him of being a Serb collaborator.⁵⁶¹ With

⁵⁴⁸ TW4-01, 30 May 2023, pp.1456-1457; SITF00018740-00018767RED, p.SITF00018744.

⁵⁴⁹ TW4-01, 30 May 2023, p.1457. While W04733 essentially confirms the same chronology of the events as recounted by TW4-01, [REDACTED], *see* 082892-TR-AT-ET Part 5 RED2, pp.12-13; SPOE00013793-SPOE00013847RED2, pp.SPOE00013820-SPOE00013821. [REDACTED], *see* 059341-059350, p.059349.

⁵⁵⁰ TW4-01, 30 May 2023, p.1457.

⁵⁵¹ TW4-01, 30 May 2023, pp.1457-1458.

⁵⁵² TW4-01, 2 June 2023, p.1690.

⁵⁵³ TW4-01, 2 June 2023, pp.1691-1692.

⁵⁵⁴ 113841-113843, p.113843.

⁵⁵⁵ W04826, 27 June 2023, pp.2119-2120; SITF00019134-SITF00019147RED2, p.SITF00019137; TW4-01, 30 May 2023, pp.1475-1476.

⁵⁵⁶ TW4-01, 30 May 2023, pp.1461-1462.

⁵⁵⁷ TW4-01, 30 May 2023, p.1457.

⁵⁵⁸ TW4-01, 31 May 2023, pp.1457-1458.

⁵⁵⁹ TW4-01, 30 May 2023, p.1458.

⁵⁶⁰ TW4-01, 30 May 2023, pp.1459-1460.

⁵⁶¹ TW4-01, 30 May 2023, pp.1460-1461, 1475-1476; SITF00013852-00013869RED6, p.SITF00013857; SITF00013736-SITF00013800RED5, p.SITF00013744.

reference to the **Accused**'s role in the beating of TW4-01 and [REDACTED], W04733, who was later detained with them, stated that he 'ruined them'.⁵⁶²

146. During the mistreatment of TW4-01, the **Accused** and Xhemshit KRASNIQI forced [REDACTED].⁵⁶³ Xhemshit KRASNIQI and others beat both [REDACTED] and [REDACTED] female victim in the room.⁵⁶⁴ They accused one of the females of working [REDACTED] and singing for the Serb paramilitary leader Arkan.⁵⁶⁵ Xhemshit KRASNIQI beat [REDACTED] so hard that she wet the place when she was moved away.⁵⁶⁶

147. In addition to beating TW4-01, the perpetrators [REDACTED],⁵⁶⁷ as they had done with W04733. [REDACTED].⁵⁶⁸ TW4-01 testified that the same people had been in the room the whole night, with nobody coming to replace them.⁵⁶⁹

⁵⁶² 082892-TR-AT-ET Part 5 RED2, p.9.

⁵⁶³ 106978-107020, p.106987; SPOE00185335-00185363RED3, p.SPOE00185341; SITF00013852-00013869RED6, p.SITF00013857.

⁵⁶⁴ SITF00013736-SITF00013800RED5, pp.SITF00013746-SITF00013747; SITF00016221-00016285RED4, p.SITF00016234; TW4-01, 30 May 2023, p.1477.

⁵⁶⁵ SITF00016221-00016285RED4, p.SITF00016235.

⁵⁶⁶ SITF00013852-00013869RED6, p.SITF00013857.

⁵⁶⁷ TW4-01, 30 May 2023, p.1464; SITF00016221-00016285RED4, p.SITF00016232; SITF00013736-SITF00013800RED5, p.SITF00013747.

⁵⁶⁸ TW4-01, 30 May 2023, p.1465.

⁵⁶⁹ TW4-01, 30 May 2023, p.1465.

148. KLA soldiers used sharp knives and other objects on TW4-01 and [REDACTED] that night, who screamed while suffering 'unbelievable pains'.⁵⁷⁰ W01448 stated that [REDACTED].⁵⁷¹

149. In addition to the persons mentioned above, W04733 recounted that TW4-05 and the three Roma musicians were also brought to and beaten in the Office Room.⁵⁷² W01448 stated that a second female detainee, possibly named [REDACTED],⁵⁷³ was beaten that night.⁵⁷⁴

150. W04733 was the first detainee brought back into the Command Building Detention Room.⁵⁷⁵ The beatings inflicted on W04733 during that night resulted in a deep wound on his forehead,⁵⁷⁶ a broken elbow,⁵⁷⁷ broken teeth,⁵⁷⁸ swollen feet and hands, impaired eye sight⁵⁷⁹ and impaired equilibrium,⁵⁸⁰ - in addition to the

⁵⁷⁰ TW4-01, 30 May 2023, p.1468; SITF00013736-SITF00013800RED5, p.SITF00013745; SITF00016221-00016285RED4, p.SITF00016232; SITF00013852-00013869RED6, p.SITF00013857; 082892-TR-AT-ET Part 4 RED3, p.27.

⁵⁷¹ SITF00013736-SITF00013800RED5, p.SITF00013746.

⁵⁷² SPOE00013793-SPOE00013847RED2, p.SPOE00013818-SPOE00013819; SPOE00185335-00185363RED3, p.SPOE00185341; SITF00018740-00018767RED, p.SITF00018742

⁵⁷³ SITF00013736-SITF00013800RED5, p.SITF00013747.

⁵⁷⁴ SITF00016221-00016285RED4, p.SITF00016235; SITF00013736-SITF00013800RED5, p.SITF00013744.

⁵⁷⁵ 106978-107020, pp.106984-106986.

⁵⁷⁶ SITF00013181-SITF00013189RED3, p.SITF00013186.

⁵⁷⁷ SPOE00013793-SPOE00013847RED2, p.SPOE00013817; 106978-107020, p.106982; SITF00018740-00018767RED, p.SITF00018742.

⁵⁷⁸ SPOE00013793-SPOE00013847RED2, p.SPOE00013818.

⁵⁷⁹ SPOE00013793-SPOE00013847RED2, p.SPOE00013818.

⁵⁸⁰ SPOE00013793-SPOE00013847RED2, p.SPOE00013818.

psychological trauma.⁵⁸¹ A medical examination of W04733 performed by W04826 on 10 November 2010 found a 4.5 centimetre scar on W04733's forehead,⁵⁸² which was the consequence of a 'serious injury on the left forehead, [...] done by a blunt, heavy object with a certain force applied.'⁵⁸³ W04826 also confirmed an injury to W04733's elbow, which appeared as slightly deformed and had a limited range of motion.⁵⁸⁴ W04826 considered the state of the elbow compatible with being the consequence of an injury as described by W04733.⁵⁸⁵ W04826 also found irregular, superficial scars on W04733's body compatible with cigarette burns.⁵⁸⁶

151. After W04733, W01448 was also returned to the Command Building Detention Room.⁵⁸⁷ When W01448 was brought back there, his legs, feet and hands were swollen and he had bruises on his body.⁵⁸⁸

⁵⁸¹ See Section V.A.3.

⁵⁸² W04826, 27 June 2023, pp.2125-2127; SITF00019793-00019810, pp.SITF00019794-SITF00019795, SITF00019797.

⁵⁸³ W04826, 27 June 2023, pp.2128-2129.

⁵⁸⁴ SITF00019793-00019810, p.SITF00019795.

⁵⁸⁵ W04826, 27 June 2023, p.2130.

⁵⁸⁶ W04826, 27 June 2023, pp.2129-2130; SITF00019793-00019810, pp.SITF00019798-SITF00019799, SITF00019802.

⁵⁸⁷ SPOE00013793-SPOE00013847RED2, p.SPOE00013821; 106978-107020, p.106985. See also SITF00016221-00016285RED4, p.SITF00016236.

⁵⁸⁸ SPOE00013793-SPOE00013847RED2, p.SPOE00013820; 106978-107020, pp.106984, 106987.

152. After several hours of beatings in the Office Room,⁵⁸⁹ [REDACTED].⁵⁹⁰ [REDACTED].⁵⁹¹ [REDACTED] was severely beaten [REDACTED],⁵⁹² a circumstance which would have been apparent to the **Accused**.⁵⁹³ [REDACTED], TW4-01 also heard [REDACTED] scream. That was the last night he saw [REDACTED] at the KMF.⁵⁹⁴

153. [REDACTED].⁵⁹⁵ [REDACTED].⁵⁹⁶

154. W03887's video, showing at least ten people at once singing and moving around the space full of furniture,⁵⁹⁷ demonstrates a capacity of the Office Room⁵⁹⁸ compatible with the victims' accounts on the number of individuals present during the 20 May 1999 Incident.⁵⁹⁹

E. [REDACTED]

⁵⁸⁹ TW4-01, 30 May 2023, pp.1459, 1467.

⁵⁹⁰ TW4-01, 30 May 2023, pp.1468-1469, 1472-1473.

⁵⁹¹ TW4-01, 30 May 2023, p.1469.

⁵⁹² TW4-01, 30 May 2023, p.1470; W04826, 26 June 2023, pp.2084-2085; 031049-031095RED2, p.031050.

⁵⁹³ TW4-01, 30 May 2023, p.1470.

⁵⁹⁴ TW4-01, 30 May 2023, p.1477.

⁵⁹⁵ TW4-01, 30 May 2023, pp.1469, 1471.

⁵⁹⁶ TW4-01, 30 May 2023, p.1471.

⁵⁹⁷ 078252-01, 00:08 to 16:07.

⁵⁹⁸ See Section III.D. for an illustration of the evidence on this location.

⁵⁹⁹ That offices in the Command Building could host several people is also corroborated by W04754, who confirmed that seven people were present in Bislim ZYRAPI's office in a photograph taken in May 1999: W04754, 23 October 2023, p.2992; W04754, 24 October 2023, pp.3032-3033.

155. One another occasion, after the 20 May 1999 Incident, [REDACTED] were taken from Room 1 to Room 2 of the Detention Building [REDACTED].⁶⁰⁰ [REDACTED].⁶⁰¹ [REDACTED].⁶⁰² [REDACTED].⁶⁰³ [REDACTED].⁶⁰⁴ [REDACTED].⁶⁰⁵

156. [REDACTED].⁶⁰⁶ [REDACTED].⁶⁰⁷ [REDACTED].⁶⁰⁸ [REDACTED].⁶⁰⁹

157. Corroborating this account, TW4-04, who was held [REDACTED],⁶¹⁰ [REDACTED]⁶¹¹ - [REDACTED].⁶¹² [REDACTED],⁶¹³ and [REDACTED] told TW4-04 that when soldiers 'come back' from the frontlines, things 'get bad'.⁶¹⁴ KLA members later 'came back and grabbed that same guy and moved him out of there'.⁶¹⁵ TW4-04

⁶⁰⁰ [REDACTED]

⁶⁰¹ TW4-01, 31 May 2023, p.1522.

⁶⁰² TW4-01, 31 May 2023, p.1523; TW4-01, 2 June 2023, pp.1647-1648, 1650-1653, 1655-1656; TW4-01, 6 June 2023, p.1922.

⁶⁰³ TW4-01, 31 May 2023, pp.1522, 1523.

⁶⁰⁴ TW4-01, 31 May 2023, p.1523.

⁶⁰⁵ DW4-03, 27 November 2023, pp.3656, 3681; DPS01724-DPS01725, p.DPS01724. [REDACTED], DW4-03, 27 November 2023, pp.3649-3655; DPS00864-DPS00875, p.DPS00866.

⁶⁰⁶ TW4-01, 31 May 2023, pp.1522-1523; TW4-01, 2 June 2023, pp.1656-1657.

⁶⁰⁷ TW4-01, 31 May 2023, pp.1523-1524.

⁶⁰⁸ TW4-01, 31 May 2023, p.1523; TW4-01, 2 June 2023, p.1657; Section III.C.

⁶⁰⁹ TW4-01, 31 May 2023, pp.1523-1525; 031049-031095RED2, p.031050.

⁶¹⁰ See Section V.A.6.

⁶¹¹ 064716-TR-ET Part 5 RED4, pp.13-14.

⁶¹² 064716-TR-ET Part 5 RED4, pp.11-12.

⁶¹³ 064716-TR-ET Part 5 RED4, p.12.

⁶¹⁴ 064716-TR-ET Part 5 RED4, pp.12, 14.

⁶¹⁵ 064716-TR-ET Part 5 RED4, pp.12, 18-19.

never saw him again after that.⁶¹⁶ [REDACTED].⁶¹⁷ TW4-04 had heard gunshots that same night, and was afraid that the bullets would penetrate the walls of his cell.⁶¹⁸

158. TW4-04 also stated that after this night, conditions changed at the KMF, which would suggest that this referred to the night [REDACTED] was killed.⁶¹⁹ [REDACTED].

F. The killing of [REDACTED]

1. **Beating and shooting**

a) *[REDACTED]*

159. [REDACTED].⁶²⁰ The evening of the next day, which based on the timeline that follows below was [REDACTED].⁶²¹ [REDACTED] identified this location in a photograph shown to him at trial, stating that it brought back painful memories.⁶²²

⁶¹⁶ 064716-TR-ET Part 5 RED4, p.14.

⁶¹⁷ 064716-TR-ET Part 5 RED4, p.15.

⁶¹⁸ 064716-TR-ET Part 5 RED4, p.15.

⁶¹⁹ 064716-TR-ET Part 5 RED4, p.14; Section V.G.

⁶²⁰ [REDACTED].

⁶²¹ [REDACTED].

⁶²² [REDACTED].

160. [REDACTED].⁶²³ [REDACTED].⁶²⁴ [REDACTED].⁶²⁵ The **Accused** stayed there for two or three days.⁶²⁶ During this time, in fact, W04379 had the opportunity to get acquainted with the **Accused**. The **Accused**, too, remembered W04379, since years after the war he gifted him with a bottle of liquor.⁶²⁷

161. [REDACTED].⁶²⁸ [REDACTED].⁶²⁹ [REDACTED].⁶³⁰ [REDACTED].⁶³¹ [REDACTED].⁶³² [REDACTED].

162. [REDACTED].⁶³³ [REDACTED].⁶³⁴ [REDACTED].⁶³⁵ [REDACTED].⁶³⁶

163. [REDACTED].⁶³⁷ [REDACTED].⁶³⁸ [REDACTED].⁶³⁹

⁶²³ [REDACTED].

⁶²⁴ [REDACTED].

⁶²⁵ [REDACTED].

⁶²⁶ 060124-TR-ET Part 2 RED4, p.143.

⁶²⁷ 060124-TR-ET Part 2 RED4, pp.141-142.

⁶²⁸ [REDACTED].

⁶²⁹ [REDACTED].

⁶³⁰ [REDACTED].

⁶³¹ [REDACTED].

⁶³² [REDACTED].

⁶³³ [REDACTED].

⁶³⁴ [REDACTED].

⁶³⁵ [REDACTED].

⁶³⁶ [REDACTED].

⁶³⁷ [REDACTED].

⁶³⁸ [REDACTED].

⁶³⁹ [REDACTED].

164. [REDACTED].⁶⁴⁰ [REDACTED].⁶⁴¹ [REDACTED].⁶⁴²

165. [REDACTED].⁶⁴³ [REDACTED].⁶⁴⁴ [REDACTED].⁶⁴⁵ [REDACTED].⁶⁴⁶
[REDACTED].⁶⁴⁷ [REDACTED].⁶⁴⁸ [REDACTED].⁶⁴⁹ [REDACTED].⁶⁵⁰ [REDACTED].⁶⁵¹
[REDACTED].⁶⁵² [REDACTED].⁶⁵³ [REDACTED].⁶⁵⁴

b) Further corroboration of [REDACTED]

166. [REDACTED].⁶⁵⁵ [REDACTED].

⁶⁴⁰ [REDACTED].
⁶⁴¹ [REDACTED].
⁶⁴² [REDACTED].
⁶⁴³ [REDACTED].
⁶⁴⁴ [REDACTED].
⁶⁴⁵ [REDACTED].
⁶⁴⁶ [REDACTED].
⁶⁴⁷ [REDACTED].
⁶⁴⁸ [REDACTED].
⁶⁴⁹ [REDACTED].
⁶⁵⁰ [REDACTED].
⁶⁵¹ [REDACTED].
⁶⁵² [REDACTED].
⁶⁵³ [REDACTED].
⁶⁵⁴ [REDACTED].
⁶⁵⁵ [REDACTED].

167. [REDACTED].⁶⁵⁶ [REDACTED].⁶⁵⁷ [REDACTED].⁶⁵⁸ [REDACTED].⁶⁵⁹
[REDACTED].⁶⁶⁰ [REDACTED].⁶⁶¹ [REDACTED].⁶⁶² [REDACTED].⁶⁶³

168. [REDACTED].⁶⁶⁴ [REDACTED].⁶⁶⁵ [REDACTED].⁶⁶⁶

169. [REDACTED].⁶⁶⁷ [REDACTED].⁶⁶⁸ [REDACTED].⁶⁶⁹ [REDACTED].⁶⁷⁰
[REDACTED].⁶⁷¹

170. [REDACTED].⁶⁷² [REDACTED].⁶⁷³ [REDACTED].⁶⁷⁴ [REDACTED].⁶⁷⁵
[REDACTED].⁶⁷⁶

⁶⁵⁶ [REDACTED].

⁶⁵⁷ [REDACTED].

⁶⁵⁸ [REDACTED].

⁶⁵⁹ [REDACTED].

⁶⁶⁰ [REDACTED].

⁶⁶¹ [REDACTED].

⁶⁶² [REDACTED].

⁶⁶³ [REDACTED].

⁶⁶⁴ [REDACTED].

⁶⁶⁵ [REDACTED].

⁶⁶⁶ [REDACTED].

⁶⁶⁷ [REDACTED].

⁶⁶⁸ [REDACTED].

⁶⁶⁹ [REDACTED].

⁶⁷⁰ [REDACTED].

⁶⁷¹ [REDACTED].

⁶⁷² [REDACTED].

⁶⁷³ [REDACTED].

⁶⁷⁴ [REDACTED].

⁶⁷⁵ [REDACTED].

⁶⁷⁶ [REDACTED].

c) [REDACTED]

171. [REDACTED].⁶⁷⁷ [REDACTED].

172. [REDACTED].

173. [REDACTED] ⁶⁷⁸ [REDACTED].⁶⁷⁹ [REDACTED].⁶⁸⁰ [REDACTED],⁶⁸¹
[REDACTED].⁶⁸²

174. [REDACTED].⁶⁸³ [REDACTED],⁶⁸⁴ [REDACTED].⁶⁸⁵ [REDACTED]⁶⁸⁶
[REDACTED].⁶⁸⁷ [REDACTED].⁶⁸⁸ [REDACTED].⁶⁸⁹ [REDACTED],⁶⁹⁰ [REDACTED].⁶⁹¹
[REDACTED].

⁶⁷⁷ [REDACTED].

⁶⁷⁸ [REDACTED].

⁶⁷⁹ [REDACTED].

⁶⁸⁰ [REDACTED].

⁶⁸¹ [REDACTED].

⁶⁸² [REDACTED].

⁶⁸³ [REDACTED].

⁶⁸⁴ [REDACTED].

⁶⁸⁵ [REDACTED].

⁶⁸⁶ [REDACTED].

⁶⁸⁷ [REDACTED].

⁶⁸⁸ [REDACTED].

⁶⁸⁹ [REDACTED].

⁶⁹⁰ [REDACTED].

⁶⁹¹ [REDACTED].

175. [REDACTED].⁶⁹² [REDACTED],⁶⁹³ [REDACTED].⁶⁹⁴ [REDACTED].⁶⁹⁵

176. [REDACTED].

177. [REDACTED].

178. [REDACTED].⁶⁹⁶

2. [REDACTED]

179. [REDACTED],⁶⁹⁷ [REDACTED].⁶⁹⁸ [REDACTED].⁶⁹⁹ [REDACTED].⁷⁰⁰
[REDACTED].⁷⁰¹

3. [REDACTED] exhumation [REDACTED] cemetery and DNA analysis [REDACTED]

180. On [REDACTED], a EULEX judge ordered the exhumation of the grave in the [REDACTED] cemetery [REDACTED], delegating to the EULEX Office of Missing

⁶⁹² [REDACTED].

⁶⁹³ [REDACTED].

⁶⁹⁴ [REDACTED].

⁶⁹⁵ [REDACTED].

⁶⁹⁶ [REDACTED].

⁶⁹⁷ [REDACTED].

⁶⁹⁸ [REDACTED].

⁶⁹⁹ [REDACTED].

⁷⁰⁰ [REDACTED].

⁷⁰¹ [REDACTED].

Persons and Forensics ('**OMPF**') the authority to conduct a post-mortem inspection.⁷⁰² The body was exhumed on [REDACTED].⁷⁰³ On [REDACTED], the same EULEX judge authorised the 'Kriminalistický Ústav Institute' of Prague ('**Criminalistic Institute of Prague**') to perform a DNA identification of the remains.⁷⁰⁴

181. **Zybnik DOLEJSI (W04887)**, a genetist from the Criminalistic Institute of Prague, determined a probability of 99.99998% that the DNA profile extracted from the bone fragment belonged to the biological descendant of [REDACTED]⁷⁰⁵ [REDACTED], or – expressed in different terms – 11 million times more likely than not that this kinship relation exists.⁷⁰⁶

182. **William GOODWIN (W04875)**, a DNA expert who reviewed the results obtained by W04887, found W04887's analysis adherent to standard practice and professional and scientific standards.⁷⁰⁷ W04875 also explained that by combining the likelihood ratio found by W04887 with additional analysis performed by W04887 on the Y chromosome, the 11 million likelihood increases at least by ten times.⁷⁰⁸ This is

⁷⁰² 031049-031095RED2, pp.031094-031095.

⁷⁰³ 031049-031095RED2, p.031092.

⁷⁰⁴ SITF00017298-00017300, p.SITF00017298; SITF00017301-00017307RED, pp.SITF00017301-SITF00017302.

⁷⁰⁵ [REDACTED]; SITF00374132-00374148RED2, p.SITF00374136. *See also* 066888-TR-ET Part 1 Revised, p.150.

⁷⁰⁶ 110670-110674, p.110670; SITF00012456-SITF00012458-ET; W04887, 16 June 2023, pp.1966, 1970-1971.

⁷⁰⁷ 111160-111162, p.111162; W04875, 4 July 2023, p.2216.

⁷⁰⁸ W04875, 4 July 2023, pp.2219-2221.

‘extremely strong evidence’ in support of a kinship relationship between the bone fragments taken from the grave, and the biological samples extracted from [REDACTED].⁷⁰⁹

4. Expert forensic evidence

a) *Post-mortem examination [REDACTED]*

183. On [REDACTED], **Marek GASIOR (W04826)** – a pathologist employed by the OMPF - conducted a post-mortem examination on [REDACTED]’s remains,⁷¹⁰ as ordered by the EULEX judge.⁷¹¹

184. [REDACTED], during the autopsy [REDACTED], W04826 found [REDACTED],⁷¹² [REDACTED].⁷¹³ The remains were determined to have belonged to a male aged between [REDACTED].⁷¹⁴

⁷⁰⁹ W04875, 4 July 2023, pp.2222-2223.

⁷¹⁰ W04826, 26 June 2024, p.2071; 031049-031095RED2, pp.031049, 031051.

⁷¹¹ W04826, 27 June 2024, pp.2136-2138; 031049-031095RED2, p.031094-031095.

⁷¹² W04826, 3 July 2023, pp.2165-2166, 2188-2189; 031049-031095RED2 pp.031058, 031060, 031064, 031070.

⁷¹³ W04826, 26 June 2023, pp.2075, 2077-2078, 2081; W04826, 3 July 2023, pp.2164-2165, REG00959-REG00959; 031049-031095RED2 pp.031051, 031058-031059, 031062-031065.

⁷¹⁴ W04826, 26 June 2023, p.2073; 031049-031095RED2, p.031072.

185. W04826 concluded that [REDACTED] died because of gunshots [REDACTED].⁷¹⁵ [REDACTED].⁷¹⁶ [REDACTED].⁷¹⁷ According to W04826, only a rapid surgical intervention could create a chance of saving someone affected by this type of wound.⁷¹⁸ [REDACTED].⁷¹⁹ The conclusion that this wound caused the death of the victim is reinforced by the absence of any sign of healing in the bones after the injury, meaning that a short time, at most a few days, passed between the injury and the victim's death.⁷²⁰

b) Number of shots and their trajectories

186. W04826 found injuries [REDACTED] right knee.⁷²¹ W04826 was able to determine that [REDACTED] was hit by two or three bullets, as well as the trajectory of the bullets.⁷²² One shot, and possibly a second one, went through the bones

⁷¹⁵ W04826, 26 June 2023, pp.2085-2087; 031049-031095RED2, p.031052.

⁷¹⁶ W04826, 26 June 2023, p.2094; W04826, 3 July 2023, p.2173.

⁷¹⁷ W04826, 26 June 2023, pp.2094-2095; W04826, 3 July 2023, p.2201.

⁷¹⁸ W04826, 27 June 2023, p.2113; W04826, 3 July 2023, p.2201.

⁷¹⁹ W04826, 27 June 2023, p.2113; W04826, 3 July 2023, pp.2201-2202.

⁷²⁰ W04826, 26 June 2023, p.2095; W04826, 3 July 2023, p.2173.

⁷²¹ W04826, 26 June 2023, p.2087.

⁷²² 031049-031095RED2, pp.031051, 031055, 031091; W04826, 3 July 2023, p.2170; 113841-113843, p.113842.

constituting the knee, while another shot was superficial.⁷²³ A ruler applied next to the injuries was used to measure their size.⁷²⁴

187. The two or three shots,⁷²⁵ in relation to which W04826 was able to determine the entry⁷²⁶ and exit points,⁷²⁷ affected the distal right femur, causing destruction of the patella, and the right tibia.⁷²⁸

188. With regard to the shot identified as shot number 1 (**Shot 1**), W04826 determined that it penetrated the lower part of the right femur of [REDACTED], front to back, with a horizontal trajectory.⁷²⁹

189. The trajectory of what W04826 described as the possible second shot (**Shot 2**),⁷³⁰ indicated by W04286 with a light blue arrow, was determined to have hit the bone from front to back, in the upward direction.⁷³¹ The third shot (**Shot 3**), marked with a green arrow, was determined to have hit the bone from front to back,

⁷²³ W04826, 3 July 2023, p.2170. See 031049-031095RED2, pp.031091, where W04826 noted one shot to the femur, one to the tibia, and a possible third shot on the knee.

⁷²⁴ W04826, 3 July 2023, p.2171. See also e.g. 031049-031095RED2, pp.031066, 031067.

⁷²⁵ 031049-031095RED2, p.031051.

⁷²⁶ 031049-031095RED2, p.031065, picture 29.

⁷²⁷ W04826, 26 June 2023, pp.2092-2093; 031049-031095RED2, p.031068, pictures 43-44.

⁷²⁸ W04826, 26 June 2023, p.2087, REG00960-REG00960; 031049-031095RED2, p.031051.

⁷²⁹ W04826, 26 June 2023, pp.2092, 2096, 2098-2099, REG00960-REG00960; W04826, 27 June 2023, pp.2109-2110; 031049-031095RED2, p.031066, picture 36, red arrow, and p.031091, showing the location of the shot on a drawing of a human skeleton.

⁷³⁰ 031049-031095RED2, pp.031051, 031055.

⁷³¹ W04826, 27 June 2023, p.2110; 031049-031095RED2, p.031066, picture 36, light blue arrow.

with a similar upward trajectory, but was more superficial, i.e. did not go through the victim's knee.⁷³² This shot was also found to have a trajectory going from the internal to the external part of the victim's leg.⁷³³

c) Respective position of the shooter and victim, and sequence of the shots

190. W04826 considered that Shot 1 could have been the first shot fired, even though cautioning that this was not a conclusive determination.⁷³⁴ While DW4-03 testified that it was not possible to tell the sequence in which the shots were fired,⁷³⁵ he confirmed that Shot 1 is compatible with a shot fired from a [REDACTED],⁷³⁶ at close range,⁷³⁷ pressed against the victim's leg, while the victim was sitting.⁷³⁸ W04826, too, considered his findings compatible with the victim being seated at the time [REDACTED] was shot.⁷³⁹ Both prosecution and defence experts therefore confirmed the forensic evidence to be consistent with the very specific account witnessed and described by [REDACTED].

⁷³² W04826, 27 June 2023, pp.2110-2111; 031049-031095RED2, p.031066, picture 36, green arrow; W04826, 3 July 2023, pp.2171-2172.

⁷³³ W04826, 27 June 2023, p.2111; 031049-031095RED2, pp.031051, 031055.

⁷³⁴ 113841-113843, p.113842.

⁷³⁵ DW4-03, 27 November 2023, pp.3693-3694.

⁷³⁶ DPS00864-DPS00875, p.DPS00869.

⁷³⁷ DPS00864-DPS00875, p.DPS00869.

⁷³⁸ DW4-03, 27 November 2023, p.3689; DPS00864-DPS00875, p.DPS00870.

⁷³⁹ 113841-113843, p.113842.

191. [REDACTED].⁷⁴⁰ [REDACTED].⁷⁴¹

192. [REDACTED].⁷⁴²

d) Injuries [REDACTED]

193. [REDACTED].⁷⁴³ [REDACTED].⁷⁴⁴ [REDACTED].⁷⁴⁵ [REDACTED].⁷⁴⁶
[REDACTED].⁷⁴⁷ [REDACTED].⁷⁴⁸ [REDACTED].

194. [REDACTED].⁷⁴⁹ [REDACTED].⁷⁵⁰ [REDACTED].⁷⁵¹ [REDACTED].⁷⁵²

195. [REDACTED].⁷⁵³ [REDACTED].⁷⁵⁴

⁷⁴⁰ DW4-03, 27 November 2023, pp.3691-3692.

⁷⁴¹ DW4-03, 27 November 2023, pp.3963-3694.

⁷⁴² [REDACTED].

⁷⁴³ W04826, 27 June 2023, pp.2121-2122; SITF00019134-SITF00019147RED2, pp.SITF00019138, SITF00019141.

⁷⁴⁴ SITF00019134-SITF00019147RED2, pp.SITF00019138, SITF00019142-SITF00019144.

⁷⁴⁵ W04826, 3 July 2023, pp.2178-2179; SITF00019134-SITF00019147RED2, p.SITF00019147; 113841-113843, p.113843.

⁷⁴⁶ W04826, 3 July 2023, p.2196.

⁷⁴⁷ 113841-113843, p.113843.

⁷⁴⁸ DPS00864-DPS00875, p.DPS00868.

⁷⁴⁹ DPS00864-DPS00875, p.DPS00868.

⁷⁵⁰ [REDACTED].

⁷⁵¹ DPS00864-DPS00875, p.DPS00868.

⁷⁵² [REDACTED].

⁷⁵³ DPS00864-DPS00875, p.DPS00868.

⁷⁵⁴ 113841-113843, p.113843.

196. Finally, [REDACTED] pistols and [REDACTED]⁷⁵⁵ - [REDACTED] - were in fact used by the KLA.⁷⁵⁶

G. The arrival of new guards at the KMF

197. [REDACTED],⁷⁵⁷ [REDACTED],⁷⁵⁸ [REDACTED].⁷⁵⁹ [REDACTED].⁷⁶⁰ With their arrival, the detention conditions at the KMF improved,⁷⁶¹ with the detainees finally being allowed to wash themselves.⁷⁶² The beatings, too, stopped.⁷⁶³ The detainees in

⁷⁵⁵ The terms [REDACTED] are used to describe the same type of rifle, *see* DW4-03, 27 November 2023, p.3676.

⁷⁵⁶ DW4-03, 27 November 2023, p.3684; 072508-01, 06:00 to 06:01; 082892-TR-AT-ET Part 4 RED3, p.27; 074117-074129-ET Revised 1, p.074124.

⁷⁵⁷ W04280, 28 November 2023, pp.3770, 3823; TW4-01, 31 May 2023, p.1537; SITF00013262-00013315RED, p.SITF00013273; 060664-TR-ET Part 5 RED4, pp.11-12; 064716-TR-ET Part 5 RED4, p.30.

⁷⁵⁸ TW4-01, 31 May 2023, pp.1537-1538; 064716-TR-ET Part 3 RED4, p.16.

⁷⁵⁹ SITF00013736-SITF00013800RED5, p.SITF00013750; W04280, 28 November 2023, pp.3769-3770. *See also* W04280, 29 November 2023, pp.3838-3839 ([REDACTED].)

⁷⁶⁰ SITF00013262-00013315RED, p.SITF00013273; 064716-TR-ET Part 5 RED4, p.21; SITF00013852-00013869RED6, p.SITF00013860.

⁷⁶¹ TW4-01, 31 May 2023, pp.1537-1538; SITF00013736-SITF00013800RED5, pp.SITF00013749-SITF00013750; SITF00015825-00015925RED, p.SITF00015854; 064716-TR-ET Part 5 RED4, p.14; SITF00013852-00013869RED6, p.SITF00013860.

⁷⁶² TW4-01, 30 May 2023, pp.1447-1448; TW4-01, 31 May 2023, pp.1537-1538, SITF00012876-SITF00012878, p.SITF00012878 (where the tent is drawn just above Room 1); SITF00016140-00016220RED3, p.SITF00016148; SITF00013736-SITF00013800RED5, p.SITF00013750; 064716-TR-ET Part 3 RED4, pp.15-16.

⁷⁶³ TW4-01, 31 May 2023, p.1539; SITF00013852-00013869RED6, p.SITF00013860; 064716-TR-ET Part 5 RED4, p.5.

Room 1 could finally sleep,⁷⁶⁴ even though it was difficult to properly rest in such limited space.⁷⁶⁵

H. The evidence from the victims is reliable

1. **The Accused's admissions**

198. As discussed below - while making certain inconsistent and/or implausible denials to try and downplay his culpability - the **Accused** has in fact acknowledged being present at the KMF during the Indictment Period, knowing of the detention and mistreatment of victims in this case, and has admitted his own participation in certain of the charged crimes, together with other alleged JCE members.

199. It is apparent that the **Accused** drew a link between [REDACTED]⁷⁶⁶ - [REDACTED] - and the subsequent suspect summons he received for crimes committed in Albania in 1999.⁷⁶⁷ This is likely to be what caused the **Accused** to begin

⁷⁶⁴ SITF00013852-00013869RED6, p.SITF00013860.

⁷⁶⁵ SITF00016140-00016220RED3, p.SITF00016146.

⁷⁶⁶ 074117-074129-ET Revised 1, p.074127; TW4-01, 31 May 2023, pp.1597-1598. The **Accused** stated that [REDACTED], he received 'a summons', 066888-TR-ET Part 1 Revised, p.166. This must be a reference to the summons to the 2016 Belgian interview, which was sent to the **Accused** on 23 November 2015, *see* 101752-101763RED2, p.101762.

⁷⁶⁷ 101752-101763RED2, p.101760. Differently, his ICTY interviews focused on his possible involvement in crimes committed in 1998 in the Dukagjin area.

making certain partial admissions, in an attempt to come across as credible while still seeking to avoid prosecution.

a) The Accused's presence at the KMF

200. The **Accused** admitted being present at the KMF during the Indictment Period. He stated that his duties in 1999 included transporting KLA volunteers from their point of arrival to the Albanian/Kosovo border,⁷⁶⁸ which required him to travel very often between Tirana and the frontlines in northern Albania, passing through and stopping in Kukës,⁷⁶⁹ where he also slept.⁷⁷⁰ The **Accused** stopped in Kukës so that volunteers could get armed,⁷⁷¹ and helped them to find accommodation in Kukës town.⁷⁷²

201. The **Accused** corroborates TW4-10's evidence that he, the **Accused**, could enter and leave the premises of the KMF as he pleased, because people knew him.⁷⁷³ In fact, the **Accused** stated that he would come and go from the KMF.⁷⁷⁴ He went there to get

⁷⁶⁸ 074117-074129-ET Revised 1, p.074121; 066888-TR-ET Part 1 Revised, pp.127-129. *See also* U009-9398-U009-9398-ET, which tasked the **Accused** with the transport of the 'command structures' to the frontlines of the Pashtrik Operational Zone.

⁷⁶⁹ 066888-TR-ET Part 1 Revised, pp.124-126.

⁷⁷⁰ 066888-TR-ET Part 1 Revised, pp.131, 140-141.

⁷⁷¹ 074117-074129-ET Revised 1, pp.074122, 074128.

⁷⁷² 074117-074129-ET Revised 1, pp.074122-074124.

⁷⁷³ 066866-066882-ET Revised, p.066880; TW4-10, 1 May 2023, pp.1110, 1116-1119.

⁷⁷⁴ 066866-066882-ET Revised, p.066878.

provisions,⁷⁷⁵ including ammunition,⁷⁷⁶ and to meet people.⁷⁷⁷ Asked how many times he went there during 1999, he said that he did not keep count.⁷⁷⁸ The **Accused** admitted it was possible that he was in Kukës in May 1999,⁷⁷⁹ adding that he ‘stayed in Kukës until the bombing was over’, before returning to Belgium.⁷⁸⁰

202. Specific examples provided by the **Accused** show that he was, in fact, at the KMF in May 1999. For instance, consistent with TW4-01’s evidence, he admitted being at the KMF [REDACTED],⁷⁸¹ in the second half of May 1999.⁷⁸² The **Accused** also corroborates TW4-01’s testimony [REDACTED].⁷⁸³ Although the **Accused** stated that he did not sleep at the KMF,⁷⁸⁴ and it is possible that normally he did not,⁷⁸⁵ he slept there on or around the arrival of [REDACTED] at the KMF.⁷⁸⁶ [REDACTED] evidence that the **Accused** slept at the KMF [REDACTED],⁷⁸⁷ is highly reliable considering that [REDACTED]. [REDACTED] the **Accused** stated that he was ‘an officer, a superior’,

⁷⁷⁵ 066888-TR-ET Part 1 Revised, p.175.

⁷⁷⁶ 066888-TR-ET Part 1 Revised, p.182.

⁷⁷⁷ 066888-TR-ET Part 1 Revised, p.124.

⁷⁷⁸ 066888-TR-ET Part 1 Revised, pp.124-125.

⁷⁷⁹ 074117-074129-ET Revised 1, p.074124.

⁷⁸⁰ 074117-074129-ET Revised 1, p.074124.

⁷⁸¹ 066888-TR-ET Part 1 Revised, pp.146-147, 169; 074117-074129-ET Revised 1, p.074126.

⁷⁸² Section V.A.1.

⁷⁸³ 066888-TR-ET Part 1 Revised, p.150; 074117-074129-ET Revised 1, p.074126; TW4-01, 30 May 1999, p.1408.

⁷⁸⁴ 066888-TR-ET Part 1 Revised, p.141.

⁷⁸⁵ TW4-10, 1 May 2023, p.1119; W04754, 23 October 2023, pp.2967-2968.

⁷⁸⁶ [REDACTED].

⁷⁸⁷ See Section V.A.1.

at that time.⁷⁸⁸ Irrespective of the **Accused's** actual rank, upon his arrival in Albania in 1999 he had understood that he had been appointed to lead a brigade,⁷⁸⁹ and made claims in year 2000 about holding a high rank with the KLA when he was in Albania in 1999.⁷⁹⁰

203. The **Accused** also admitted seeing W04733 serving coffee to KLA commanders in the Command Building at the KMF.⁷⁹¹ On this occasion, the **Accused** was at the KMF to restock on ammunition for his rifle, of which he only took a few bullets at a time and kept a reserve stock at the KMF.⁷⁹² The **Accused** recalls that W04733 was wearing a camouflage uniform,⁷⁹³ thus corroborating W04733's evidence on what he was made to wear after his arrival at the KMF.⁷⁹⁴ W04733 had arrived at the KMF in the evening of the 20 May 1999 Incident, and was taken out for a night of beatings shortly after on the same day.⁷⁹⁵ Considering the state in which W04733 was after the 20 May 1999 Incident,⁷⁹⁶ and the fact that Albanian authorities released W04733 on or around 1 June 1999,⁷⁹⁷ the **Accused** must have seen W04733 at some point *after* the

⁷⁸⁸ [REDACTED].

⁷⁸⁹ 066888-TR-ET Part 1 Revised, pp.77-78.

⁷⁹⁰ U009-9245-U009-9258-ET, p.U009-9256; U009-9230-U009-9235-ET, p.U009-9230.

⁷⁹¹ 066888-TR-ET Part 1 Revised, pp.180-181, 185, 188-189.

⁷⁹² 066888-TR-ET Part 1 Revised, p.182.

⁷⁹³ 066888-TR-ET Part 1 Revised, p.185.

⁷⁹⁴ See Section V.A.3.

⁷⁹⁵ See Section V.A.3.

⁷⁹⁶ See Section V.D.

⁷⁹⁷ See Section V.A.3.

20 May 1999 Incident, but before 1 June 1999. This conclusion is consistent with W04733's evidence that he also saw the **Accused** at the KMF approximately four days before his release.⁷⁹⁸ As discussed elsewhere, the **Accused** was also present at the KMF on other occasions, including at the time [REDACTED] was killed.⁷⁹⁹

b) The Accused's involvement in beatings at the KMF

204. The **Accused** also made partial admissions concerning his participation in the 20 May 1999 Incident, in which he is implicated by the consistent and mutually corroborating evidence of TW4-01, W04733, and W01448.⁸⁰⁰

205. In this regard, the **Accused** admitted to beating TW4-01 and [REDACTED]⁸⁰¹ with a wooden stick,⁸⁰² [REDACTED].⁸⁰³ This corroborates TW4-01, [REDACTED],⁸⁰⁴ and W01448, who stated that during the 20 May 1999 Incident Sabit GECI was imparting orders to others to beat the victims.⁸⁰⁵ The **Accused** also corroborates TW4-01, W01448, and W04733's accounts about the presence of other KLA members during

⁷⁹⁸ 082892-TR-AT-ET Part 9RED2, p.5.

⁷⁹⁹ Section V.F.

⁸⁰⁰ Sections V.D and V.I.3.

⁸⁰¹ 066888-TR-ET Part 1 Revised, pp.154, 168.

⁸⁰² 066888-TR-ET Part 1 Revised, pp.154, 163.

⁸⁰³ 074117-074129-ET Revised 1, pp.074127-074128; 066888-TR-ET Part 1 Revised, pp.145-148,165.

⁸⁰⁴ TW4-01, 6 June 2023, pp.1925-1926.

⁸⁰⁵ SITF00013852-00013869RED6, p.SITF00013857; SITF00013833-00013847RED4, p.SITF00013836.

this beating.⁸⁰⁶ The **Accused** stated that TW4-01 and [REDACTED] did not pose any danger to the KLA when he met them at the KMF.⁸⁰⁷

206. The **Accused** further corroborates TW4-01's account that his tormentors levied various accusations against him during his mistreatment, [REDACTED].⁸⁰⁸ In this regard, the **Accused** stated that he learnt information about [REDACTED] 'around that time, I learned it there, in Kukës'.⁸⁰⁹ This is further evidence that his presence at the KMF – and involvement with TW4-01 and [REDACTED]'s detention – went beyond the single episode in relation to which he has partially admitted responsibility.

207. The **Accused** also admitted to making wolf-like howls during the war,⁸¹⁰ which corroborates W04733's evidence of the **Accused**'s conduct during his transport from Romanat to the KMF.⁸¹¹ While the **Accused** denied participating in W04733's transport,⁸¹² he knew that someone 'in the Durrës camp', was accusing W04733 of having done something bad.⁸¹³ This knowledge is consistent with W04733's evidence about the **Accused**'s involvement in his transport to Kukës after his kidnapping in

⁸⁰⁶ 066888-TR-ET Part 1 Revised, pp.152, 157-158; 066866-066882-ET Revised, p.066877.

⁸⁰⁷ 066866-066882-ET Revised, p.066876.

⁸⁰⁸ 066888-TR-ET Part 1 Revised, pp.153, 155,157.

⁸⁰⁹ 066888-TR-ET Part 1 Revised, p.153.

⁸¹⁰ 066888-TR-ET Part 1 Revised, p.132.

⁸¹¹ Section V.A.3.

⁸¹² 066888-TR-ET Part 1 Revised, p.190.

⁸¹³ 066888-TR-ET Part 1 Revised, p.183.

Durrës, on the same day that the **Accused** took part in W04733 beating during the 20 May 1999 Incident.⁸¹⁴

2. Untruthful statements and inconsistencies in the Accused's evidence

208. The **Accused's** ill-conceived attempts to downplay his involvement in the crimes and avoid prosecution are marred by inconsistencies and rife with implausible denials. The untruthful parts, however, do not render unreliable the parts that corroborate the evidence of the victims.⁸¹⁵

209. The **Accused** has often resorted to drunkenness as an excuse for not remembering certain facts, stating that he was 'drunk during the entire period of the war.'⁸¹⁶ For example, in 2005, asked if he had ever beaten someone in Durrës or Kukës, the **Accused** stated that he did not remember as he was 'very, very drunk', but conceded that 'it might have happened some time.'⁸¹⁷ Yet, eleven years later, in 2016, the **Accused** specifically recalled beating TW4-01 [REDACTED], 'a few times, [...] many times',⁸¹⁸ 'for about five minutes, an hour, two hours'⁸¹⁹ - although claiming it

⁸¹⁴ Section V.A.3.

⁸¹⁵ See *Mustafa TJ*, para.237.

⁸¹⁶ 074117-074129-ET Revised 1, p.074121; T000-2748-T000-2748-Alb and Eng Transcript-1, p.40. See also 074117-074129-ET Revised 1, p.074124.

⁸¹⁷ T000-2748-T000-2748-Alb and Eng Transcript-1, pp.35-37.

⁸¹⁸ 074117-074129-ET Revised 1, pp.074126-074127.

⁸¹⁹ 074117-074129-ET Revised 1, p.074128.

was only with his fists.⁸²⁰ In 2019, he acknowledged that he only drank to be less afraid and energised, but did not get 'blackout drunk', and that he knew what he was doing, even if he had consumed alcohol.⁸²¹ The **Accused's** claim that he was drunk the whole time is also at odds with his statement that during that time he operated a sniper rifle, which is a high-precision weapon, and that everyone wanted him by their side for protection.⁸²²

210. A clear sign that the **Accused's** admissions are only partial is that, in different accounts, he changed certain important details or simply contradicted himself. For example, while in 2016 the **Accused** justified his violence towards TW4-01 [REDACTED],⁸²³ in 2019 he stated that [REDACTED].⁸²⁴ In 2016, when confronted with TW4-01's evidence implicating him in mistreatments within the KLA HQs, the **Accused** stated that he had 'not entered those rooms'.⁸²⁵ However, in 2019, he admitted having coffee inside the Command Building.⁸²⁶ In 2016 the **Accused** admitted that TW4-01 [REDACTED] had been arrested,⁸²⁷ while in 2019 he denied that anyone was ever arrested or detained at the KMF, stating that TW4-01

⁸²⁰ 074117-074129-ET Revised 1, p.074128.

⁸²¹ 066888-TR-ET Part 1 Revised, pp.138-141.

⁸²² 066888-TR-ET Part 1 Revised, p.123.

⁸²³ 074117-074129-ET Revised 1, p.074126.

⁸²⁴ 066888-TR-ET Part 1 Revised, p.156.

⁸²⁵ 074117-074129-ET Revised 1, pp.074127-074128.

⁸²⁶ 066888-TR-ET Part 1 Revised, pp.180-181, 185, 188-189.

⁸²⁷ 074117-074129-ET Revised 1, p.074127.

[REDACTED].⁸²⁸ In 2016 he stated that he had learnt about [REDACTED] death three or four years earlier,⁸²⁹ while in 2019 he claimed to have first learnt about it in 2016.⁸³⁰

211. Furthermore, [REDACTED]the **Accused** was part of a group of KLA members looking for W04733 in his home [REDACTED],⁸³¹ but did not find him.⁸³² [REDACTED].⁸³³

212. In 2019, the **Accused** characterised as ‘propaganda’ allegations that members of the KLA from Jablanica/Jabllanicë paid threatening visits to households in the Dakovica/Gjakovë area in 1998, looking for weapons,⁸³⁴ and denied knowing that W04733 was targeted by the KLA.⁸³⁵ However, the **Accused** admitted being in or around the village [REDACTED], where the attack against W04733 and his family took place,⁸³⁶ but stated it was to train recruits.⁸³⁷ Yet, in 2016, the **Accused** had in fact already admitted that in 1998 the KLA military police had been looking for W04733 in Kosovo⁸³⁸ and stated ‘[i]f I had caught him one year earlier, he wouldn’t have been

⁸²⁸ 066888-TR-ET Part 1 Revised, pp.155, 157-158.

⁸²⁹ 074117-074129-ET Revised 1, p.074127.

⁸³⁰ 066888-TR-ET Part 1 Revised, p.165.

⁸³¹ [REDACTED].

⁸³² [REDACTED].

⁸³³ [REDACTED].

⁸³⁴ 066888-TR-ET Part 1 Revised, p.54.

⁸³⁵ 066888-TR-ET Part 1 Revised, pp.60, 189.

⁸³⁶ [REDACTED]; Section V.A.3.

⁸³⁷ 066888-TR-ET Part 1 Revised, pp.60-63; 066866-066882-ET Revised, pp.066878-066879.

⁸³⁸ 074117-074129-ET Revised 1, p.074128.

able to testify about anything anymore. Unfortunately, I never found him. He had hidden among the leaders of the KLA.⁸³⁹

213. In 2016 and 2019, when he knew he was suspected for crimes committed in Albania in 1999, and during the Defence's opening statement in this trial,⁸⁴⁰ the **Accused** tried to distance himself as much as possible from the KMF, stating that upon his arrival to Kukës, at the end of March 1999,⁸⁴¹ he spent only a few days in Kukës before leaving for the frontlines in Northern Albania to meet Fatmir LIMAJ.⁸⁴² In fact, as he had clearly stated in 2005, after arriving to the KMF at the end of March 1999, the **Accused** remained in Kukës until he went to Burrel for training, where he was arrested for the killing of a soldier, and then released.⁸⁴³ The Accused went to Burrel around the end of April 1999, with Ruzhdi SARAMATI, and stayed there until at least 2 May 1999.⁸⁴⁴ After the Burrel incident, the **Accused** went back to Kukës. This is proved by his admissions reviewed above,⁸⁴⁵ the evidence of victims,⁸⁴⁶ KLA

⁸³⁹ 074117-074129-ET Revised 1, p.074128.

⁸⁴⁰ Defence Opening Statements, p.584.

⁸⁴¹ 066888-TR-ET Part 1 Revised, pp.98-100; 066883-066886, p.066884.

⁸⁴² 066888-TR-ET Part 1 Revised, pp.103, 112-113; 074117-074129-ET Revised 1, p.074121.

⁸⁴³ T000-2748-T000-2748-Alb and Eng Transcript-1, pp.31-34.

⁸⁴⁴ Section III.B.2.

⁸⁴⁵ Section V.H.1.

⁸⁴⁶ Sections V.A.1., V.A.3., 4, V.D., and V.F.

soldiers,⁸⁴⁷ and by W04754, who testified that he issued a sniper rifle to the **Accused** *after* he had come back from Burrel.⁸⁴⁸

214. Finally, on 11 February 2019, asked whether he had a criminal record in Belgium, the **Accused** stated '[c]lean, never had any problems'.⁸⁴⁹ While by then he was yet to be convicted for that crime, in 2018 he had stabbed and seriously injured a person in a bar. His house had been searched in 2018 already in relation to that event, and a knife confiscated.⁸⁵⁰ This is further evidence of the **Accused's** propensity to hide relevant information on matters concerning his criminal responsibility.

3. The perpetrator identifications are reliable

a) *Victims' identification of the Accused*

215. Several victims reliably identified and named the **Accused** as one of the perpetrators at the KMF. All of them were also victims during the 20 May 1999 Incident.⁸⁵¹ They either knew the **Accused** from before or learnt his identity during their detention.

⁸⁴⁷ TW4-10, 1 May 2023, pp.1074-1075.

⁸⁴⁸ W04754, 23 October 2023, pp.2966, 2968.

⁸⁴⁹ 066864 TR ET Part 1 Revised 1, p.4.

⁸⁵⁰ 118356-118384-ET, p.118367.

⁸⁵¹ Section V.D.

216. TW4-01 identified the **Accused** as one of the perpetrators of the 20 May 1999 Incident⁸⁵² and of the later mistreatment [REDACTED].⁸⁵³ [REDACTED],⁸⁵⁴ [REDACTED].⁸⁵⁵ TW4-01 identified the **Accused** during a photo board procedure [REDACTED],⁸⁵⁶ and in a photograph in 2019.⁸⁵⁷ The **Accused** himself admitted to seeing and beating TW4-01 at the KMF.⁸⁵⁸

217. W04733, too, identified the **Accused** as one of the perpetrators of the 20 May 1999 Incident.⁸⁵⁹ While W04733 met the **Accused** for the first time on his transfer from Romanat to Kukës on or about 20 May 1999,⁸⁶⁰ he had seen pictures of the **Accused** and knew who he was before that. W04733 knew the **Accused** from his work as a police officer before the war.⁸⁶¹ The **Accused** used to operate within the area of jurisdiction of W04733's police station in [REDACTED].⁸⁶² The **Accused** was a person

⁸⁵² Section V.D.

⁸⁵³ Section V.F.1.

⁸⁵⁴ TW4-01, 30 May 2023, pp.1407-1408.

⁸⁵⁵ TW4-01, 30 May 2023, pp.1407-1408; 066888-TR-ET Part 1 Revised, pp.148-150, 154; 074117-074129-ET Revised 1, p.074126.

⁸⁵⁶ TW4-01, 31 May 2023, pp.1493-1494; SPOE00056067-00056080, p.SPOE00056072.

⁸⁵⁷ TW4-01, 31 May 2023, pp.1495-1496; 059118-059144RED2, p.059124.

⁸⁵⁸ Section V.H.1.

⁸⁵⁹ Section V.D.

⁸⁶⁰ SITF00019824-00019876RED2, p.SITF00019836.

⁸⁶¹ SITF00019824-00019876RED2, p.SITF00019836; SITF00018740-00018767RED, p.SITF00018741, 082892-TR-AT-ET Part 3 RED2, p.11, SPOE00013793-SPOE00013847RED2, p.SPOE00013793.

⁸⁶² 082892-TR-AT-ET Part 1 RED3, pp.37-38; 082892-TR-AT-ET Part 3 RED2, p.11; 066888-TR-ET Part 1 Revised, p.18; 066864-TR-ET Part 1 Revised 1, pp.23-24; Section IV.B.

of interest to the police,⁸⁶³ and therefore was depicted in a police photo album,⁸⁶⁴ which W04733 was able to describe.⁸⁶⁵ W04733 also knew that the **Accused** had been in prison.⁸⁶⁶ W04733 knew that the **Accused** was known to howl like a wolf and was therefore referred to as 'Ujku'.⁸⁶⁷

218. This evidence is consistent with that of the **Accused**, who in 1998 was a KLA member in the Jablanica/Jabllanicë area,⁸⁶⁸ the same area where W04733 was from and had worked.⁸⁶⁹ The **Accused** stated that in 1998 he knew all the members of the local police,⁸⁷⁰ knew that W04733 was a 'Yugoslavian policeman',⁸⁷¹ knew his name,⁸⁷² and that he was from [REDACTED].⁸⁷³ He also knew that, in 1998, W04733 was no longer part of the Serb police.⁸⁷⁴

219. In the van from Romanat to Kukës, the **Accused** looked different from the photographs W04733 knew, but when the **Accused** started howling like a wolf and

⁸⁶³ SITF00019824-00019876RED2, p.SITF00019836; 082892-TR-AT-ET Part 1 RED3, pp.37-38. *See also* 082892-TR-AT-ET Part 3 RED2, p.11.

⁸⁶⁴ 082892-TR-AT-ET Part 1 RED3, pp.37-38; SITF00018740-00018767RED, p.SITF00018741; SITF00019824-00019876RED2, p.SITF00019836.

⁸⁶⁵ 082892-TR-AT-ET Part 1 RED3, p.38.

⁸⁶⁶ 082892-TR-AT-ET Part 3 RED2, p.11.

⁸⁶⁷ SITF00018740-00018767RED, p.SITF00018741.

⁸⁶⁸ *See* Section IV.B.

⁸⁶⁹ *See* Section V.A.3; TW4-01, 27 March 2023, pp.629-630; REG00937-REG00937; REG00938-REG00938.

⁸⁷⁰ 066864-TR-ET Part 1 Revised 1, p.67.

⁸⁷¹ 066888-TR-ET Part 1 Revised, pp.60-63.

⁸⁷² 066888-TR-ET Part 1 Revised, pp.64-65.

⁸⁷³ 074117-074129-ET Revised 1, p.074129.

⁸⁷⁴ 066888-TR-ET Part 1 Revised, p.187. [REDACTED].

was called 'Ujku' by the other KLA soldiers, W04733 knew it was him.⁸⁷⁵ This was only hours before the brutal beatings of the 20 May 1999 Incident, in which the **Accused** personally participated.⁸⁷⁶

220. W01448 did not know the **Accused** before his detention at the KMF, but after the 20 May 1999 Incident he learnt from his co-detainees that one of the perpetrators was 'Pjetër Shala from Dushanov, *alias* Commander Ujku'.⁸⁷⁷ The evidence of the **Accused** himself establishes that, in fact, he resided in Dušanovo/ Dushanovë just before the war.⁸⁷⁸

221. In 2010, W01448 was shown nine photographs during a photo board identification.⁸⁷⁹ W01448 stated that while he was not sure, he thought that 'the man pictured in photo N°5 [is] the one called "commander wolf" real name Pjetar Shala'.⁸⁸⁰ Although the officers who assembled the photo board later expressed doubts about the authenticity of the pictures used therein,⁸⁸¹ and irrespectively of whether that

⁸⁷⁵ SITF00019824-00019876RED2, pp.SITF00019836-SITF00019837; 082892-TR-AT-ET Part 3 RED2, p.12; SITF00018740-00018767RED, p.SITF00018741.

⁸⁷⁶ See Section V.D.

⁸⁷⁷ SITF00016221-00016285RED4, pp.SITF00016231-SITF00016232; SITF00013736-SITF00013800RED5, p.SITF00013743.

⁸⁷⁸ T001-0105-3-A-TR, p.42.

⁸⁷⁹ SITF00374536-SITF00374541RED, p.SITF00374539.

⁸⁸⁰ SITF00374536-SITF00374541RED, p.SITF00374536.

⁸⁸¹ SITF00374534-00374534, p.SITF00374534.

picture actually depicts the **Accused**, W01448 clearly – though hesitantly - chose the person closest in appearance to the **Accused** from amongst those in the photo board.

b) Identifications of JCE members and other persons of interest are reliable

222. Victims consistently implicated Sabit GECI in the crimes.⁸⁸² Like the **Accused**,⁸⁸³ TW4-01 and W01448 knew Sabit GECI by the nickname 'Qopa',⁸⁸⁴ explained that he was an invalid due to an accident,⁸⁸⁵ and stated that he used crutches at the KMF.⁸⁸⁶ Both W01448⁸⁸⁷ and TW4-01⁸⁸⁸ identified Sabit GECI in a photograph. His presence at the KMF is further confirmed by TW4-10,⁸⁸⁹ W04379⁸⁹⁰ and W04848.⁸⁹¹

⁸⁸² See e.g. TW4-01, 30 May 2023, p.1458; SITF00013736-SITF00013800RED5, pp.SITF00013741-SITF00013742; SITF00013833-00013847RED4, p.SITF00013836; 082892-TR-AT-ET Part 4 RED3, pp.24-25; SITF00019824-00019876RED2, p.SITF00019838.

⁸⁸³ 066888-TR-ET Part 1 Revised, pp.143-144.

⁸⁸⁴ TW4-01, 31 May 2023, p.1513; SITF00013736-SITF00013800RED5, p.SITF00013759.

⁸⁸⁵ TW4-01, 31 May 2023, p.1513.

⁸⁸⁶ TW4-01, 31 May 2023, p.1513; SITF00013736-SITF00013800RED5, pp.SITF00013741-SITF00013742; 082892-TR-AT-ET Part 4 RED3, p.3; SITF00372498-00372510RED4, p.SITF00372502.

⁸⁸⁷ SITF00013886-00013908RED, p.SITF00013887.

⁸⁸⁸ TW4-01, 31 May 2023, p.1496, and SITF00012895-00012913RED, p.SITF00012909 (no.42).

⁸⁸⁹ TW4-10, 1 May 2023, pp.1105-1107.

⁸⁹⁰ 060124-TR-ET Part 2 Revised RED4, pp.126-127.

⁸⁹¹ SITF00014088-00014120RED, p.SITF00014098.

223. The victims implicate Sabit GECI in, *inter alia*, the 20 May 1999 Incident,⁸⁹² in the beating of KLA or FARK soldiers in Room 1,⁸⁹³ and the repeated beatings that took place in Room 1.⁸⁹⁴ The victims consistently identified Sabit GECI as a high-ranking KLA member, and provided corroborative evidence that GECI was the person in charge when he was in the room.⁸⁹⁵ Based on the observation of their interactions, TW4-01 testified that the **Accused** took orders from Sabit GECI.⁸⁹⁶

224. Several witnesses implicated Xhemshit KRASNIQI in their arrest and detention at the KMF.⁸⁹⁷ The victims learnt KRASNIQI's identity directly from him,⁸⁹⁸ or from their co-detainees,⁸⁹⁹ and recognised him in photographs shown to them.⁹⁰⁰ [REDACTED]⁹⁰¹ and W01448⁹⁰² saw Xhemshit KRASNIQI wearing a red jacket during

⁸⁹² TW4-01, 30 May 2023, pp.1453, 1458, 1477; SITF00013736-SITF00013800RED5, p.SITF00013743; 082892-TR-AT-ET Part 4 RED3, pp.3, 23.

⁸⁹³ TW4-01, 31 May 2023, p.1507; SITF00013736-SITF00013800RED5, p.SITF00013754; SITF00013736-SITF00013800RED5, p.SITF00013759.

⁸⁹⁴ TW4-01, 31 May 2023, p.1513; SITF00013736-SITF00013800RED5, p.SITF00013754.

⁸⁹⁵ TW4-01, 6 June 2023, p.1929; SITF00013833-00013847RED4, p.SITF00013838; SITF00013736-SITF00013800RED5, pp.SITF00013743, SITF00013763.

⁸⁹⁶ TW4-01, 6 June 2023, pp.1925-1926.

⁸⁹⁷ TW4-11, 2 May 2023, p.1187; 060664-TR-ET Part 2 RED2, p.3; 108850-TR-ET Part 1 RED; SITF00013262-00013315RED, pp.SITF00013271-SITF00013272; SITF00372498-00372510RED4, p.SITF00372500; 082892-TR-AT-ET Part 2 RED3, pp.2-3, 19-20.

⁸⁹⁸ TW4-11, 2 May 2023, p.1187; TW4-11, 3 May 2023, p.1289.

⁸⁹⁹ 082892-TR-AT-ET Part 4 RED3, pp.6, 17.

⁹⁰⁰ TW4-01, 31 May 2023, p.1497, SITF00012895-00012913RED, p.SITF00012910 (no.53); TW4-11, 2 May 2023, p.1189-1191; SITF00013100-00013122RED3, p.SITF00013115 (photo no.47).

⁹⁰¹ [REDACTED].

⁹⁰² SITF00013736-SITF00013800RED5, p.SITF00013764.

their release from the Prizren MUP building on 18 June 1999, which is confirmed by a video broadcast by ARD TV Tagesschau from that day.⁹⁰³

225. Several victims also stated that Xhemshit KRASNIQI was one of the perpetrators during the 20 May 1999 Incident,⁹⁰⁴ took part in other beatings,⁹⁰⁵ had a role in the shooting [REDACTED],⁹⁰⁶ had a high-ranking role,⁹⁰⁷ and was in charge of detention matters,⁹⁰⁸ although when Sabit GECI was present, GECI was the one in charge.⁹⁰⁹ Evidence of KLA members corroborates that KRASNIQI was stationed at the KMF.⁹¹⁰

226. Both TW4-11 and TW4-02 stated that they were interrogated by W04848,⁹¹¹ who introduced himself as a judge or prosecutor,⁹¹² and whom TW4-11 identified in a

⁹⁰³ 072508-01, at 06:10 to 06:15; 072508-01-TR-ET. That the man in a red jacket is Xhemshit KRASNIQI is further confirmed by a comparison of the video with SITF00012895-00012913RED, p.SITF00012910, photograph n.53.

⁹⁰⁴ TW4-01, 30 May 2023, pp.1453, 1477; SITF00013736-SITF00013800RED5, p.SITF00013743; 082892-TR-AT-ET Part 4 RED3, pp.3, 22, 28.

⁹⁰⁵ TW4-01, 31 May 2023, pp.1493, 1539; SITF00013736-SITF00013800RED5, p.SITF00013754.

⁹⁰⁶ Section V.F.

⁹⁰⁷ SITF00013736-SITF00013800RED5, p.SITF00013743.

⁹⁰⁸ TW4-01, 6 June 2023, p.1929.

⁹⁰⁹ TW4-01, 6 June 2023, p.1929; SITF00013833-00013847RED4, p.SITF00013838; SITF00013736-SITF00013800RED5, p.SITF00013743. *See also* SITF00016221-00016285RED4, pp.SITF00016231-SITF00016232, where W01448 describes how Sabit GECI issued orders during his beating.

⁹¹⁰ SITF00014088-00014120RED, p.SITF00014098; W04754, 24 October 2023, pp.3094-3095.

⁹¹¹ TW4-11, 3 May 2023, pp.1261, 1265-1267; 060664-TR-ET Part 3, pp.2, 26; 060664-TR-ET Part 4 RED3, p.17.

⁹¹² TW4-11, 3 May 2023, p.1261.

photograph.⁹¹³ W04848, in turn, confirmed that TW4-11 was brought to him for interrogation.⁹¹⁴ TW4-01, too, testified about a ‘judge or prosecutor’ present during the 20 May 1999 Incident,⁹¹⁵ although he could not identify W04848’s photograph.⁹¹⁶

c) *The victims’ evidence is mutually corroborative*

227. TW4-01 [REDACTED] detention at the KMF is corroborated not only by the **Accused**,⁹¹⁷ but by fellow detainees,⁹¹⁸ and other KLA soldiers.⁹¹⁹

228. W04733’s detention is corroborated by co-detainees,⁹²⁰ some of which recognised his photograph at trial.⁹²¹ Both TW4-01 and W01448 stated that he worked as a police officer,⁹²² and corroborated W04733’s evidence that he wore a black KLA⁹²³

⁹¹³ TW4-11, 3 May 2023, pp.1266-1267, SITF00013100-00013122RED3, p.SITF00013119 (no.74).

⁹¹⁴ SITF00014088-00014120RED, p.SITF00014100; SITF00016908-00016964RED, p.SITF00016916.

⁹¹⁵ TW4-01, 30 May 2023, p.1453.

⁹¹⁶ TW4-01, 5 June 2023, p.1811.

⁹¹⁷ Section V.H.1.

⁹¹⁸ TW4-11, 2 May 2023, pp.1210-1212, 1213-1214; 059341-059350; 082892-TR-AT-ET Part 4 RED3, p.6; SITF00013852-00013869RED6, p.SITF00013856. *See also* 060664-TR-ET Part 5 RED4, pp.1-3; SITF00013262-00013315RED, p.SITF00013276; SITF00015825-00015925RED, pp.SITF00015851-SITF00015852; SPOE00014669-00014751RED, pp.SPOE00014696-SPOE00014697.

⁹¹⁹ TW4-10, 1 May 2023, pp.1073-1074.

⁹²⁰ TW4-01, 30 May 2023, p.1438; TW4-11, 3 May 2023, pp.1307-1309, 1326-1328; SITF00013852-00013869RED6, pp.SITF00013856, SITF00013858; 059341-059350, p.059350.

⁹²¹ TW4-01, 5 June 2023, pp.1811-1812; 059113-059144, p.059127; TW4-11, 3 May 2023, pp.1307-1309, 1327; 059341-059350, p.059350.

⁹²² TW4-01, 30 May 2023, p.1455; SITF00016140-00016220RED3, p.SITF00016144.

⁹²³ SITF00013852-00013869RED6, p.SITF00013856.

uniform when he arrived at the KMF.⁹²⁴ W01448 corroborates W04733's account of his kidnapping, release, and timing of his detention.⁹²⁵ TW4-01 testified that he met W04733 [REDACTED]⁹²⁶ which the evidence shows W04733 did in fact attend.⁹²⁷

229. W01448's presence at the KMF is corroborated by W04733, who found him in the Command Building Detention Room.⁹²⁸ W04733 and W01448 both stated that when W04733 arrived dressed in a black KLA uniform,⁹²⁹ W01448 thought that W04733 was a KLA member.⁹³⁰ TW4-01, W04733 and TW4-05 all stated, consistent with W01448, that the latter had come from Germany,⁹³¹ and was arrested by KLA members in Durrës.⁹³² TW4-01, who referred to W01448 as the 'guy from Drenica',⁹³³

⁹²⁴ SITF00013852-00013869RED6, p.SITF00013856; SITF00013736-SITF00013800RED5, p.SITF00013742; SITF00013833-00013847RED4, p.SITF00013836; TW4-01, 30 May 2023, p.1453.

⁹²⁵ SITF00016140-00016220RED3, p.SITF00016144.

⁹²⁶ TW4-01, 31 May 2023, p.1492.

⁹²⁷ SITF00019793-00019810, p.SITF00019793.

⁹²⁸ 082892-TR-AT-ET Part 4 RED3, pp.5, 7, 11.

⁹²⁹ SITF00013852-00013869RED6, p.SITF00013856.

⁹³⁰ 082892-TR-AT-ET Part 4 RED3, p.7; SITF00013852-00013869RED6, p.SITF00013856.

⁹³¹ TW4-01, 30 May 2023, p.1440; 082892-TR-AT-ET Part 4 RED3, p.7; SITF00372498-00372510RED4, pp.SITF00372500-SITF00372501.

⁹³² TW4-01, 31 May 2023, p.1556; 082892-TR-AT-ET Part 4 RED3, pp.5, 18; SITF00372498-00372510RED4, p.SITF00372500.

⁹³³ See e.g. TW4-01, 2 June 2023, p.1717. W01448 came from [REDACTED], Srbica/Skënderaj Municipality (SITF00013852-00013869RED6, p.SITF00013852), and as it can be verified through an open source search, Skënderaj is the largest city in the **Drenica region** of Kosovo.

identified him in a video of KFOR's operation at the MUP building in Prizren in June 1999,⁹³⁴ thereby corroborating W01448's account about his liberation.⁹³⁵

230. Victims corroborate that TW4-11, [REDACTED]⁹³⁶ [REDACTED],⁹³⁷ was detained at the KMF in Room 1.⁹³⁸ W04848 provides additional corroboration about TW4-11's detention and interrogation,⁹³⁹ and corroborates W01448 about the reasons for TW4-11's detention.⁹⁴⁰

⁹³⁴ TW4-01, 2 June 2023, pp.1716-1720, REG00957-REG00957, 050084-01 at 02:38.

⁹³⁵ Section V.A.4.

⁹³⁶ SITF00013852-00013869RED6, p.SITF00013858; SITF00013833-00013847RED4, p.SITF00013837; 082892-TR-AT-ET Part 4 RED3, p.6.

⁹³⁷ 082892-TR-AT-ET Part 4 RED3, p.6; 060664-TR-ET Part 5 RED4, p.1; TW4-11, 2 May 2023, pp.1183-1184.

⁹³⁸ SITF00013852-00013869RED6, p.SITF00013858; SITF00013736-SITF00013800RED5, pp.SITF00013754, SITF00013757; 060664-TR-ET Part 5 RED4, p.1; 064716-TR-ET Part 5 RED4, p.31; TW4-01, 31 May 2023, p.1531.

⁹³⁹ SITF00016908-00016964RED, p.SITF00016916; TW4-11, 3 May 2023, pp.1266-1267; SITF00013100-00013122RED3, p.SITF00013119, picture n.74.

⁹⁴⁰ SITF00013736-SITF00013800, p.SITF00013757; SITF00016908-00016964RED, p.SITF00016916.

231. TW4-05's detention in Room 1⁹⁴¹ and the fact that [REDACTED],⁹⁴² is corroborated by several co-detainees.⁹⁴³ W01448 corroborates TW4-05 by identifying him as the [REDACTED].⁹⁴⁴ [REDACTED].⁹⁴⁵

232. TW4-04's presence at the KMF is corroborated by TW4-02 and W01448.⁹⁴⁶ TW4-02's presence is corroborated by TW4-01,⁹⁴⁷ who identified him as [REDACTED]⁹⁴⁸ and stated that he was detained [REDACTED].⁹⁴⁹ TW4-01 also corroborates TW4-02's evidence that the latter's [REDACTED].⁹⁵⁰

233. Some differences exist between the victims' accounts of their detention in the Command Building Detention Room, with W01448 and W04733 stating that both TW4-01 [REDACTED] were detained [REDACTED] before and after the 20 May 1999 Incident,⁹⁵¹ and TW4-01 testifying that [REDACTED].⁹⁵² Similarly, TW4-01 testified

⁹⁴¹ SITF00013736-SITF00013800RED5, p.SITF00013762.

⁹⁴² SITF00372498-00372510RED4, p.SITF00372500.

⁹⁴³ 082892-TR-AT-ET Part 4 RED3, pp.5-7; SPOE00013793-SPOE00013847RED2, pp.SPOE00013811-SPOE00013812; SITF00013852-00013869RED6, p.SITF00013858; TW4-09, 30 March 2023, pp.981-982.

⁹⁴⁴ SITF00013736-SITF00013800RED5, p.SITF00013758; SITF00013852-00013869RED6, p.SITF00013858; SITF00016140-00016220RED3, p.SITF00016143.

⁹⁴⁵ [REDACTED].

⁹⁴⁶ 060664-TR-ET Part 5RED4, pp.1, 5-6; SITF00013736-SITF00013800RED5, p.SITF00013762.

⁹⁴⁷ TW4-01, 30 May 2023, p.1434.

⁹⁴⁸ TW4-01, 30 May 2023, p.1434.

⁹⁴⁹ TW4-01, 30 May 2023, p.1434.

⁹⁵⁰ TW4-01, 6 June 2023, p.1909.

⁹⁵¹ SITF00013736-SITF00013800RED5, pp.SITF00013741-SITF00013743; SITF00013852-00013869RED6, p.SITF00013857; 082892-TR-AT-ET Part 4 RED3, pp.15-16.

⁹⁵² TW4-01, 30 May 2023, p.1471; TW4-01, 6 June 2023, p.1915.

that after the 20 May 1999 Incident, W04733 was moved to Room 1,⁹⁵³ while W04733 stated that he was taken back to the Command Building Detention Room, and to Room 1 only after a few days.⁹⁵⁴ These differences in the victims' recollections can be explained with the passage of time,⁹⁵⁵ the extreme circumstances they were in, as well as with the fact that, eventually, they all came to be held together in the Detention Building.

d) The victims are corroborated by other evidence

234. The evidence of the victims is also corroborated by other evidence, including that of certain KLA members – who, for example, confirm the presence of the victims, as well as identified perpetrators, at the KMF during the relevant timeframe. For example, while W04848 tried to distance himself from the crimes committed at the KMF, he admitted that some people were 'isolated' in the courtyard of the KMF,⁹⁵⁶ and corroborated the detention of TW4-01, [REDACTED],⁹⁵⁷ TW4-04,⁹⁵⁸ and TW4-11.⁹⁵⁹

⁹⁵³ TW4-01, 30 May 2023, pp.1455-1457.

⁹⁵⁴ SITF00013181-SITF00013189RED3, p.SITF00013186; SPOE00185335-00185363RED3, p.SPOE00185336; SPOE00013793-SPOE00013847RED2, p.SPOE00013812; SITF00019824-00019876RED2, p.SITF00019830; 106978-107020, p.106988.

⁹⁵⁵ W04733 had a different recollection over time as to whether [REDACTED] *cfr.* SPOE00185335-00185363RED3, p.SPOE00185336, 082892-TR-AT-ET Part 5 RED2, p.29, with 082892-TR-AT-ET Part 4 RED3, p.14; SITF00013181-SITF00013189RED3, p.SITF00013186.

⁹⁵⁶ SITF00014088-00014120RED, p.SITF00014095.

⁹⁵⁷ SITF00014088-00014120RED, p.SITF00014100.

⁹⁵⁸ SITF00014088-00014120RED, p.SITF00014101.

⁹⁵⁹ SITF00014088-00014120RED, p.SITF00014100; SITF00016908-00016964RED, p.SITF00016916.

235. Equally, the victims – who corroborate each other on the presence of medical personnel and facilities at the KMF⁹⁶⁰ - are also corroborated by KLA soldiers who were stationed at or visited the KMF.⁹⁶¹

236. Other instances of corroboration by KLA members is noted throughout the brief. In addition, as set out in other sections, the victim evidence is also corroborated by *inter alia*:

- a. the evidence of family members, including as to injuries and the condition of the victims upon release;
- b. photographs, diagrams and video of the KMF, which are consistent with the victims' accounts and descriptions;
- c. medical evidence, which corroborates scars and injuries consistent with the victims' accounts of their mistreatment;
- d. expert forensic and ballistics evidence, which is consistent with the victims' account of the fatal injuries inflicted upon [REDACTED]; and

⁹⁶⁰ TW4-01, 31 May 2023, pp.1529, 1547; TW4-01, 5 June 2023, p.1834; TW4-11, 3 May 2023, p.1346; 082892-TR-AT-ET Part 4 RED3, pp.29-32; SITF00013736-SITF00013800RED5, p.SITF00013759.

⁹⁶¹ TW4-10, 1 May 2023, p.1047; DW4-02, 2 October 2023, pp.2750-2751; DW4-05, 3 October 2023, pp.2834-2835; W04754, 23 October 2023, pp.2932-2933; W03887, 20 November 2023, pp.3183-3184; W04820, 28 November 2023, pp.3824-3825.

- e. the Accused's own statements, which corroborate *inter alia* the mistreatment of the victims at the KMF and his own participation therein.

I. The Defence Case

237. The Defence case, as presented in the Defence Pre-Trial Brief, Opening Statements and during the trial, appears to be that the **Accused** visited the KMF throughout the war on a few isolated occasions only to get supplies in order to further the KLA's war efforts.⁹⁶² Being at the KMF only sporadically, the **Accused** could not have committed any of the crimes charged in the Indictment,⁹⁶³ the occurrence of which is 'not obvious.'⁹⁶⁴ The Defence claims that certain SPO witnesses are unreliable,⁹⁶⁵ and that their evidence has been fabricated.⁹⁶⁶

238. The Defence called ten fact witnesses live, three under Rules 153 and 155, and two experts.⁹⁶⁷ Preliminarily, the SPO notes that the Defence chose not to take written statements from their witnesses,⁹⁶⁸ capturing instead relevant parts of their evidence in summary notes prepared after meeting with them.⁹⁶⁹ The absence of such

⁹⁶² Defence Pre-Trial Brief, paras 8, 48-50; Defence Opening Statements, pp.574-576, 584-587.

⁹⁶³ Defence Pre-Trial Brief, paras 8, 52, 61-78; Defence Opening Statements, pp.586-590.

⁹⁶⁴ Defence Opening Statements, p.588.

⁹⁶⁵ Defence Pre-Trial Brief, paras 21-22; Defence Opening Statements, pp.579, 590-591; TW4-01, 2 June 2023, pp.1683-1692.

⁹⁶⁶ Defence Pre-Trial Brief, paras 19-20; Defence Opening Statements, pp.594-595.

⁹⁶⁷ Defence Witness List.

⁹⁶⁸ Defence Preparation Conference Submissions, para.27.

⁹⁶⁹ Defence Preparation Conference, 24 August 2023, pp.2352-2354.

statements has impacted the degree to which these witnesses' evidence could be tested.

239. As discussed below, however, none of the Defence's evidence has undermined the Prosecution case, or the responsibility of the **Accused**. The SPO addresses below specific Defence challenges regarding the **Accused's** presence at the KMF, Defence witnesses' denials about the occurrence of crimes at the KMF, and regarding the credibility of TW4-01 and W04733.

1. The **Accused's** presence at the KMF

*a) Witnesses who stated they did not know and/or never saw the **Accused** at the KMF*

240. W03887, **Naser KOQINAJ (DW4-05)**, DW4-02, **Bardhyl MAHMUTI (DW4-06)**, W04280, and W04405 testified that they never met or heard of a person called Pjetër SHALA,⁹⁷⁰ or anyone nicknamed Ujku, during the war.⁹⁷¹

241. First, in assessing the evidence of these witnesses, it bears recalling that the **Accused** himself has admitted visiting the KMF regularly to accompany volunteers and get supplies, and being there on two specific occasions when TW4-01,

⁹⁷⁰ W03887, 20 November 2023, p.3219; DW4-05, 3 October 2023, p.2831; DW4-02, 2 October 2023, pp.2753-2754, 2777; DW4-06, 21 September 2023, p.2608; W04280, 28 November 2023, p.3778.

⁹⁷¹ W03887, 20 November 2023, p.3219; DW4-05, 3 October 2023, p.2831; DW4-02, 2 October 2023, p.2754; W04280, 28 November 2023, p.3779.

[REDACTED], and W04733 were detained there.⁹⁷² This evidence is corroborated by that of other KLA members⁹⁷³ and victims who testified about his presence.⁹⁷⁴

242. Second, some of these witnesses also denied seeing individuals whose presence at the KMF during the Indictment Period is otherwise established - demonstrating that their evidence regarding who was present at the KMF is unreliable, implausible, or both. W03887, for example, stated that he never met Sabit GECI or Xhemshit KRASNIQI at the KMF during the war.⁹⁷⁵ DW4-05, a member of Brigade 128⁹⁷⁶ who between March and June 1999 worked in the Uniforms Warehouse at the KMF,⁹⁷⁷ also surprisingly stated that he did not know W03887,⁹⁷⁸ who had his workshop inside the same building,⁹⁷⁹ during the same period of time.⁹⁸⁰ DW4-05 also denied seeing Sabit GECI,⁹⁸¹ and Xhemshit KRASNIQI (whom DW4-05 knew) at the KMF,⁹⁸² despite

⁹⁷² Section V.H.1.

⁹⁷³ TW4-10, 1 May 2023, p.1075; 060124-TR-ET Part 2 Revised RED4, pp.138-148. *See also* Section V.I.1.b. for the timing and circumstances of W04754's meetings with the **Accused**.

⁹⁷⁴ Section V.H.3.a.

⁹⁷⁵ W03887, 20 November 2023, p.3215.

⁹⁷⁶ DW4-05, 3 October 2023, p.2828.

⁹⁷⁷ DW4-05, 3 October 2023, pp.2815-2817, 2820-2821, 2823-2825, 2868; REG00968-REG00968; REG00970-REG00970; TW4-10, 2 May 2023, p.1145.

⁹⁷⁸ DW4-05, 3 October 2023, pp.2828-2829.

⁹⁷⁹ W03887, 20 November 2023, pp.3196-3199; REG00987-REG00987; REG00988-REG00988.

⁹⁸⁰ W03887, 20 November 2023, p.3176.

⁹⁸¹ DW4-05, 3 October 2023, pp.2878-2879.

⁹⁸² DW4-05, 3 October 2023, p.2879.

compelling evidence of their presence coming from *inter alia* victims,⁹⁸³ W04848,⁹⁸⁴ and the Accused. DW4-05, who worked in logistics,⁹⁸⁵ even claimed not to know W04754,⁹⁸⁶ who was in charge of logistics for Operation Arrow and generally based at the KMF.⁹⁸⁷

243. Third, some of these witnesses' own presence at the KMF was sporadic. W03887 was spent most of his time in the field.⁹⁸⁸ DW4-02, a KLA member who was based at 'Pavillion 1' during the month of April 1999,⁹⁸⁹ stated that he only visited the KMF twice, briefly, outside of the Indictment Period.⁹⁹⁰ W04405's evidence is simply not credible.⁹⁹¹

244. While DW4-05 and W04280 were both present at the KMF, for the reasons illustrated below (and also, in the case of DW4-05, the implausible denials set out

⁹⁸³ Section V.H.3.b.

⁹⁸⁴ SITF00014088-00014120RED, p.SITF00014098.

⁹⁸⁵ DW4-05, 3 October 2023, p.2817.

⁹⁸⁶ DW4-05, 3 October 2023, p.2880.

⁹⁸⁷ W04754 23 October 2023, pp.2920-2921.

⁹⁸⁸ W03887, 21 November 2023, pp.3321-3332, 3339-3340, 3343-3344; W03887, 22 November 2023, p.3441.

⁹⁸⁹ DW4-02, 2 October 2023, pp.2739-2742. DW4-02 testified that he joined the KLA further to the call for a general mobilization, that he arrived in Kukës in February 1999 (although he was unsure about the dates), stayed there for about a month, and then went to Burrel to train (DW4-02, 2 October 2023, pp.2735-2736, 2739). However, the KLA call for mobilization happened on or around the end of March 1999 (see Section III.A.), and KLA members moved from Kukës to Burrel towards the end of April 1999 (Section III.B.2.). It follows that DW4-02 arrived to Kukës at the end of March 1999.

⁹⁹⁰ DW4-02, 2 October 2023, pp.2741, 2743, 2750-2752 (DW4-02's visits took place before he went to Burrel).

⁹⁹¹ Section V.I.3.a.4.b.

above), their evidence is not credible with respect to detentions or the **Accused's** responsibility therefor.⁹⁹²

245. These witnesses' evidence that they did not meet the **Accused** has therefore extremely limited probative value with regard to the **Accused's** criminal responsibility.

b) Timing and circumstances of W04754's meetings with the Accused

246. During his testimony, W04754 changed certain details of his 2019 SPO interview with regard to the **Accused's** presence at the KMF.

247. W04754, who was based at the KMF from early April 1999 until around 10 or 11 June 1999,⁹⁹³ testified that he met the **Accused** twice during this period.⁹⁹⁴ W04754 testified, consistent with his prior statement,⁹⁹⁵ that the first encounter happened at the KMF,⁹⁹⁶ around 10 or 15 April,⁹⁹⁷ when the **Accused** was based 'at Ruzhdi SARAMATI's'.⁹⁹⁸ This is consistent with the evidence of the **Accused**, who stated that

⁹⁹² Section V.I.2.

⁹⁹³ W04754, 23 October 2023, pp.2920-2921, 2982.

⁹⁹⁴ W04754, 23 October 2023, p.2966.

⁹⁹⁵ W04754, 24 October 2023, pp.3061-3062, 3067-3069.

⁹⁹⁶ W04754, 23 October 2023, pp.2966-2967.

⁹⁹⁷ W04754, 23 October 2023, p.2969.

⁹⁹⁸ W04754, 23 October 2023, pp.2967-2969; W04754, 24 October 2023, pp.3067-3069.

he arrived at the KMF at the end of March 1999⁹⁹⁹ and remained there until he was sent to Burrel for training,¹⁰⁰⁰ an event which took place at the end of April 1999.¹⁰⁰¹ It is also consistent with the evidence of W04848, who stated that around mid-April 1999, SARAMATI was gathering soldiers to prepare to go to Burrel to train.¹⁰⁰²

248. However, differently from his prior statement, W04754 testified that it was on this occasion that the **Accused** expressed the intention to go to the frontline and requested a weapon, adding that the **Accused** stated that he did not intend to return until the end of the war.¹⁰⁰³ In his 2019 interview, W04754 had associated this occurrence with the second meeting he had with the **Accused**, which W04754 stated had taken place ‘a month, month and a half’ after the first one,¹⁰⁰⁴ approximately towards the end of May or beginning of June 1999.¹⁰⁰⁵

249. The timeline provided by W04754 in 2019 is the correct one, because W04754 recalled that the **Accused** expressed his *intention* to go to the frontlines, and requested

⁹⁹⁹ 066888-TR-ET Part 1 Revised, p.98.

¹⁰⁰⁰ T000-2748-T000-2748-Alb and Eng Transcript-1, pp.30-34.

¹⁰⁰¹ Section V.H.2.

¹⁰⁰² This is established by the timeline provided by W04848 about his arrival to Kukës, his meeting with Ruzhdi SARAMATI, and SARAMATI’s subsequent departure for Burrel with his soldiers, SITF00014088-00014120RED, pp.SITF00014089, SITF00014091-SITF00014093. *See also* 060124-TR-ET Part 2 Revised RED4, p.99.

¹⁰⁰³ W04754, 23 October 2023, pp.2967-2968.

¹⁰⁰⁴ W04754, 23 October 2023, pp.3061-3062, 3067-3069, 3079.

¹⁰⁰⁵ W04754, 24 October 2023, pp.3067-3072, 3090.

a weapon, upon returning from Burrel.¹⁰⁰⁶ The **Accused** must have come back from Burrel – at the earliest – after 2 May 1999, the date of the killing of Halil GASHI, for which the **Accused** was arrested in Burrel.¹⁰⁰⁷ This explanation is also consistent with Ruzhdi SARAMATI and his men leaving for Operation Arrow, to fight in Gorožup/Gorozhup, after 20 May 1999;¹⁰⁰⁸ with the **Accused**'s presence at the KMF at the time of TW4-01's arrest in [REDACTED];¹⁰⁰⁹ and with his participation in the 20 May 1999 Incident.¹⁰¹⁰

250. In this regard, it is noted that W04754 has no direct knowledge about the **Accused** actually going to the frontlines,¹⁰¹¹ but only of his stated intention to do so.¹⁰¹² W04754's testimony that his second encounter with the **Accused** took place in a café in Kukës, during which the **Accused** told him that he had 'fulfilled his national duty' and intended to go back to Belgium,¹⁰¹³ is also something that W04754 had never mentioned before.¹⁰¹⁴

¹⁰⁰⁶ W04754, 23 October 2023, p.2966-2968.

¹⁰⁰⁷ Section III.B.2.

¹⁰⁰⁸ W04754, 23 October 2023, p.3000.

¹⁰⁰⁹ Sections V.A.1. and V.H.1.

¹⁰¹⁰ Section V.D.

¹⁰¹¹ W04754, 25 October 2023, pp.3140-3141.

¹⁰¹² W04754, 24 October 2023, pp.3075-3076.

¹⁰¹³ W04754, 23 October 2023, pp.2969-2970.

¹⁰¹⁴ W04754, 24 October 2023, pp.3076-3077, 3086, 3090-3091.

251. W04754's evidence about the **Accused's** presence at the KMF should also be considered in light of the fact that W04754 spent '[m]ost of the time [...] moving around',¹⁰¹⁵ as he frequently travelled to the different KLA bases in Albania for several days, including going 'almost every day' to Krume,¹⁰¹⁶ 'over ten times' to Cahan,¹⁰¹⁷ twice to Koshare,¹⁰¹⁸ as well as to other locations,¹⁰¹⁹ and several times to the frontlines to resupply KLA units.¹⁰²⁰ These trips took many hours,¹⁰²¹ and often included overnight stays.¹⁰²² After Operation Arrow started, W04754 had to travel even more frequently outside Kukës and was 'mostly on the ground'.¹⁰²³

252. The changes in W04754's evidence over time, in addition to other omissions and denials discussed below, show that W04754 tried to deny the commission of crimes at the KMF and shield the **Accused** from criminal responsibility.¹⁰²⁴

¹⁰¹⁵ W04754, 24 October 2023, p.3013. *See also* W04754, 23 October 2023, pp.2921, 2926.

¹⁰¹⁶ W04754, 24 October 2023, p.3014.

¹⁰¹⁷ W04754, 24 October 2023, p.3016.

¹⁰¹⁸ W04754, 24 October 2023, pp.3016-3018.

¹⁰¹⁹ W04754, 24 October 2023, pp.3021-3022.

¹⁰²⁰ W04754, 24 October 2023, pp.3018-3020.

¹⁰²¹ W04754, 24 October 2023, pp.3014, 3017

¹⁰²² W04754, 24 October 2023, pp.3015, 3022.

¹⁰²³ W04754, 24 October 2023, p.3024.

¹⁰²⁴ W04754 has a family relationship with the **Accused**: 066888-TR-ET Part 1 Revised, p.173; T000-2748-T000-2748-Alb and Eng Transcript-1, p.39; W04754, 23 October 2023, pp.2964-2965.

2. Denial of crimes

253. Several Defence witnesses denied knowing about the detention and mistreatment of individuals at the KMF. These denials occurred in the context of testimonies rife with other implausible denials and evasions.

254. W04754, DW4-05 and W03887 did not recognise the remains of the Detention Building in a picture taken in 2019,¹⁰²⁵ or its original appearance in a photo taken in 2009.¹⁰²⁶ W04754 testified that he never saw this building,¹⁰²⁷ and that he did not see or hear of anyone detained at the KMF during the time he was based there.¹⁰²⁸

255. W04754's claims are not credible considering that (i) the Detention Building stood in the middle of the courtyard,¹⁰²⁹ (ii) that 'whenever [he] had time'¹⁰³⁰ W04754 used to go to the Dormitory Warehouse,¹⁰³¹ the entrance of which was a few meters

¹⁰²⁵ W04754, 24 October 2023, p.3048; DW4-05, 3 October 2023, pp.2869-2870; W03887, 21 November 2023, pp.3383-3387; REG00993-REG00993; **Annex 1, figure 17.**

¹⁰²⁶ W04754, 24 October 2023, pp.3048-3053; DW4-05, 3 October 2023, p.2870; W03887, 21 November 2023, pp.3387-3390; 074390-074391, p.074390; **Annex 1, figure 11.**

¹⁰²⁷ W04754, 24 October 2023, pp.3053-3056.

¹⁰²⁸ W04754, 24 October 2023, pp.3055-3056.

¹⁰²⁹ Section III.C.

¹⁰³⁰ W04754, 24 October 2023, p.3037.

¹⁰³¹ W04754, 23 October 2023, pp.2957-2958.

away from the window of Room 1 overlooking the courtyard,¹⁰³² and (iii) that he made use of the toilets at the KMF, located in front of the Detention Building.¹⁰³³

256. The Detention Building is also conspicuously absent from W04754's sketch of the KMF.¹⁰³⁴ This is in contrast to the sketches drawn by TW4-01,¹⁰³⁵ TW4-02,¹⁰³⁶ and W01448,¹⁰³⁷ which are also corroborated by the 1996 planimetry of the KMF, in depicting a building in the middle of the courtyard.¹⁰³⁸

257. [REDACTED].¹⁰³⁹ [REDACTED].¹⁰⁴⁰

258. Asked whether he had ever seen the Detention Building given that it stood in the middle of the courtyard, DW4-05 answered: '[m]aybe it was there, but I have forgotten. [...] I didn't look around. I just went to my workplace. I wasn't interested in other things.'¹⁰⁴¹

¹⁰³² W04754, 24 October 2023, pp.3036-3037; REG00977-REG00977.

¹⁰³³ W04754, 23 October 2023, pp.2958-2960; W04754, 24 October 2023, pp.3037-3038; Section III.C.

¹⁰³⁴ 083525-083534RED, p.083525; **Annex 1, Figure 22.**

¹⁰³⁵ REG00954-REG00954; **Annex 1, Figure 24.**

¹⁰³⁶ 060653-060663-ET, p.060653; **Annex 1, Figure 23.**

¹⁰³⁷ SITF00013852-00013869RED6, p.SITF00013868; **Annex 1, Figure 20**; U003-2231-U003-2231-ET; **Annex 1, Figure 14.**

¹⁰³⁸ 065437-065439, p.065437; **Annex 1, Figure 18.**

¹⁰³⁹ SITF00013123-SITF00013153RED, p.SITF00013135-SITF00013136.

¹⁰⁴⁰ W04754, 24 October 2023, pp.3101-3107.

¹⁰⁴¹ DW4-05, 3 October 2023, pp.2883-2884.

259. DW4-05 similarly testified that he did not know of any people being detained at the KMF during the period he was there.¹⁰⁴² However, DW4-05 also stated that where he worked there were no toilets,¹⁰⁴³ and, incredibly, that to relieve himself he undertook a twenty-minute trip in and out of the KMF to go to his home in Kukës town.¹⁰⁴⁴ Apparently, DW4-05 did not even try to ascertain whether there were toilets within the KMF that he could have used.¹⁰⁴⁵ When further pressed by the Panel as to why he did not ask to use the toilets within the premises, DW4-05 kept providing evasive answers,¹⁰⁴⁶ eventually conceding that '[m]aybe there was a toilet. I don't remember'.¹⁰⁴⁷

260. In spite of the overwhelming amount of evidence to the contrary,¹⁰⁴⁸ DW4-05 also claimed that there were no persons of Roma ethnicity at the KMF while he was there.¹⁰⁴⁹ Confronted with the District Court of Mitrovica's acknowledgement that some individuals were forced to work long hours in the warehouse every day, DW4-05 simply stated that was not true.¹⁰⁵⁰

¹⁰⁴² Provisional Transcript (DW4-05), 3 October 2023, p.2883.

¹⁰⁴³ DW4-05, 3 October 2023, p.2844.

¹⁰⁴⁴ DW4-05, 3 October 2023, pp.2844-2845.

¹⁰⁴⁵ DW4-05, 3 October 2023, p.2845.

¹⁰⁴⁶ DW4-05, 3 October 2023, p.2845.

¹⁰⁴⁷ DW4-05, 3 October 2023, p.2846.

¹⁰⁴⁸ Section V.A.8.

¹⁰⁴⁹ DW4-05, 3 October 2023, p.2875.

¹⁰⁵⁰ DW4-05, 3 October 2023, pp.2877-2878.

261. DW4-05's testimony was characterised by general reticence and evasiveness,¹⁰⁵¹ and internal contradictions.¹⁰⁵² The Panel should also consider that, at the time of DW4-05's testimony, TW4-01 recognised him as one of the perpetrators present [REDACTED].¹⁰⁵³ The Panel should find that DW4-05 was not credible, and decline to rely on his evidence concerning the commission of crimes and the presence and responsibility of the **Accused**.

262. W03887 claimed that a number of broken trucks in the middle of the courtyard¹⁰⁵⁴ prevented him from seeing the buildings behind,¹⁰⁵⁵ including the Detention Building.¹⁰⁵⁶ W03887 was not aware that people were detained at the KMF, but learnt about this later through the Sabit GECI and Xhemshit KRASNIQI trials.¹⁰⁵⁷

263. W03887's claims about the Detention Building defy credibility, considering that at times he worked in the courtyard, outside the Food Warehouse,¹⁰⁵⁸ slept in the

¹⁰⁵¹ See e.g. DW4-05, 3 October 2023, p.2882 (claiming that he didn't look around when going to work every day, and that he was not interested in anything else).

¹⁰⁵² Cfr., e.g., DW4-05, 3 October 2023, p.2835 (stating that after the war, he went home to Prizren and remained there) and DW4-05, 3 October 2023, pp.2885, 2890 (admitting that in fact he went to Nashec as part of his logistics duties).

¹⁰⁵³ 115994-115995RED.

¹⁰⁵⁴ W03887, 20 November 2023, pp.3208, 3211; W03887, 22 November 2023, p.3420.

¹⁰⁵⁵ W03887, 20 November 2023, p.3208; W03887, 21 November 2023, p.3379.

¹⁰⁵⁶ W03887, 21 November 2023, pp.3380, 3382; REG00989-REG00989, no.16; REG00994-REG00994, no.5.

¹⁰⁵⁷ W03887, 22 November 2023, p.3437.

¹⁰⁵⁸ W03887, 21 November 2023, pp.3391-3394; REG00994-REG00994 (the location where W03887 worked in the courtyard is marked with no.3).

broken truck standing parallel to the Food Warehouse's wall,¹⁰⁵⁹ and walked across the courtyard to reach the Command Building.¹⁰⁶⁰ W03887's testimony was marred by numerous contradictions with his prior SPO statement, including by increasing the number of broken trucks allegedly obstructing his view,¹⁰⁶¹ and testifying that they stood in the middle of the courtyard, in front of the Detention Building, rather than next to the warehouse wall, as previously stated.¹⁰⁶²

264. W04280 testified that [REDACTED].¹⁰⁶³ He did not remember the Detention Building,¹⁰⁶⁴ did not see anyone detained, did not see anyone performing labour at the KMF while he worked there, and did not know of anyone who passed away at the KMF. W04280 denied [REDACTED].¹⁰⁶⁵ He also denied [REDACTED],¹⁰⁶⁶ or [REDACTED].¹⁰⁶⁷ In this respect, W04280 is not a credible witness.

¹⁰⁵⁹ W03887, 21 November 2023, pp.3401-3403.

¹⁰⁶⁰ W03887, 22 November 2023, pp.3436-3437.

¹⁰⁶¹ W03887, 22 November 2023, pp.3419-3420.

¹⁰⁶² W03887, 22 November 2023, pp.3421-3424; 077857B Part 2 RED, at 10:28 to 12:00.

¹⁰⁶³ W04280, 28 November 2023, p.3769.

¹⁰⁶⁴ W04280, 29 November 2023, p.3843; 074390-074391, p.074390.

¹⁰⁶⁵ W04280, 28 November 2023, pp.3784-3787.

¹⁰⁶⁶ W04280, 28 November 2023, pp.3787-3788.

¹⁰⁶⁷ W04280, 28 November 2023, p.3825.

265. W04280 provided information consistent with that of the victims about [REDACTED].¹⁰⁶⁸ He also made some partial admissions including [REDACTED];¹⁰⁶⁹ [REDACTED];¹⁰⁷⁰ and meeting W04848 at the KMF.¹⁰⁷¹

266. W04280's denials stand in contrast with the consistent evidence [REDACTED].¹⁰⁷² [REDACTED].¹⁰⁷³ [REDACTED].¹⁰⁷⁴

267. W04280 was evidently evasive in his answers, especially about his tasks at the KMF and the locations where he performed them.¹⁰⁷⁵ He had no recollection about the layout of the KMF,¹⁰⁷⁶ and claimed not to have had [REDACTED],¹⁰⁷⁷ which is inconsistent with [REDACTED].¹⁰⁷⁸ [REDACTED], he stated that he did not know.¹⁰⁷⁹

¹⁰⁶⁸ *Cfr.* W04280, 28 November 2023, pp.3806-3808, with 060664-TR-ET Part 5 RED4, pp.11-12; 064716-TR-ET Part 5 RED4, pp.29-30; TW4-01, 31 May 1999, p.1537.

¹⁰⁶⁹ W04280, 28 November 2023, pp.3750-3751, 3753.

¹⁰⁷⁰ W04280, 28 November 2023, pp.3769-3770.

¹⁰⁷¹ W04280, 28 November 2023, p.3779.

¹⁰⁷² Section V.G.

¹⁰⁷³ W04280, 28 November 2023, p.3824.

¹⁰⁷⁴ W04280, 29 November 2023, pp.3845-3846.

¹⁰⁷⁵ *See e.g.* W04280, 28 November 2023, pp.3771-3773; W04280, 29 November 2023, pp.3838-3839.

¹⁰⁷⁶ W04280, 28 November 2023, pp.3774-3776; W04289, 29 November 2023, p.3844.

¹⁰⁷⁷ W04280, 29 November 2023, p.3842

¹⁰⁷⁸ W04280, 28 November 2023, p.3772.

¹⁰⁷⁹ W04280, 29 November 2023, p.3839.

[REDACTED],¹⁰⁸⁰ [REDACTED].¹⁰⁸¹ W04280's reticence to testify truthfully was rooted in security concerns, which he shared with the SPO but denied at trial.¹⁰⁸²

268. For these reasons, W04754, DW4-05, W03887, and W04280's denials of crimes at the KMF are not credible. They also stand in stark contrast with the evidence of the victims in this case,¹⁰⁸³ of other KLA members,¹⁰⁸⁴ and of the **Accused** himself.¹⁰⁸⁵

3. Credibility of Prosecution witnesses

269. The Defence sought to challenge the credibility and reliability of TW4-01 and W04733, in particular. The section below addresses the evidence relating to these challenges.

a) TW4-01

(1) Involvement of the Accused

270. The Defence position is that TW4-01's evidence about the **Accused's** role in the crimes is not credible, and the [REDACTED].¹⁰⁸⁶ However, TW4-01's evidence is

¹⁰⁸⁰ W04280, 28 November 2023, p.3755.

¹⁰⁸¹ W04280, 28 November 2023, pp.3810-3813; W04280, 29 November 2023, pp.3862-3867.

¹⁰⁸² W04280, 28 November 2023, pp.3813-3815.

¹⁰⁸³ Sections V.A to V.G.

¹⁰⁸⁴ TW4-10, 1 May 2023, pp.1054-1057, 1064-1069; SITF00014088-00014120RED, p.SITF00014095.

¹⁰⁸⁵ Section V.H.

¹⁰⁸⁶ TW4-01, 2 June 2023, pp.1683-1692; Transcript, 20 September 2023, pp.2466-2467.

corroborated, measured, and thus highly credible. There is also no reason why TW4-01 would [REDACTED] the **Accused**, other than TW4-01's rightful demand for justice for the **Accused**'s involvement in the crimes, [REDACTED].

271. TW4-01 has consistently, [REDACTED], named the **Accused** amongst the perpetrators at the KMF.¹⁰⁸⁷ During cross-examination, the Defence confronted TW4-01 with two prior statements in which he had not mentioned the **Accused** among the perpetrators [REDACTED].¹⁰⁸⁸ TW4-01 explained that he had mentioned the **Accused** on the occasion of the [REDACTED] statement, that he did not know why his name was not recorded in the statement, as he had 'always mentioned Pjetër'.¹⁰⁸⁹ Consistent with his testimony in this trial and other prior statements, [REDACTED], TW4-01 named the **Accused** among the perpetrators in that incident.¹⁰⁹⁰

272. In assessing TW4-01's credibility, the Panel should also consider that he was measured and cautious in his testimony, distinguishing when he personally witnessed events, and when he did not. For instance, asked if he had witnessed [REDACTED] mistreatment during the 20 May 1999 Incident, he answered that he did not, because he was outside the room where it happened.¹⁰⁹¹ TW4-01 did not blame the **Accused** for events the **Accused** was not involved with, or that TW4-01 could no longer

¹⁰⁸⁷ TW4-01, 31 May 2023, pp.1591-1592; SITF00450258-00450259RED2, p.SITF00450258.

¹⁰⁸⁸ TW4-01, 2 June 2023, pp.1675-1683.

¹⁰⁸⁹ TW4-01, 2 June 2023, p.1678.

¹⁰⁹⁰ TW4-01, 6 June 2023, pp.1894-1897.

¹⁰⁹¹ TW4-01, 30 May 2023, p.1469.

remember.¹⁰⁹² [REDACTED]. At trial, however, he could not recall the **Accused** being present on that day.¹⁰⁹³ When confronted with his prior statements, he did not try to correct his evidence, but maintained that he could not remember.¹⁰⁹⁴ Similarly, when asked by the Panel whether the **Accused** was present [REDACTED], TW4-01 stated 'as far as I recall, Pjetër was not there at the time. Pjetër was present when [REDACTED].'¹⁰⁹⁵ Asked by the Panel how many times he saw the **Accused** in total, while he was detained in Room 1, TW4-01 admitted that he could not remember.¹⁰⁹⁶ He also corrected a prior statement where it was indicated that the **Accused** had beaten him ten or twelve times, stating that he certainly did not beat him that often.¹⁰⁹⁷

273. TW4-01 admitted when he could not recall the identity of a perpetrator,¹⁰⁹⁸ or when he could not recall certain potentially incriminating details.¹⁰⁹⁹ He distinguished when he had learnt information from others from when he had direct knowledge of

¹⁰⁹² TW4-01, 31 May 2023, p.1537.

¹⁰⁹³ TW4-01, 31 May 2023, p.1498.

¹⁰⁹⁴ TW4-01, 31 May 2023, pp.1498-1510.

¹⁰⁹⁵ TW4-01, 6 June 2023, p.1922.

¹⁰⁹⁶ TW4-01, 6 June 2023, p.1932.

¹⁰⁹⁷ TW4-01, 6 June 2023, pp.1932-1933.

¹⁰⁹⁸ TW4-01, 31 May 2023, pp.1512-1513.

¹⁰⁹⁹ TW4-01, 6 June 2023, pp.1906-1907, 1913-1914.

something.¹¹⁰⁰ He did not try to inflate the number of detainees at the KMF, and specified that not all the detainees were beaten.¹¹⁰¹

274. The Defence has failed to offer any reasonable explanation as to why TW4-01 would have falsely incriminated the **Accused**. That TW4-01 implicated the **Accused** [REDACTED] for the brief encounter the **Accused** admitted having with him at the KMF – as maintained by the Defence¹¹⁰² – is completely unreasonable. [REDACTED].¹¹⁰³

(2) [REDACTED]

275. [REDACTED].¹¹⁰⁴ The primary motivating factor was fear for his security and that of his family.

276. [REDACTED].¹¹⁰⁵ [REDACTED].¹¹⁰⁶ This explanation also finds support in the forensic medical examination of TW4-01, where the examiners found that [REDACTED] caused the resurfacing of feelings of helplessness and fear he had

¹¹⁰⁰ TW4-01, 30 May 2023, pp.1453-1454 (eyewitnessing W04733's mistreatment during the 20 May 1999 Incident); TW4-01, 6 June 2023, pp.1913-1917 (in relation to the detention of Serbs at the KMF); TW4-01, 5 June 2023, pp.1820-1821 (on learning the prosecutor's name from others), 1826 [REDACTED].

¹¹⁰¹ TW4-01, 6 June 2023, pp.1920-1921.

¹¹⁰² Transcript, 20 September 2023, pp.2466-2467.

¹¹⁰³ TW4-01, 31 May 2023, p.1597.

¹¹⁰⁴ TW4-01, 31 May 2023, p.1559; TW4-01, 6 June 2023, pp.1881-1883.

¹¹⁰⁵ TW4-01, 31 May 2023, pp.1557-1558; TW4-01, 6 June 2023, p.1867 [REDACTED].

¹¹⁰⁶ SITF00432531-00432531RED.

experienced during his detention at the KMF. According to the examiners, TW4-01 'was intensely afraid he would be killed, [REDACTED].¹¹⁰⁷ TW4-01 also felt unable to protect his family, and developed deep mistrust.¹¹⁰⁸ In this regard, the examiners concluded that:

'[REDACTED].'¹¹⁰⁹

277. The fear TW4-01 had for his security and that of his family [REDACTED],¹¹¹⁰ [REDACTED].¹¹¹¹

278. [REDACTED],¹¹¹² [REDACTED].¹¹¹³ [REDACTED].¹¹¹⁴ [REDACTED].

(3) *Collaboration allegations*

279. The Defence introduced DW4-01's evidence in writing seeking to support its allegations that TW4-01 [REDACTED], and a generally unreliable witness.

¹¹⁰⁷ V4010023-V4010044, p.V4010041.

¹¹⁰⁸ V4010023-V4010044, pp.V4010041-V4010042.

¹¹⁰⁹ V4010023-V4010044, p.V4010041.

¹¹¹⁰ TW4-01, 31 May 2023, pp.1558-1559; TW4-01, 6 June 2023, p.1867; V4010023-V4010044, p. V4010041.

¹¹¹¹ SPOE00014640-00014668RED2, p.SPOE00014650.

¹¹¹² TW4-01, 31 May 2023, p.1559; TW4-01, 6 June 2023, pp.1881-1883.

¹¹¹³ TW4-01, 31 May 2023, p.1560.

¹¹¹⁴ TW4-01, 6 June 2023, pp.1866, 1867, 1882.

280. However, DW4-01's assertion that TW4-01 [REDACTED]¹¹¹⁵ is speculation at best. [REDACTED].¹¹¹⁶ His basis for the allegation regarding TW4-01 rests on such insubstantial factors as [REDACTED].¹¹¹⁷ The convictions accumulated [REDACTED] make DW4-01's claims about his innocence even less credible.¹¹¹⁸ Moreover, even if *arguendo* [REDACTED].

281. DW4-01's evidence that TW4-01 [REDACTED]¹¹¹⁹ is at best relevant to a marginal issue concerning the motives that, according to TW4-01,¹¹²⁰ a JCE member other than the **Accused** had to persecute him. DW4-01, however, was not [REDACTED],¹¹²¹ and TW4-01's account concerning [REDACTED] is corroborated by W01448.¹¹²² Finally, the different versions of DW4-01 and TW4-01¹¹²³ on [REDACTED] are irrelevant, and should not be given any weight in assessing TW4-01's credibility.

¹¹¹⁵ SITF00015437-00015510RED2, p.SITF00015447.

¹¹¹⁶ SITF00015437-00015510RED2, pp.SITF00015447, SITF00015454.

¹¹¹⁷ SITF00015437-00015510RED2, pp.SITF00015447-SITF00015448.

¹¹¹⁸ 116111-116113-ET.

¹¹¹⁹ SITF00015437-00015510RED2, p.SITF00015450.

¹¹²⁰ TW4-01, 5 June 2023, p.1846.

¹¹²¹ TW4-01, 5 June 2023, p.1848; SITF00015437-00015510RED2, p.SITF00015449.

¹¹²² SITF00016221-00016285RED4, p.SITF00016232.

¹¹²³ TW4-01, 5 June 2023, p.1799.

(4) *Alleged inconsistencies and contrary evidence*

(a) *DW4-05*

282. The Defence called DW4-05 to undermine TW4-01's account that he [REDACTED].¹¹²⁴ In this regard, DW4-05 testified that upon completing his shift, [REDACTED],¹¹²⁵ which remained closed until the following morning.¹¹²⁶ [REDACTED].¹¹²⁷

283. First, TW4-01's evidence that he spent time [REDACTED].¹¹²⁸

284. Second, DW4-05's claims are contradicted by W03887, [REDACTED],¹¹²⁹ and by W01448, [REDACTED].¹¹³⁰ Further, DW4-05 conceded his superior may have had the [REDACTED],¹¹³¹ and DW4-05 did not stay at the KMF at night.¹¹³² Considered with DW4-05's multiple other implausible denials and credibility issues discussed above, DW4-05's evidence in this regard is devoid of any probative value.

¹¹²⁴ Section V.1.

¹¹²⁵ DW4-05, 3 October 2023, p.2826.

¹¹²⁶ DW4-05, 3 October 2023, p.2826.

¹¹²⁷ DW4-05, 3 October 2023, pp.2826-2827.

¹¹²⁸ TW4-01, 30 May 2023, pp.1403, 1410.

¹¹²⁹ W03887, 21 November 2023, pp.3368-3370; W03887, 22 November 2023, p.3438.

¹¹³⁰ SITF00013736-00013800RED5, p.SITF00013739.

¹¹³¹ DW4-05, 3 October 2023, pp.2902-2903.

¹¹³² DW4-05, 3 October 2023, p.2818.

(b) W04405

285. W04405, a Kosovar Albanian from Prizren¹¹³³ and member of KLA's Brigade 128,¹¹³⁴ denied ever being at the KMF,¹¹³⁵ throwing cigarettes at detainees,¹¹³⁶ [REDACTED],¹¹³⁷ and telling TW4-01 [REDACTED].¹¹³⁸ W04405's testimony is rife with contradictory and implausible claims,¹¹³⁹ and filled with internal¹¹⁴⁰ and external¹¹⁴¹ inconsistencies.

286. W04405 testified at trial that he joined the KLA in Kukës,¹¹⁴² where he had been twice during the war,¹¹⁴³ while he had told the SPO in 2019 that, in 1999, he had never

¹¹³³ W04405, 9 January 2024, p.3896.

¹¹³⁴ W04405, 9 January 2024, p.3907.

¹¹³⁵ W04405, 9 January 2024, pp.3912-3914, 3940.

¹¹³⁶ W04405, 9 January 2024, pp.3939-3940.

¹¹³⁷ W04405, 9 January 2024, pp.3940, 3944, 3947.

¹¹³⁸ W04405, 9 January 2024, p.3947.

¹¹³⁹ For example, W04405 claimed that he did not know that Sali SARAMATI was buried, together with other fallen KLA soldiers, in a funeral ceremony held at the Kukës cemetery (W04405, 9 January 2024, pp.3976-3980), an event that other evidence in this case indicates was very notorious (Section III.B.2)

¹¹⁴⁰ *Cfr. e.g.* W04405, 9 January 2024, pp.3909-3910 (stating that he only trained in Gorožup/Gorozhup), with W04405, 9 January 2024, p.3960 (stating that he trained in Kolsh and Kalimash), while in 2019 he had told the SPO that he had not received any training, W04405, 10 January 2024, pp.4020-4021.

¹¹⁴¹ W04405 claimed when he deployed to Gorožup/Gorozhup sometime in April 1999 there was ongoing fighting at the frontlines (W04405, 9 January 2024, p.3906, 3961-3962, 3968-3969, 3971-3973, 3975). However, W04754, the chief of logistics for Operation Arrow, explained that the fighting in the Gorožup/Gorozhup direction only started at the end of May 1999 (W04754, 25 October 2023, pp.3141-3148). *See also*, W04405, 9 January 2024, pp.3987-3989).

¹¹⁴² W04405, 9 January 2024, p.3901. Even in this regard, however, the witness gave inconsistent accounts during his testimony providing unconvincing explanations when confronted with these discrepancies, *see* W04405, 10 January 2024, pp.4007-4008.

¹¹⁴³ W04405, 10 January 2024, pp.4006-4007, 4011-4014.

set foot in Albania.¹¹⁴⁴ His attempts to explain this inconsistency resulted in a series of incredible explanations.¹¹⁴⁵ With reference to the KMF, W04405 asserted that he 'had nothing to do *with that depot* or whatever you're describing here',¹¹⁴⁶ clearly revealing that he had knowledge of the KMF.

287. W04405 became increasingly evasive when questioned about becoming a witness in these proceedings, and knowing about [REDACTED] death. He made inconsistent and incredible claims about the timing, number, circumstances, and content of [REDACTED] after the war,¹¹⁴⁷ including clearly implausible denials about his knowledge of [REDACTED] death.¹¹⁴⁸

(c) **DW4-09**

288. The Defence tendered DW4-09's evidence to challenge TW4-01's account that [REDACTED].¹¹⁴⁹ In this regard, DW4-09 stated that, the day [REDACTED].¹¹⁵⁰ This evidence does not contradict TW4-01. DW4-09 was not asked how he had learnt about [REDACTED]. In his answer, DW4-09 simply relayed the details of the first time he

¹¹⁴⁴ W04405, 10 January 2024, pp.4009-4011, 4014-4016.

¹¹⁴⁵ W04405, 10 January 2024, pp.4009, 4011, 4014-4016.

¹¹⁴⁶ W04405, 10 January 2024, pp.4040, 4064-4066 (emphasis added).

¹¹⁴⁷ W04405, 9 January 2024, pp.3921-3924, 3932-3939; W04405, 10 January 2023, pp.4022-4023, 4051, 4054-4055, 4056-4059.

¹¹⁴⁸ W04405, 10 January 2023, pp.4030-4035.

¹¹⁴⁹ Defence Rule 155 Motion, para.14; TW4-01, 5 June 2023, pp.1790-1791, 1796.

¹¹⁵⁰ SITF00374132-00374148RED2, p.SITF00374136.

heard from TW4-01 after his detention. DW4-09's evidence also shows that [REDACTED] was discussed also on other occasions, including when TW4-01 [REDACTED].¹¹⁵¹

289. In fact, DW4-09's statement is generally consistent with and corroborates TW4-01's account of [REDACTED],¹¹⁵² TW4-01's physical state [REDACTED],¹¹⁵³ [REDACTED].¹¹⁵⁴

(5) *Detailed account and recollection of events*

290. TW4-01 provided a consistent, detailed, and emotional account of his ordeal at the KMF, showing that he drew from personal experience.

291. TW4-01 remembered numerous details of his detention and mistreatment, including the presence [REDACTED] at the KMF and where he met the **Accused**,¹¹⁵⁵ which is corroborated by DW4-05¹¹⁵⁶ and W03387,¹¹⁵⁷ and shows that he was inside

¹¹⁵¹ SPOE00014640-00014668RED2, pp.SPOE00014647-SPOE00014649.

¹¹⁵² *Cfr., e.g.*, [REDACTED].

¹¹⁵³ SITF00374132-00374148RED2, p.5; TW4-01, 31 May 2023, p.1552.

¹¹⁵⁴ SITF00374132-00374148RED2, p.5; TW4-01, 31 May 2023, pp.1545-1546.

¹¹⁵⁵ TW4-01, 30 May 2023, p.1403.

¹¹⁵⁶ DW4-05, 3 October 2023, pp.2816-2817.

¹¹⁵⁷ W03887, 20 November 2023, p.3198.

that building. [REDACTED].¹¹⁵⁸ TW4-01 provided specific details of the 20 May 1999 Incident which are corroborated by the other victims.¹¹⁵⁹

292. Another example of the detailed and truthful nature of TW4-01's evidence is the accurate account of the serious injuries he suffered during his detention at the KMF, including being beaten on the head and cut on [REDACTED], which resulted in visible scars,¹¹⁶⁰ as corroborated by W04826's physical examination report.¹¹⁶¹

293. During cross-examination, TW4-01 was confronted with a document indicating that, contrary to his claims,¹¹⁶² he was in Serbia [REDACTED].¹¹⁶³ TW4-01 admitted to having been [REDACTED], and explained that he had forgotten about it because he 'never thought it was something of significance to remember.'¹¹⁶⁴ TW4-01's hesitation concerning this matter could also be explained by his fear of being associated with Serbia, and of the possible stigma attaching to it, which had caused his mistreatment at the KMF in the first place. Such fear and hesitation should not, however, be

¹¹⁵⁸ TW4-01, 31 May 2023, p.1526.

¹¹⁵⁹ See e.g. TW4-01, 30 May 2023, p.1454; 082892-TR-AT-ET Part 4 RED3, p.27, [REDACTED].

¹¹⁶⁰ TW4-01, 30 May 2023, pp.1457-1458, 1473-1475.

¹¹⁶¹ W04826, 27 June 2023, pp.2119-2121; SITF00019134-SITF00019147RED2, pp.SITF00019137-SITF00019138; 113841-113843, p.113843.

¹¹⁶² TW4-01, 2 June 2023, p.1617; TW4-01, 5 June 2023, pp.1852, 1854.

¹¹⁶³ TW4-01, 6 June 2023, pp.1863-1864; 058583-058585RED2, p.058584.

¹¹⁶⁴ TW4-01, 6 June 2023, pp.1864-1865.

considered to impact the credibility of his account in relation to the ordeal he, [REDACTED] and other victims suffered at the KMF.

294. In fact, TW4-01's account is repeatedly corroborated by several other witnesses in relation to all material aspects of his experience at the KMF, including the identification of the **Accused**,¹¹⁶⁵ and of other JCE members,¹¹⁶⁶ the identity of the other detainees,¹¹⁶⁷ the presence of medics at the KMF,¹¹⁶⁸ the location and layout of the Detention Building,¹¹⁶⁹ detention conditions¹¹⁷⁰ and their improvement after [REDACTED] death,¹¹⁷¹ the mistreatment he and others suffered at the KMF,¹¹⁷² and the 20 May 1999 Incident.¹¹⁷³

(6) [REDACTED]

295. The fact that TW4-01 [REACTED],¹¹⁷⁴ which TW4-01 did not deny and was willing to discuss,¹¹⁷⁵ does not negate the fact that he and [REDACTED] were victims

¹¹⁶⁵ Section V.H.3.a.

¹¹⁶⁶ Section V.H.3.b.

¹¹⁶⁷ Section V.G.3.c.

¹¹⁶⁸ Section V.G.3.d.

¹¹⁶⁹ Section III.C.

¹¹⁷⁰ Section V.B.

¹¹⁷¹ Section V.G.

¹¹⁷² Section V.C.

¹¹⁷³ Section V.D.

¹¹⁷⁴ 107067-107070RED; DPS00073-DPS00077.

¹¹⁷⁵ TW4-01, 5 June 2023, p.1838.

at the KMF, a fact amply corroborated by the evidence of multiple sources reviewed in this brief.

b) **W04733**

296. The Defence called DW4-06, **Time KADRIJAJ (W04440)** and **Safete HADERGJONAJ (W04441)** to undermine W04733's evidence that they were present at the KMF during the 20 May 1999 Incident.

297. DW4-06, a member of the LPK and political representative of the KLA,¹¹⁷⁶ testified that he was never in Kukës during the Indictment Period,¹¹⁷⁷ that he had never seen W04733,¹¹⁷⁸ and that he does not know anyone by this name.¹¹⁷⁹ Due to the nature of W04733's references to DW4-06, the latter's evidence does not affect W04733's credibility with respect to the crimes and the **Accused's** responsibility therefor.

298. In fact, W04733 himself was not certain about his identification of Bardhyl MAHMUTI.¹¹⁸⁰ W04733 had never met DW4-06 before,¹¹⁸¹ and that night he was 'seeing triple,' as a result of the beatings he had suffered.¹¹⁸² In any event, DW4-06

¹¹⁷⁶ DW4-06, 20 September 2023, pp.2487-2488; DW4-06, 21 September 2023, p.2613.

¹¹⁷⁷ DW4-06, 20 September 2023, pp.2514, 2530.

¹¹⁷⁸ DW4-06, 20 September 2023, pp.2537-2538; 059113-059144, p.059127.

¹¹⁷⁹ DW4-06, 20 September 2023, p.2516.

¹¹⁸⁰ 106978-107020, p.106983; 082892-TR-AT-ET Part 5 RED2, pp.3-5.

¹¹⁸¹ 106978-107020, p.106994; SITF00018740-00018767RED, p.SITF00018742.

¹¹⁸² 082892-TR-AT-ET Part 5 RED2, p.5.

conceded that he went to Albania in April and June 1999,¹¹⁸³ and it cannot be excluded that he entered Albania overland, through the Kosovo-Albanian border, during the Indictment period.¹¹⁸⁴ The **Accused** himself stated that he may have seen DW4-06 in Kukës.¹¹⁸⁵

299. Second, DW4-06 is not a credible witness. His evidence that he never met the **Accused** before, during or after the war,¹¹⁸⁶ is contradicted by the **Accused**, who stated that he met DW4-06 in a club in Schaerbeek on the occasion of DW4-06's visit to Brussels.¹¹⁸⁷ It is very hard to believe that, as the KLA political representative, he ignored the existence of any KLA base in Albania.¹¹⁸⁸ DW4-06's answers in relation to his knowledge of detentions by the KLA were evasive¹¹⁸⁹ and unresponsive.¹¹⁹⁰ He denied any knowledge or involvement with this matter, in spite of evidence to the contrary.¹¹⁹¹ He showed contempt towards the KSC and its mandate,¹¹⁹² and readiness

¹¹⁸³ DW4-06, 21 September 2023, pp.2715-2716.

¹¹⁸⁴ DW4-06, 21 September 2023, pp.2714-2715; W04280, 28 November 2023, p.3808; TW4-01, 2 June 2023, p.1628; Adjudicated Facts List, facts no.7-9.

¹¹⁸⁵ 066866-066882-ET Revised, p.066880.

¹¹⁸⁶ DW4-06, 21 September 2023, p.2608.

¹¹⁸⁷ 066866-066882-ET Revised, p.13.

¹¹⁸⁸ DW4-06, 21 September 2023, pp.2716-2717.

¹¹⁸⁹ DW4-06, 21 September 2023, pp.2635-2636.

¹¹⁹⁰ DW4-06, 21 September 2023, pp.2679-2680, 2683-2685.

¹¹⁹¹ DW4-06, 21 September 2023, pp.2635-2636, 2648-2656; 075522-075551, para.117.

¹¹⁹² DW4-06, 21 September 2023, pp.2693-2696.

to deny any wrongdoing by KLA members with no regard to any evidence to the contrary.¹¹⁹³

300. Finally, DW4-06 also made certain claims about fabrication of evidence by Serbia, which were generic, speculative, and completely irrelevant to this case.¹¹⁹⁴

301. W04733 identified W04440 and W04441 among the medical staff who bandaged the injuries he suffered during the 20 May 1999 Incident.¹¹⁹⁵ The presence of female nurses in the medical office inside the Command Building is also corroborated by W03887.¹¹⁹⁶

302. W04440, a doctor by training,¹¹⁹⁷ joined the KLA's war efforts in Koshare.¹¹⁹⁸ She testified that in 1999 she never went to Kukës.¹¹⁹⁹ Her evidence is contradicted by W04754, who saw W04440 in Kukës towards the end of May 1999, at the beginning of Operation Arrow. W04754 testified that W04440 was in Kukës to accompany to the Kukës hospital Milam ZEKA, a journalist who had been wounded in Koshare, where W04440 was deployed as a medic.¹²⁰⁰ W04440 was accompanied by Nasim

¹¹⁹³ DW4-06, 21 September 2023, pp.2697-2706.

¹¹⁹⁴ DW4-06, 20 September 2023, pp.2552-2574.

¹¹⁹⁵ 082892-TR-AT-ET Part 4 RED3, pp.29-32.

¹¹⁹⁶ W03887, 21 November 2023, pp.3375-3376.

¹¹⁹⁷ W04440, 23 November 2023, p.3550.

¹¹⁹⁸ W04440, 23 November 2023, pp.3551-3552.

¹¹⁹⁹ W04440, 23 November 2023, p.3556.

¹²⁰⁰ W04754, 23 October 2023, p.2932, 2940, 2937-2943. W04754 testified the Ruzhdi SARAMATI and his forces set off from Kukës to fight in Operation Arrow on or around 20 May 1999, *see* W04754, 23 October

HARADINAJ, whose brother Agron was stationed at the KMF.¹²⁰¹ On that occasion, W04754 had lunch with W04440 and others at the KMF.¹²⁰² When confronted with W04754's detailed recollection of her visit to the KMF, she maintained that she did not go there.¹²⁰³

303. W04440 made a number of other implausible claims, including not knowing about [REDACTED],¹²⁰⁴ in spite of consistent evidence that [REDACTED].¹²⁰⁵ In particular, there is evidence that [REDACTED],¹²⁰⁶ [REDACTED].¹²⁰⁷

304. She also denied knowledge that the KLA had a recruitment centre in Kukës in 1999.¹²⁰⁸ This is implausible in light of (i) the evidence placing her at the KMF in May 1999 discussed above, (ii) the fact that the existence of a recruitment centre there was advertised all over the media at the time,¹²⁰⁹ and (iii) that the KMF was one of the

2023, p.3000. Milaim ZEKA was wounded on 20 May 1999, W04440, 23 November 2023, pp.3578-3579; SITF00016056-00016103RED, p.SITF00016070.

¹²⁰¹ W04754, 23 October 2023, p.2943; W04754, 24 October 2023, p.3095.

¹²⁰² W04754, 23 October 2023, pp.2938-2939, 2942.

¹²⁰³ W04440, 23 November 2023, pp.3581-3582.

¹²⁰⁴ W04440, 23 November 2023, pp.3593-3594.

¹²⁰⁵ W04440, 23 November 2023, pp.3594-3596, 3606-3607; 082892-TR-AT-ET Part 5 RED2, pp.15, 28; 083218-TR-ET Part 6 RED5, pp.4-5; 064716-TR-ET Part 4 RED3, p.17; SPOE00012603-00012662, p.SPOE00012625.

¹²⁰⁶ SPOE00012603-00012662, p.SPOE00012625; W04440, 23 November 2023, pp.3604-3605.

¹²⁰⁷ 064716-TR-ET Part 4RED3, pp.16-17.

¹²⁰⁸ W04440, 23 November 2023, p.3576.

¹²⁰⁹ W04280, 28 November 2023, pp.3816-3817.

KLA's main bases in Albania.¹²¹⁰ She further denied, in the face of a EULEX police report, that she tried to [REDACTED],¹²¹¹ and showed a strong bias against the KSC.¹²¹² Most importantly, W04440 holds the view that former members of the KLA should not be put on trial, irrespective of any rightful claim to justice their alleged victims may have.¹²¹³

305. W04441, a Kosovar Albanian from Voksh village with a background in economics,¹²¹⁴ and member of the Democratic Party of Kosovo headed by Hashim THACI,¹²¹⁵ moved from Kosovo to Durrës, Albania in June 1998, where she remained with her family until July 1999.¹²¹⁶ W04441 testified that she never went to Kukës in her life,¹²¹⁷ and denied knowing that the KLA had a base in Kukës in 1999.¹²¹⁸ This claim appears incredible in light of the consistent evidence that the KLA made appeals through the media, including the television, for people to join the KLA¹²¹⁹ indicating where volunteers could register.¹²²⁰

¹²¹⁰ W04754, 23 October 2023, p.2929; 060664-TR-ET Part 2, pp.8-9; SPOE00305270-00305271, p.SPOE00305270.

¹²¹¹ W04440, 23 November 2023, pp.3608-3609.

¹²¹² W04440, 24 November 2023, pp.3618-3623.

¹²¹³ W04440, 24 November 2023, pp.3617-3623; 116107-116107.

¹²¹⁴ W04441, 22 November 2023, p.3478.

¹²¹⁵ W04441, 22 November 2023, p.3506.

¹²¹⁶ W04441, 22 November 2023, pp.3482-3483.

¹²¹⁷ W04441, 22 November 2023, p.3484.

¹²¹⁸ W04441, 22 November 2023, pp.3494-3495.

¹²¹⁹ W04280, 28 November 2023, p.3760.

¹²²⁰ W04280, 28 November 2023, pp.3815-3816.

306. W04441 also showed a strong bias against the KSC, stating that the charges brought against KLA members are politically motivated and made up by Serbia,¹²²¹ despite never reading the Indictment against the **Accused**, which she considered to be 'based on stitched-up allegations of false witnesses.'¹²²²

307. The credibility of W04440 and W04441 should be assessed in light of the implausible statements they made and their bias against the KSC.

J. Existence of a non-international armed conflict

308. Throughout the Indictment Period a non-international armed conflict ('**NIAC**') existed in Kosovo, including along the border with Albania, between the KLA and forces of the Federal Republic of Yugoslavia ('**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 (collectively, '**FRY forces**').

309. The Panel took judicial notice, pursuant to Rule 157,¹²²³ of 17 common knowledge facts and 56 adjudicated facts, some of which are relevant to the existence of a NIAC and its protracted character.¹²²⁴ These facts have been reliably adjudicated

¹²²¹ W04441, 22 November 2023, pp.3507-3508.

¹²²² W04441, 22 November 2023, p.3513.

¹²²³ Adjudicated Facts Decision, paras 19, 27.

¹²²⁴ Adjudicated Facts List, facts no.1-29 and 34-50.

in trials before both the ICTY and Kosovo courts on the basis of a thorough analysis of an extensive body of evidence, including reports of international organisations such as OSCE and Human Rights Watch, reports of the FRY forces and its officials on the status of the hostilities, and testimony of KLA members.¹²²⁵

1. The KLA

310. From well prior to the Indictment Period, the KLA had a formal structure, including a General Staff and chain of command, uniforms, a communications system, established rules and internal regulations which had been distributed to zone commanders and their subordinates.¹²²⁶ Weapons and other equipment was brought across the border into Kosovo from Albania.¹²²⁷

311. Kosovo was divided into seven KLA operational zones. One of them was the Pashtrik Zone,¹²²⁸ where Kukës was located,¹²²⁹ and which covered parts of the territory of Kosovo and northern Albania.¹²³⁰ Each operational zone had a command structure, headed by a zone commander appointed by the General Staff.¹²³¹ Within

¹²²⁵ See e.g. *Dorđević* TJ, paras 1531-1579; *Šainović et al.* TJ, paras 790-841; *Gashi et al.* TJ, pp.4-5, 11-12; *Geci et al.* TJ, pp.3-4, 6, 8-9, 18-20, 22-27; *Krasniqi* TJ, pp.3-6, 51-54.

¹²²⁶ Adjudicated Facts List, facts no.36, 38, 39; U009-9397-U009-9397-ET Revised.

¹²²⁷ Adjudicated Facts List, fact no.34.

¹²²⁸ Adjudicated Facts List, fact no.40.

¹²²⁹ 066843-066855-ET Revised, p.066848.

¹²³⁰ 066888-TR-ET Part 1 Revised, p.113; 066843-066855-ET Revised, p.066848; W04754, 24 October 2023, p.3018; 060124-TR-ET Part 2 Revised RED4, pp.18-20.

¹²³¹ Adjudicated Facts List, facts no.38, 41; 058048-058112-ET, pp.058049, 058056.

operational zones, KLA forces were organised into brigades, battalions, companies, platoons and squads.¹²³²

312. From January to March 1999, the KLA General Staff conducted training in Albania, focusing on the use of weapons, and preparing its fighting force for operations and combat actions.¹²³³

313. At the end of March 1999,¹²³⁴ the KLA General Staff ordered a general mobilisation,¹²³⁵ which continued through April and May 1999.¹²³⁶ The KLA used the KMF as a main logistics hub for the recruitment and mobilisation of volunteers.¹²³⁷ At the KMF, new KLA recruits were provided with uniforms and weapons,¹²³⁸ sent for

¹²³² Adjudicated Facts List, facts no.38, 40, 43.

¹²³³ Adjudicated Facts List, fact no.49.

¹²³⁴ SPOE00061241-00061243, p.SPOE00061241; SPOE00054441-SPOE00054442-ET Revised.

¹²³⁵ SPOE00054519-SPOE00054522-ET, p.SPOE00054519-SPOE00054520; Section III.A.

¹²³⁶ IT-05-87 4D00358-E, p.1; SPOE00305281-00305282, p.SPOE00305281; SPOE00304426-00304427, p.SPOE00304426; SPOE00305281-00305282, p.SPOE00305281; SPOE00133847-00133847, p.SPOE00133847.

¹²³⁷ Section III.B.; W04754, 23 October 2023, p.2929; 060664-TR-ET Part 2, pp.8-9; SPOE00305270-00305271, p.SPOE00305270; W04280, 28 November 2023, pp.3760, 3816-3817.

¹²³⁸ 060124-TR-ET Part 1 Revised RED, pp.44-45; DW4-05, 3 October 2023, p.2816; W04280, 28 November 2023, p.3768; W04754, 23 October 2023, p.2930.

training to other KLA bases in Albania,¹²³⁹ and eventually deployed to fight at the frontline.¹²⁴⁰

2. A NIAC existed between KLA and FRY forces before and during the Indictment Period

314. While frequent and significant armed clashes between the KLA and FRY forces began taking place already from the end of February and early March 1998,¹²⁴¹ with a significant increase in the summer of 1998,¹²⁴² this section will focus on the existence of a NIAC between the KLA and FRY forces during the time leading up to and including the Indictment Period.

315. In February 1999, an international peace conference was organised in Rambouillet, France.¹²⁴³ Diplomatic efforts to stop the hostilities were not successful, and Ambassador HOLBROOKE announced the failure of negotiations on 23 March

¹²³⁹ 060124-TR-ET Part 1 Revised RED, pp.39-40, 42; 060664-TR-ET Part 2, p.9; W04754, 23 October 2023, p.2921. Some training took also place within the grounds of the KMF: 060124-TR-ET Part 1 Revised RED, pp.44-46; U003-2231-U003-2231-ET.

¹²⁴⁰ 060124-TR-ET Part 1 Revised RED, pp.39, 41-43; TW4-10, 1 May 2023, pp.1032-1036, 1080, 1097-1098, 1100, 1108.

¹²⁴¹ Adjudicated Facts List, fact no.1.

¹²⁴² Adjudicated Facts List, fact no.2.

¹²⁴³ Common Knowledge Facts List, fact no.5.

1999.¹²⁴⁴ On 24 March 1999, NATO forces began air strikes against targets in Kosovo and Serbia and Montenegro.¹²⁴⁵

316. At the end of March 1999, FRY forces began large-scale military operations in Kosovo, in an area covering parts of Prizren, Suva Reka/Suharekë, and Orahovac/Rahovec municipalities.¹²⁴⁶ Large numbers of Kosovo Albanians began leaving Kosovo and crossing the border to Albania from 24 March 1999.¹²⁴⁷

317. In April 1999, the KLA began preparations for Operation Arrow,¹²⁴⁸ a military operation aimed at clearing the border between Kosovo and Albania of FRY forces.¹²⁴⁹ On 9 April 1999, the KLA launched an attack from Albania against the Košare/Koshare border post area, Đakovica/Gjakovë municipality.¹²⁵⁰ During April 1999, FRY forces launched artillery and infantry attacks against the KLA inside the territory of Albania.¹²⁵¹ By the end of April 1999, KLA forces stationed in Albania had widened

¹²⁴⁴ Common Knowledge Fact List, fact no.12.

¹²⁴⁵ Common Knowledge Fact List, fact no.13; SPOE00061241-00061243; SPOE00061244-00061247, p.SPOE00061245; 060124-TR-ET Part 1 Revised RED, pp.14, 21-22.

¹²⁴⁶ Adjudicated Facts List, fact no.7.

¹²⁴⁷ Adjudicated Facts List, fact no.8; SPOE00305270-00305271.

¹²⁴⁸ W04754, 23 October 2023, p.2920; W04754, 24 October 2023, pp.3020-3023, 3119; 077978-077982-ET Revised, p.077981; IT-05-87 3D00813-E, p.3D22-0001.

¹²⁴⁹ SPOE00055399-SPOE00055399-ET.

¹²⁵⁰ Adjudicated Facts List, fact no.50; W04754, 25 October 2023, p.3148.

¹²⁵¹ SPOE00133809-00133810, p.SPOE00133809; 102282-102285, p.102282.

their corridor within Kosovo, with casualties suffered in the course of these operations.¹²⁵²

318. Fighting between KLA and FRY forces occurred throughout May 1999.¹²⁵³ On or around 26 May 1999, the KLA launched Operation Arrow,¹²⁵⁴ with forces from the Pashtrik Operational Zone and other units entering Kosovo from Albania along four different axes.¹²⁵⁵ Around 20 May 1999, KLA soldiers under Ruzhdi SARAMATI taking part in Operation Arrow left from Kukës to join the fight along the Kukës, Gorožup/Gorozhup, and Morine/Qafë Morinë axis.¹²⁵⁶ On or around 31 May 1999, heavy fighting took place between FRY forces and the KLA in Gorožup/Gorozhup,¹²⁵⁷ with heavy shelling killing and wounding a number of KLA soldiers.¹²⁵⁸ On 3 June 1999, heavy fighting between the KLA and FRY forces was still taking place in border areas between Kosovo and Albania.¹²⁵⁹

¹²⁵² SPOE00133809-00133810, p.SPOE00133809; SPOE00133788-00133790, p.SPOE00133789.

¹²⁵³ SPOE00305286-00305288, p.SPOE00305287; SPOE00305289-00305292, p.SPOE00305289; IT-05-87 4D00320-E; IT-05-87.1 D00675.E, pp.1-3; SITF00078771-00078781, p.SITF00078773.

¹²⁵⁴ W04754, 24 October 2023, pp.3023, 3093, 3096-3097; W04754, 23 October 2023, p.3000; W04754, 25 October 2023, p.3141; SPOE00055399-SPOE00055399-ET. *See also* SPOE00133848-00133849, p.SPOE00133848.

¹²⁵⁵ W04754, 23 October 2023, p.2999; W04754, 25 October 2023, p.3143.

¹²⁵⁶ Section III.B.2.

¹²⁵⁷ W04405, 9 January 2024, p.3975; 060124-TR-ET Part 2 Revised RED4, pp.66-69.

¹²⁵⁸ W03887, 21 November 2023, pp.3362-3363; 060124-TR-ET Part 2 Revised RED4, pp.16-17, 144-145.

¹²⁵⁹ 102279-102281, p.102279; SPOE00305303-00305305, p.SPOE00305303.

319. During May 1999, the influx of refugees from Kosovo into Albania continued, totalling hundreds of thousands since the beginning of the NATO air strikes.¹²⁶⁰ UNHCR estimated that, from 24 March 1999 to 10 June 1999, some 800,000 Kosovo Albanians left Kosovo,¹²⁶¹ with approximately 100,000 of them seeking shelter in Kukës.¹²⁶²

320. A Military Technical Agreement between KFOR and the Governments of the FRY and Serbia was signed and entered into force on 9 June 1999 (Kumanovo agreement).¹²⁶³ On 10 June 1999, the Security Council of the United Nations adopted Resolution 1244, which established that the international security presence's responsibilities entailed ensuring the military withdrawal, demilitarising the KLA, and creating a secure environment for the return of refugees and displaced persons.¹²⁶⁴

¹²⁶⁰ SPOE00305289-00305292, p.SPOE00305291; SPOE00305297-00305298, p.SPO00305298; 075007-075129, p.075087.

¹²⁶¹ Adjudicated Facts List, fact no.9; 074222-074225, p.074222.; SPOE00061248-00061251, pp.SPOE00061248-SPOE00061249; 075007-075129.

¹²⁶² 060124-TR-ET Part 1 Revised RED, p.22; 074117-074129-ET Revised, p.074121; SPOE00305289-00305292, p.SPOE00305291; 075007-075129, p.075007; 074222-074225, p.074222; 074226-074231, p.074226; SITF00011677-00011685, pp.SITF00011679, SITF00011681-SITF00011682; SPOE00305286-00305288, p.SPOE00305287; SPOE00061248-00061251, p.SPOE00061249; SPOE00305283-00305285, p.SPOE00305284; SPOE00305270-00305271.

¹²⁶³ Common Knowledge Facts List, fact no.14; 060664-TR-ET Part 2, p.3.

¹²⁶⁴ Common Knowledge Facts List, fact no.16.

3. Nexus between the crimes and the NIAC

321. The detention, mistreatment, and murder of the victims in this case were perpetrated by the **Accused** and the other JCE members in connection with the NIAC described above. Under applicable law, for the nexus to exist, the NIAC need not have been causal to the commission of the crimes charged, but it must have played, at a minimum, a substantial part in the perpetrators' ability to commit the crimes, their decision to commit them, the manner in which they were committed, or the purpose for which they were committed.¹²⁶⁵ In determining whether this nexus exists, the Panel may consider, *inter alia*: the status of the perpetrators and victims; whether the act serves the ultimate goal of a military campaign; whether the act was committed as part of, or in the contest of, the perpetrator's official duties.¹²⁶⁶

322. The detention, interrogations, and mistreatments of the victims in this case, as well as the killing [REDACTED], took place within the grounds of the KMF, a base used by the KLA in Albania to mobilise new recruits and to launch and logistically support military operations against FRY forces.¹²⁶⁷

323. The crimes discussed under Section V were committed by the **Accused**, Xhemshit KRASNIQI, Sabit GEÇI, all members of the KLA at the time, in concert with or with the assistance of other members of the KLA, including its Military Police.¹²⁶⁸

¹²⁶⁵ See *Mustafa* TJ, para.712; *Kunarac* AJ, para.58.

¹²⁶⁶ See *Mustafa* TJ, para.712; *Ntaganda* TJ, para.732; *Kunarac* AJ, para.59.

¹²⁶⁷ Section III.B.

¹²⁶⁸ Sections V.A. to V.F.

In detaining, mistreating, and killing the victims in this case, the **Accused** and the other perpetrators acted in the context of their official duties with the KLA, taking advantage of the authority that derived from that position, as well as of the facilities available to the KLA within the KMF. Xhemshit KRASNIQI and other KLA military policemen carried out the arrests of a number of victims in this case,¹²⁶⁹ and guards deployed at the KMF were used to guard the victims.¹²⁷⁰ KLA personnel escorted detainees from the Detention Building to the Command Building for interrogations.¹²⁷¹ Some of the victims were also used to load and unload KLA military supplies in the KMF's courtyard.¹²⁷²

324. The nexus between the ongoing NIAC and the crimes is further evidenced by the interrogation of the victims, who were accused of being Serb collaborators, spies, or of being otherwise connected to Serbia,¹²⁷³ against whom the KLA was engaged in the NIAC.

325. The **Accused** was aware of the existence of the NIAC during the Indictment Period. He was a KLA member with a group of soldiers under the command of Ruzhdi

¹²⁶⁹ Sections V.A.1. to V.A.8.

¹²⁷⁰ TW4-01, 30 May 2023, p.1446; TW4-11, 2 May 2023, p.1207; 060664-TR-ET Part 3, p.4; 108850-TR-ET Part 1 RED, p.7.

¹²⁷¹ TW4-10, 1 May 2023, p.1101

¹²⁷² Sections V.A.7., V.A.8.

¹²⁷³ Sections V.C. to V.D.

SARAMATI.¹²⁷⁴ The **Accused** was personally involved in the transport of new KLA recruits, and performed other military tasks.¹²⁷⁵

4. Protected status of the victims

326. None of the victims in this case, at the time of their arrest, detention, mistreatment, and [REDACTED] murder, were taking active part in the hostilities.¹²⁷⁶ Indeed, irrespective of their status at the time of their arrest or transfer to the KMF, once they were deprived of their liberty at the KMF, they were *hors de combat* and thus entitled to the protections afforded by Common Article 3.¹²⁷⁷ The **Accused** and other JCE members and perpetrators were aware of their protected status, since they were detained within the grounds of the KMF, under the control of their captors, when they were interrogated and mistreated.¹²⁷⁸

¹²⁷⁴ Sections III.B. and IV.D.

¹²⁷⁵ 074117-074129-ET Revised 1, p.074121; 066888-TR-ET Part 1 Revised, pp.123-124, 127-129.

¹²⁷⁶ Sections V.A.1. to V.A.8.

¹²⁷⁷ *Mustafa TJ*, para.722.

¹²⁷⁸ Sections V.A. to V.F.

VI. ELEMENTS OF CRIMES AND EVIDENCE PROVING THE ELEMENTS

A. Count 1 - Arbitrary Detention

327. The evidence reviewed above proves beyond reasonable doubt that, between approximately 17 May 1999 and 5 June 1999, the **Accused**, acting in concert with Xhemshit KRASNIQI, Sabit GECI, and other KLA soldiers and military policemen participated in the arbitrary detention of at least 18 civilians at the KMF.¹²⁷⁹

328. KLA military policemen arrested TW4-01, [REDACTED] May 1999,¹²⁸⁰ without any explanation.¹²⁸¹ TW4-01 remained detained in Room 1 of the Detention Building [REDACTED],¹²⁸² [REDACTED].¹²⁸³ They were never brought before any judge or equivalent authority, nor were they afforded the possibility of challenging their detention.

329. TW4-11 was taken [REDACTED] and another man to the KMF [REDACTED],¹²⁸⁴ and detained in Room 1 of the Detention Building.¹²⁸⁵ TW4-11 was not provided with any warrant, nor informed that he was suspected of any crime.¹²⁸⁶

¹²⁷⁹ Sections V.A.1 to V.A.8.

¹²⁸⁰ [REDACTED].

¹²⁸¹ TW4-01, 30 May 2023, p.1419.

¹²⁸² TW4-01, 30 May 2023, p.1422.

¹²⁸³ TW4-01, 31 May 2023, pp.1529, 1532.

¹²⁸⁴ TW4-11, 2 May 2023, pp.1186-1191.

¹²⁸⁵ TW4-11, 2 May 2023, pp.1193-1198, 1204-1205; 074390-074391, p.074390.

¹²⁸⁶ TW4-11, 3 May 2023, p.1336.

TW4-11 was detained at the KMF [REDACTED].¹²⁸⁷ During this time, nobody gave TW4-11 any explanation of the reasons for his detention.¹²⁸⁸

330. W04733 was kidnapped on 18 May 1999 in Durrës¹²⁸⁹ and transferred to the KMF by KLA personnel on or around 20 May 1999.¹²⁹⁰ W04733 was detained until approximately 1 June 1999, when he was released by [REDACTED].¹²⁹¹ During his detention, W04733 was repeatedly interrogated and beaten,¹²⁹² but was never brought before a judge, informed of the reasons for his detention, or given the possibility to challenge his detention.

331. KLA soldiers transferred W01448 from Durrës to the KMF on or around 18 May 1999, where he was detained for approximately one month.¹²⁹³ During this time, he was repeatedly mistreated and interrogated,¹²⁹⁴ including about his Serb

¹²⁸⁷ TW4-11, 2 May 2023, p.1199.

¹²⁸⁸ TW4-11, 2 May 2023, pp.1187, 1193, 1195; TW4-11, 3 May 2023, pp.1266, 1283-1286.

¹²⁸⁹ 082892-TR-AT-ET Part 2 RED3, p.28; SITF00013181-SITF00013189RED3, p.SITF00013184; SPOE00013793-SPOE00013847RED2, pp.SPOE00013805, SPOE00013807; SITF00019824-00019876RED2, p.SITF00019827; [REDACTED].

¹²⁹⁰ 082892-TR-AT-ET Part 2 RED3, p.50.

¹²⁹¹ 082892-TR-AT-ET Part 7, pp.2, 6-7, 10-13; 082892-TR-AT-ET Part 6, pp.23-24; SPOE00013793-SPOE00013847RED2, pp.SPOE00013823, SPOE00013828-SPOE00013830; U003-2283-U003-2289RED2, p.U0032286; SITF00013181-SITF00013189RED3, p.SITF00013187; [REDACTED].

¹²⁹² Sections V.A.3 and V.D.

¹²⁹³ SITF00013736-SITF00013800RED5, p.SITF00013750.

¹²⁹⁴ Sections V.A.4., V.C., V.D.

acquaintances and knowledge of collaborators.¹²⁹⁵ He was not allowed to challenge his detention, and was released by German KFOR in Prizren on 18 June 1999.¹²⁹⁶

332. TW4-02 was arrested at the beginning of June 1999 [REDACTED] and detained for a number of days on accusations of being a collaborator. During that period, he was interrogated by W04848.¹²⁹⁷

333. TW4-04 was taken to the KMF [REDACTED] at the [REDACTED],¹²⁹⁸ [REDACTED],¹²⁹⁹ and held for approximately [REDACTED].¹³⁰⁰ TW4-04 was taken to [REDACTED],¹³⁰¹ who asked him how long he had been detained,¹³⁰² but TW4-04 described this process as a farce.¹³⁰³ Shortly after that, TW4-04 was released.¹³⁰⁴

¹²⁹⁵ SITF00013736-SITF00013800RED5, p.SITF00013744.

¹²⁹⁶ Section V.A.4.

¹²⁹⁷ Section V.A.5.

¹²⁹⁸ SPOE00014669-00014751RED, p.SPOE00014690; 064716-TR-ET Part 4 RED3, p.2.

¹²⁹⁹ 064716-TR-ET Part 5 RED4, pp.13-15; SITF00013336-00013347RED, p.SITF00013340; SPOE00014669-00014751RED, pp.SPOE00014696-SPOE00014697.

¹³⁰⁰ SITF00013262-00013315RED, pp.SITF00013273-00013274; SITF00015825-00015925RED, p.SITF00015854; SPOE00014669-00014751RED, pp.SPOE00014692,SPOE00014697.

¹³⁰¹ SITF00013262-00013315RED, p.SITF00013274; SPOE00014669-00014751RED, p.SPOE00014698; 064716-TR-ET Part 4 RED3, p.19; 064716-TR-ET Part 5 RED4, pp.3-4; 108826-TR-ET Part 1 RED, p.7.

¹³⁰² SITF00013262-00013315RED, p.SITF00013274.

¹³⁰³ 064716-TR-ET Part 5 RED4, pp.9-10.

¹³⁰⁴ SITF00013262-00013315RED, p.SITF00013274; SITF00015825-00015925RED, p.SITF00015854; SPOE00014669-00014751RED, p.SPOE00014698.

334. TW4-05 was taken to the KMF [REDACTED] and two other KLA members on or around [REDACTED] 1999, accused of having helped Serb forces [REDACTED], and detained at the KMF until [REDACTED].¹³⁰⁵

335. Three Roma musicians [REDACTED], [REDACTED], a person from Mitrovica, two women from Đakovica/Gjakovë, a group of FARK or KLA soldiers, and a number of other unidentified individuals were also held at the KMF during the Indictment Period.¹³⁰⁶ There is no evidence that any of them were afforded due process guarantees during their detention.

336. The evidence establishes that those detained at the KMF were held on the basis of general allegations of having associated with Serbs,¹³⁰⁷ or being traitors or spies.¹³⁰⁸ W01448 stated that TW4-01, [REDACTED] and W04733 were being beaten on accusation of having connections with Serb forces and institutions.¹³⁰⁹ People who managed to be released thanks to personal connections and external interventions did not receive any release papers.¹³¹⁰

¹³⁰⁵ Section V.A.7.

¹³⁰⁶ Section V.A.8.

¹³⁰⁷ TW4-01, 31 May 2023, pp.1555-1556; SITF00013736-SITF00013800RED5, pp.SITF00013744, SITF00013757.

¹³⁰⁸ TW4-11, 2 May 2023, p.1231; SPOE00013793-SPOE00013847RED2, p.SPOE00013814; TW4-01, 30 May 2023, p.1455.

¹³⁰⁹ SITF00013736-SITF00013800RED5, p.SITF00013744.

¹³¹⁰ SITF00016140-00016220RED3, p.SITF00016155.

337. Evidence reviewed in Sections V.A to V.G. establishes that at no point during their detention, mistreatment, and interrogation, were any of the detainees brought before a judge or other competent authority, provided with access to a lawyer, or otherwise permitted to challenge the lawfulness of their detention. W04848, a prosecutor from Priština/Prishtinë¹³¹¹ who was stationed at the KMF during the Indictment Period,¹³¹² was indicated by a number of victims as a KLA 'prosecutor' or 'judge' who questioned them during their detention at the KMF. The evidence of these victims, however, makes it clear that W04848's role was not to ensure due process of law.¹³¹³ W04848 himself stated that he was never asked to review the circumstances of detainees' detention.¹³¹⁴ He was not aware of the existence of any records concerning the detention of people at the KMF, nor did he think that any such records were ever taken.¹³¹⁵ W04848 stated that he had taken statements from the soldiers suspected of desertion, but could not indicate where these records could be found. He also stated that he never conducted hearings in the Kukës courthouse, and that no such hearings were ever held.¹³¹⁶

¹³¹¹ SITF00016908-00016964RED, p.SITF00016910.

¹³¹² SITF00016908-00016964RED, p.SITF00016916.

¹³¹³ TW4-01, 5 June 2023, pp.1817-1821; TW4-11, 3 May 2023, pp.1261, 1265-1267; 060664-TR-ET Part 3, pp.2, 26; 108826-TR-ET Part 1 RED, p.7; 060664-TR-ET Part 4, p.17.

¹³¹⁴ SITF00014088-00014120RED, p.SITF00014100.

¹³¹⁵ SITF00014088-00014120RED, p.SITF00014101

¹³¹⁶ SITF00014088-00014120RED, pp.SITF00014101-00014102.

338. On this basis, and irrespective of whether any legitimate reason originally existed to detain any of these victims, their detention was arbitrary and amounted to a serious violation of Common Article 3.¹³¹⁷

B. Count 2 - Cruel Treatment

339. The evidence presented at trial establishes beyond reasonable doubt that, between approximately 17 May and 5 June 1999, the **Accused** and certain other KLA members, including Sabit GECI and Xhemshit KRASNIQI, subjected those detained at the KMF to cruel treatment, by establishing and maintaining inhumane detention conditions, and through beatings and other forms of mistreatment, resulting in severe physical and mental harm and constituting an attack on their dignity.¹³¹⁸

1. **Inhumane detention conditions**

340. The evidence set out in Sections V.A. and V.B proves beyond reasonable doubt that the detainees at the KMF were held for a prolonged period of time in inhumane conditions.

¹³¹⁷ See *Mustafa* AJ, para.430; see also *Mustafa* TJ, para.643; Case 04 Jurisdictional Appeal, para.45; Case 06 Jurisdictional Appeal, paras 94-97, 101.

¹³¹⁸ Indictment, paras 18-25; Pre-Trial Brief, paras 42-65.

2. Infliction of serious mental or physical suffering and attacks on the prisoners' dignity

341. The evidence described in Section V, and further below, details the mistreatment inflicted.

342. During the 20 May 1999 Incident, W04733 was burnt with cigarettes, beaten with different objects, including by the **Accused**,¹³¹⁹ and had his head bashed open with a revolver,¹³²⁰ which made him bleed profusely.¹³²¹ W04733 could not stand and lost consciousness.¹³²² TW4-01 saw W04733 cry as he was being beaten.¹³²³ W04733 stated that, in Kukës, the **Accused** beat him 'like a horse'.¹³²⁴ W01448 was made to witness W04733's mistreatment, and stated that its severity made him feel like dying.¹³²⁵

¹³¹⁹ SITF00018740-00018767RED, p.SITF00018743; SITF00019824-00019876RED2, p.SITF00019845.

¹³²⁰ 082892-TR-AT-ET Part 4 RED3, p.28; 082892-TR-AT-ET Part 5 RED2, p.12; SPOE00013793-SPOE00013847RED2, p.SPOE00013814; SITF00018740-00018767RED, pp.SITF00018742, SITF00018743; [REDACTED].

¹³²¹ 082892-TR-AT-ET Part 4 RED3, p.32; TW4-01, 30 May 2023, p.1452; TW4-01, 31 May 2023, pp.1491-1492; SITF00013852-00013869RED6, pp.SITF00013856-SITF00013857.

¹³²² 082892-TR-AT-ET Part 4 RED3, p.28; SPOE00013793-SPOE00013847RED2, p.SPOE00013818; 106978-107020, p.106979; SITF00018740-00018767RED, pp.SITF00018743-SITF00018744.

¹³²³ TW4-01, 30 May 2023, p.1454.

¹³²⁴ 082892-TR-AT-ET Part 3 RED2, pp.11-12; [REDACTED].

¹³²⁵ SITF00013852-00013869RED6, p.SITF00013857.

343. W01448 was beaten by the **Accused** and another KLA soldier with batons for 30 minutes,¹³²⁶ and he fainted when Xhemshit KRASNIQI struck his nose with a baton.¹³²⁷

344. TW4-01 was severely beaten, including by the **Accused**, with different objects,¹³²⁸ [REDACTED],¹³²⁹ causing him a serious injury.¹³³⁰ [REDACTED].¹³³¹ [REDACTED]¹³³² [REDACTED].¹³³³ TW4-01 [REDACTED] suffered unimaginable pain that night.¹³³⁴ With reference to the **Accused's** role in the beating of TW4-01 [REDACTED], W04733 – who was detained in Room 1 with them after this beating – stated that he 'ruined them'.¹³³⁵ Xhemshit KRASNIQI beat [REDACTED] so hard that [REDACTED] wet the place when she was moved away.¹³³⁶

¹³²⁶ 106978-107020, p.106984; SITF00013852-00013869RED6, p.SITF00013857; SITF00016221-00016285RED4, pp.SITF00016231-SITF00016232; SITF00013736-SITF00013800RED5, pp.SITF00013744, SITF00013746; SITF00016140-00016220RED3, pp.SITF00016167-SITF00016168; 082892-TR-AT-ET Part 4 RED3, p.26; SITF00018740-00018767RED, p.SITF00018744.

¹³²⁷ SITF00013852-00013869RED6, p.SITF00013857.

¹³²⁸ TW4-01, 30 May 2023, p.1457.

¹³²⁹ TW4-01, 30 May 2023, pp.1457-1458.

¹³³⁰ 113841-113843, p.113843.

¹³³¹ TW4-01, 30 May 2023, p.1457.

¹³³² TW4-01, 30 May 2023, p.1464; SITF00016221-00016285RED4, p.SITF00016232; SITF00013736-SITF00013800RED5, p.SITF00013747.

¹³³³ TW4-01, 30 May 2023, p.1465.

¹³³⁴ SITF00016221-00016285RED4, p.SITF00016232; SITF00013852-00013869RED6, p.SITF00013857; 082892-TR-AT-ET Part 4 RED3, p.27; SITF00013736-SITF00013800RED5, p.SITF00013745.

¹³³⁵ 082892-TR-AT-ET Part 5 RED2, p.9.

¹³³⁶ SITF00013736-SITF00013800RED5, pp.SITF00013746-SITF00013747; SITF00013852-00013869RED6, p.SITF00013857; TW4-01, 30 May 2023, p.1477.

345. [REDACTED] which caused them severe fear and pain.¹³³⁷ [REDACTED] and the **Accused**, in what TW4-01 described as the hardest beating he endured at the KMF. [REDACTED] bleeding out and dying after much agony as a result.¹³³⁸

346. Evidence reviewed in Section V.C. details the severe, continuous, random, and humiliating beatings that the detainees endured daily at the KMF,¹³³⁹ including by JCE members Sabit GECI¹³⁴⁰ and Xhemshit KRASNIQI.¹³⁴¹ Detainees in Room 1 were beaten with batons, metal bars and belts in the presence of each other and made to witness the mistreatments of co-detainees.¹³⁴² Beatings also took place outside the Detention Room, when people were taken out for interrogation, and beaten by people including Xhemshit KRASNIQI.¹³⁴³

¹³³⁷ [REDACTED].

¹³³⁸ [REDACTED].

¹³³⁹ TW4-01, 31 May 2023, pp.1512-1513, 1524; TW4-01, 6 June 2023, p.1919; TW4-11, 2 May 2023, pp.1222, 1233; SITF00013852-00013869RED6, p.SITF00013858; SITF00013736-SITF00013800RED5, p.SITF00013754; 064716-TR-ET Part 5 RED4, p.15; 082892-TR-AT-ET Part 8 RED2, p.29; 082892-TR-AT-ET Part 9 RED2, pp.6-9; SPOE00013793-SPOE00013847RED2, pp.SPOE00013823-SPOE00013825; 106978-107020, pp.106988-106989; SITF00018740-00018767RED, pp.SITF00018745-SITF00018746; TW4-07, 29 March 2023, p.907.

¹³⁴⁰ TW4-01, 31 May 2023, pp.1507, 1512-1513; SITF00013736-SITF00013800RED5, pp.SITF00013750, SITF00013753, SITF00013754; SITF00013852-00013869RED6, p.SITF00013860.

¹³⁴¹ SITF00013736-SITF00013800RED5, pp.SITF00013750, SITF00013754.

¹³⁴² TW4-11, 2 May 2023, pp.1220, 1230-1231, 1233; SITF00018740-00018767RED, p.SITF00018746; SPOE00013793-SPOE00013847RED2, p.SPOE00013825; 082892-TR-AT-ET Part 9 RED2, pp.9-10; SITF00016221-00016285RED4, p.SITF00016237; SITF00013736-SITF00013800RED5, pp.SITF00013753-SITF00013754, SITF00013759; SITF00013852-00013869RED6, p.SITF00013859.

¹³⁴³ TW4-11, 2 May 2023, pp.1219, 1222, 1224; TW4-01, 31 May 2023, pp.1497-1498, 1510; SITF00013736-SITF00013800RED5, p.SITF00013753.

347. While the suffering inflicted on the victims need not be lasting to amount to cruel treatment,¹³⁴⁴ TW4-01 still suffers from post-traumatic stress disorder as a consequence of the violence he experienced at the KMF.¹³⁴⁵ TW4-11 still suffers consequences from the injury he received to his eye.¹³⁴⁶ More than 15 years after his detention, W04733's elbow and hand were still damaged, and his eyesight impaired.¹³⁴⁷ W04733 also suffered from anxiety and was haunted by nightmares, in which he saw dead people.¹³⁴⁸ [REDACTED] W04733 'was destroyed because of his detention in Kukës'.¹³⁴⁹ Ten years after his release, W04733 was still afraid and hesitant to visit a doctor in Kosovo for fear of being apprehended again.¹³⁵⁰

348. The circumstances of these beatings show that the perpetrators acted with the intention to inflict serious physical suffering and injury, to attack the dignity of the victims, and to cause them serious mental harm. At the very least, they acted with full knowledge that their acts and omission would cause this level of harm.¹³⁵¹

¹³⁴⁴ *Mustafa TJ*, para.662.

¹³⁴⁵ V4010023-V4010044, pp.V4010023-V4010024.

¹³⁴⁶ TW4-11, 2 May 2023, pp.1232-1233.

¹³⁴⁷ 082892-TR-AT-ET Part 9 RED2, p.21; SITF00013181-SITF00013189RED3, SITF00013185; SPOE00013793-SPOE00013847RED2, p.SPOE00013798; 106978-107020, p.106982.

¹³⁴⁸ 082892-TR-AT-ET Part 9 RED2, p.24; [REDACTED].

¹³⁴⁹ [REDACTED].

¹³⁵⁰ SPOE00185335-00185363RED3, p.SPOE00185344; [REDACTED].

¹³⁵¹ *Mustafa TJ*, para.663.

C. Count 3 - Torture

349. The evidence reviewed above under Count 2 also supports the charges under Count 3, and proves beyond reasonable doubt the infliction of severe physical and psychological harm on the victims.

350. For example, the mistreatment inflicted during the 20 May 1999 Incident was clearly premeditated. KLA soldiers that night told W04733 that they had been waiting for him.¹³⁵² The victims were brought one after the other to the Office Room of the Command Building,¹³⁵³ where they were repeatedly beaten, for a protracted period of time,¹³⁵⁴ in a way aimed at inflicting as much pain as possible. The perpetrators used salt on the wounds of detainees.¹³⁵⁵ They continued abusing them in spite of the precarious physical condition of the victims, who were covered in blood,¹³⁵⁶ or fainted,¹³⁵⁷ some of them multiple times.¹³⁵⁸ These are all factors that qualify the mistreatment of the victims as torture.¹³⁵⁹

¹³⁵² SITF00013181-SITF00013189RED3, p.SITF00013186; SPOE00013793-SPOE00013847RED2, p.SPOE00013813.

¹³⁵³ Section V.D.

¹³⁵⁴ TW4-01, 30 May 2023, p.1469.

¹³⁵⁵ TW4-01, 30 May 2023, pp.1454, 1464; SITF00016221-00016285RED4, p.SITF00016232; SITF00013736-SITF00013800RED5, p.SITF00013747.

¹³⁵⁶ TW4-01, 30 May 2023, p.1452; TW4-01, 31 May 2023, pp.1491-1492.

¹³⁵⁷ SITF00016140-00016220RED3, pp.SITF00016147; SITF00016221-00016285RED4, p.SITF00016237.

¹³⁵⁸ TW4-01, 30 May 2023, p.1457.

¹³⁵⁹ *Mustafa TJ*, para.668.

351. The condition of inferiority of the victims *vis-à-vis* their torturers, which was evident given their state of detention, and the fact that they were forced to beat each other, including on their genitals,¹³⁶⁰ are further evidence that these beatings amounted to torture.¹³⁶¹

352. The daily occurrence of beatings,¹³⁶² and the fact that the victims were routinely accused of being spies, traitors, or collaborators,¹³⁶³ show that the mistreatments were inter-related and formed part of a pattern. Accordingly, the victims' suffering should be assessed holistically, and not solely in relation to distinct episodes of mistreatment.¹³⁶⁴

¹³⁶⁰ SITF00013852-00013869RED6, p.SITF00013858; SITF00013848-00013851RED2, p.SITF00013849.

¹³⁶¹ *Mustafa* TJ, para.668.

¹³⁶² TW4-01, 31 May 2023, pp.1512-1513, 1524; TW4-01, 6 June 2023, p.1919; TW4-11, 2 May 2023, pp.1222, 1233; SITF00013852-00013869RED6, p.SITF00013858; SITF00013736-SITF00013800RED5, pp.SITF00013754, SITF00013747; 064716-TR-ET Part 5 RED4, p.15; 082892-TR-AT-ET Part 8 RED2, p.29; 082892-TR-AT-ET Part 9 RED2, p.7; SPOE00013793-SPOE00013847RED2, pp.SPOE00013823-SPOE00013825; 106978-107020, pp.106988-106989; SITF00018740-00018767RED, pp.SITF00018745-SITF00018746; TW4-07, 29 March 2023, p.907.

¹³⁶³ 066888-TR-ET Part 1 Revised, pp.152-153, 157; 066866-066882-ET Revised, p.066877; TW4-01, 30 May 2023, pp.1466-1467, 1476; TW4-01, 31 May 2023, p.1556; TW4-11, 2 May 2023, p.1231; 082892-TR-AT-ET Part 4 RED3, p.18; 082892-TR-AT-ET Part 5 RED2, p.10; SITF00013736-SITF00013800RED5, pp.SITF00013746-SITF00013747.

¹³⁶⁴ *Mustafa* TJ, para.668.

353. Victims were scared to talk to¹³⁶⁵ or even look at one another.¹³⁶⁶ They lived in constant fear, counting the minutes separating them from their death.¹³⁶⁷ They were so afraid that they could not sleep,¹³⁶⁸ and suffered from mental trauma.¹³⁶⁹ This type of severe mental pain and suffering in the victims also qualifies their mistreatment as torture.¹³⁷⁰

354. The beating of the victims in front of one another was a further pattern at the KMF. For example, the victims in Room 1 were made to witness the mistreatments of other co-detainees,¹³⁷¹ with the clear intent of intimidating them.¹³⁷²

¹³⁶⁵ TW4-01, 30 May 2023, p.1448; TW4-11, 2 May 2023, p.1228; TW4-11, 3 May 2023, p.1243.

¹³⁶⁶ TW4-11, 2 May 2023, p.1231; SITF00013736-SITF00013800RED5, p.SITF00013760.

¹³⁶⁷ TW4-01, 31 May 2023, p.1539.

¹³⁶⁸ TW4-01, 31 May 2023, p.1539

¹³⁶⁹ SITF00013852-00013869RED6, p.SITF00013858.

¹³⁷⁰ *Mustafa TJ*, para.669.

¹³⁷¹ TW4-11, 2 May 2023, pp.1222, 1230-1231, 1233; SITF00018740-00018767RED, p.SITF00018746; 106978-107020, p.106989; SPOE00013793-SPOE00013847RED2, p.SPOE00013825; 082892-TR-AT-ET Part 9 RED2, p.9-10, 13; SITF00016221-00016285RED4, p.SITF00016237; SITF00013736-SITF00013800RED5, pp.SITF00013753-SITF00013754, SITF00013759; SITF00013852-00013869RED6, p.SITF00013859; SITF00013852-00013869RED6, p.SITF00013859.

¹³⁷² *Mustafa TJ*, para.673.

355. The purpose of the mistreatment was also to obtain information,¹³⁷³ and to punish [REDACTED]¹³⁷⁴ and W04733¹³⁷⁵ in relation to acts the perpetrators alleged they had committed, with no real possibility for the victims to respond to these allegations. [REDACTED].¹³⁷⁶

D. Count 4 - Murder

356. The evidence discussed in Section V.F. proves beyond reasonable doubt that [REDACTED] was shot on or around [REDACTED] 1999, during the course of a brutal beating, while detained at the KMF. He subsequently bled to death. The direct, point-blank shooting [REDACTED], prior threats against him, and subsequent denial of appropriate medical care show that the perpetrators intended his death. At the very least, the perpetrators should reasonably have known that the injuries inflicted [REDACTED] may have caused his death.¹³⁷⁷

¹³⁷³ SITF00013736-SITF00013800RED5, p.SITF00013746.

¹³⁷⁴ [REDACTED]; SITF00013852-00013869RED6, p.SITF00013857; SITF00013736-SITF00013800RED5, p.SITF00013744.

¹³⁷⁵ SPOE00013793-SPOE00013847RED2, p.SPOE00013814; SITF00019824-00019876RED2, pp.SITF00019841-SITF00019842; SITF00013736-SITF00013800RED5, p.SITF00013744; TW4-01, 30 May 2023, p.1455. [REDACTED].

¹³⁷⁶ TW4-01, 31 May 2023, p.1527.

¹³⁷⁷ *Mustafa TJ*, paras 686, 688; *Kvočka et al. AJ*, paras 259-261, 270-271.

VII. INDIVIDUAL CRIMINAL RESPONSIBILITY OF PJETËR SHALA

A. JCE

357. The evidence establishes beyond reasonable doubt that the **Accused** is responsible for the crimes charged in the Indictment as a participant in a JCE. The **Accused** committed the crimes together with a plurality of persons, including Sabit GEÇI, Xhemshit KRASNIQI, and other KLA soldiers and military policemen. The **Accused** and the other JCE members all shared the intent for the crimes of arbitrary detention, cruel treatment, torture, and murder. Alternatively, it was foreseeable to the **Accused** that the crime of murder might be perpetrated in the execution of the common criminal plan.

358. The **Accused** and the other JCE members significantly contributed to the execution of the common criminal purpose through the acts and omissions discussed below.

1. **The charged crimes were part of a common criminal purpose shared by a plurality of persons which included Pjetër SHALA**

359. It is not necessary for the common purpose described above to have been previously arranged, formulated, and planned, as it can also materialise

extemporaneously and be inferred from the unified actions of the JCE members.¹³⁷⁸

The following facts prove the existence of this common plan.

360. It was KLA military policemen and soldiers who arrested W01448¹³⁷⁹, TW4-01, [REDACTED],¹³⁸⁰ [REDACTED]. [REDACTED] arrested TW4-02,¹³⁸¹ [REDACTED] took TW4-11,¹³⁸² TW4-04,¹³⁸³ and TW4-05¹³⁸⁴ to the KMF, where they were subsequently detained. Xhemshit KRASNIQI was [REDACTED] part of the group that after several attempts managed to kidnap W04733 in Durrës.¹³⁸⁵ The **Accused** himself participated in the transfer of W04733 to the KMF, together with a group of other KLA soldiers.¹³⁸⁶ W04733's evidence on the **Accused's** involvement in his transport is corroborated by evidence of the **Accused** himself,¹³⁸⁷ and by the **Accused's** participation in W04733's beating later the same day, during the 20 May 1999 Incident.¹³⁸⁸ The victims were all detained within the KMF.¹³⁸⁹

¹³⁷⁸ *Mustafa TJ*, para.739; *Vasiljević AJ*, IT-98-32-A, para.109; *Šainović et al. AJ*, para.611.

¹³⁷⁹ Section V.A.4.

¹³⁸⁰ Section V.A.1.

¹³⁸¹ Section V.A.5.

¹³⁸² Section V.A.2.

¹³⁸³ Section V.A.6.

¹³⁸⁴ Section V.A.7.

¹³⁸⁵ Section V.A.3.

¹³⁸⁶ Section V.A.3.

¹³⁸⁷ Section V.H.1.

¹³⁸⁸ Section V.D.

¹³⁸⁹ Section VI.A.

361. The **Accused**, Xhemshit KRASNIQI, Sabit GECI, and other KLA soldiers and policemen, including 'Bedri' and 'Van Dam', all took part in the mistreatment of the victims at the KMF. For example, during the 20 May 1999 Incident,¹³⁹⁰ Sabit GECI primarily conducted the interrogations and gave orders while the **Accused**, Xhemshit KRASNIQI, and other KLA members brutally beat the victims, revived them to ensure the beatings could continue, and brought in new victims to beat in front of the others.¹³⁹¹

362. Interrogations and mistreatment, including by the same people, continued throughout the Indictment Period, culminating in the shooting [REDACTED].¹³⁹²

2. The Accused's intent and significant contribution to the common criminal purpose

363. The **Accused's** participation in the transport of W04733,¹³⁹³ the beating of W04733, W01448, and TW4-01, amongst others, during the 20 May 1999 Incident,¹³⁹⁴ and the mistreatment and shooting of [REDACTED]¹³⁹⁵ amount to a significant

¹³⁹⁰ Section V.D.

¹³⁹¹ Section V.D. *See also e.g.* TW4-01, 30 May 2023, pp.1457-1458; TW4-01, 6 June 2023, pp.1925-1926; SITF00013736-SITF00013800RED5, p.SITF00013743; SITF00019824-00019876RED2, pp.SITF00019842, SITF00019844; 106978-107020, p.106980; 082892-TR-AT-ET Part 5 RED2, pp.9-10.

¹³⁹² Section V.F.

¹³⁹³ Section V.A.3.

¹³⁹⁴ Section V.D.

¹³⁹⁵ Section V.F.

contribution to the common criminal purpose. It also proves beyond reasonable doubt that the **Accused** shared the intent to commit the charged crimes, which is further evidenced by multiple factors as outlined below.

364. The direct, and escalating, nature of the perpetrators' conduct, and the continued direct participation of the JCE members – including the **Accused** – in it, shows their intent to commit the crimes.¹³⁹⁶ In fact, in admitting to beating TW4-01 [REDACTED], the **Accused** stated that he 'would do it [again] without any hesitation' as '[REDACTED].'¹³⁹⁷

365. Adding to his culpability is the fact that the **Accused** was in a position of relative privilege at the KMF: (i) he was in close contact and association with senior KLA figures, such as Sabit GECI and Xhemshit KRASNIQI; and (ii) he could come and go freely from the premises, and (iii) had access to the Command Building. Indeed, the **Accused** represented himself to one of the victims as 'a superior, a senior officer'.¹³⁹⁸ Despite this, he did nothing to assist the victims, or improve their conditions; on the contrary, he was a principal perpetrator of the violence against them. In the 20 May 1999 Incident, the **Accused** –[REDACTED] the vicious beating he then suffered.

¹³⁹⁶ *Karemera and Ngirumpatse* AJ, para.632; *Kvočka et al.* AJ, paras 109-110.

¹³⁹⁷ 066888-TR-ET Part 1 Revised, pp.155, 169.

¹³⁹⁸ TW4-01, 30 May 2023, pp.1477; TW4-01, 2 June 2023, p.1690; TW4-01, 6 June 2023, pp.1925-1926.

366. The Accused and the other JCE members also intended the murder [REDACTED], or were aware of the substantial likelihood that that their actions would lead to his death.

367. [REDACTED] was repeatedly and severely beaten. The **Accused** stated that the allegations against [REDACTED].¹³⁹⁹ Therefore, TW4-01 [REDACTED].¹⁴⁰⁰ The **Accused** admits 'explod[ing]'¹⁴⁰¹ [REDACTED],¹⁴⁰² and hitting them with a piece of wood.¹⁴⁰³

368. Already during the 20 May 1999 Incident, potentially lethal weapons - including baseball bats, rubber batons, metal bars, and knives – were used against the detainees. Guns were also used and displayed by multiple people that night,¹⁴⁰⁴ including by Sabit GECI who used his gun to cause a serious injury [REDACTED], and by Xhemshit KRASNIQI, who used his revolver to hit W04733 on his forehead, causing a deep wound and extensive bleeding.¹⁴⁰⁵ The degree of violence used was such that the **Accused** should reasonably have known that it might lead to death. [REDACTED] lost consciousness as a result of the severity of the mistreatment.¹⁴⁰⁶

¹³⁹⁹ 066888-TR-ET Part 1 Revised, p.157.

¹⁴⁰⁰ The truthfulness of this allegation is irrelevant for the crimes charged against the **Accused**, since in any event, once detained at the KMF, [REDACTED] were entitled to the protection of Common Article 3.

¹⁴⁰¹ 066888-TR-ET Part 1 Revised, p.152.

¹⁴⁰² 066888-TR-ET Part 1 Revised, p.152.

¹⁴⁰³ 066888-TR-ET Part 1 Revised, p.154.

¹⁴⁰⁴ TW4-01, 30 May 2023, pp.1453, 1457-1458.

¹⁴⁰⁵ Section V.D.

¹⁴⁰⁶ Section V.D.

Indeed, indicative of their intent is the fact that even after the victims had lost consciousness, and then been revived again, the perpetrators continued to beat them.

369. The **Accused** both witnessed and participated in this conduct, and was aware of the condition to which TW4-01, [REDACTED] and W04733 were reduced during the 20 May 1999 Incident. Despite this, the **Accused** not only continued his participation in the mistreatment on that occasion, but also subsequently, [REDACTED]. That night, the perpetrators, which again included the **Accused**, [REDACTED].¹⁴⁰⁷ Again, there were multiple firearms in the room, and again they were used, this time to fire [REDACTED]. [REDACTED],¹⁴⁰⁸ the common purpose included the commission of murder.¹⁴⁰⁹ The injuries inflicted [REDACTED] were of such nature that the perpetrators must have intended to kill him or – at the very least – were aware of the substantial likelihood that their actions would lead to his death.

370. Indeed, the JCE members expressly stated their intent for murder. For example, very shortly before this incident, [REDACTED].¹⁴¹⁰ [REDACTED].¹⁴¹¹ And, even after [REDACTED] shooting, KLA members continued to threaten detainees

¹⁴⁰⁷ Section V.F.1.a.

¹⁴⁰⁸ *Krajišnik AJ*, para.163.

¹⁴⁰⁹ Section V.F.

¹⁴¹⁰ TW4-01, 31 May 2023, pp.1525-1526.

¹⁴¹¹ TW4-01, 31 May 2023, pp.1523-1524.

[REDACTED].¹⁴¹² The **Accused** himself has remained clear and unrepentant about his murderous intent towards the victims, stating, with respect to W04733, that 'If I had caught him one year earlier, he wouldn't have been able to testify about anything anymore. Unfortunately, I never found him.'¹⁴¹³

371. After [REDACTED] had been shot, the perpetrators continued mistreating [REDACTED].¹⁴¹⁴ The subsequent denial of appropriate medical care, in addition to the shooting, is further proof of the intent to kill.¹⁴¹⁵

372. This evidence, in addition to proving beyond reasonable doubt the perpetrators' – including the **Accused's** – intent for murder, is consistent with, and corroborate, W04733's statement that, while at the KMF, the **Accused** told him that he would be executed.¹⁴¹⁶ [REDACTED], the perpetrators considered W04733 directly linked to Serb security forces. [REDACTED].¹⁴¹⁷

373. In the alternative, for the reasons stated above, it was at least foreseeable to the **Accused** that [REDACTED] might die as a result of his mistreatment.¹⁴¹⁸

¹⁴¹² TW4-01, 31 May 2023, p.1530; SITF00013852-00013869RED2, p.SITF00013859; SITF00013736-SITF00013767RED2, p.SITF00013754.

¹⁴¹³ 074117-074129-ET Revised, p.074128.

¹⁴¹⁴ TW4-01, 31 May 2023, p.1527.

¹⁴¹⁵ Section V.F; *Mustafa TJ*, para.688.

¹⁴¹⁶ 082892-TR-AT-ET Part 9RED2, p.5.

¹⁴¹⁷ Section V.A.3.

¹⁴¹⁸ *Mustafa TJ*, para.734; *Šainović et al. AJ*, paras 1557-1558.

B. Aiding and Abetting

374. Through the same acts and omissions that significantly contributed to the furtherance of the common criminal plan, the **Accused** also aided and abetted the crimes committed at the KMF.

375. His participation in beatings, for instance, provided practical assistance and encouragement to the perpetrators, and so did his participation in the transport of W04733 to Kukës. This practical assistance had a substantial effect on the commission of the crimes, and the **Accused** was aware that his conduct would contribute to their commission.

C. Physical commission

376. The **Accused's** direct participation in the arrest of W04733, the 20 May 1999 Incident, and [REDACTED] also makes him responsible for the crimes of arbitrary detention, cruel treatment, and torture as a physical perpetrator.

VIII. SENTENCING

377. The Panel should impose a lengthy term of imprisonment on the **Accused**, reflecting the gravity of the crimes he committed, his role in them, their severe consequences on the victims, the presence of multiple aggravating factors, the importance of deterrence, and the lack of any mitigating factors.

378. In addition to imprisonment, the Panel should also order the **Accused** to make restitution or pay compensation to the victims in this case, pursuant to Article 44(6).

A. Applicable Sentencing Ranges

379. The Panel may impose upon a convicted person imprisonment up to a maximum term of life-long imprisonment.¹⁴¹⁹ It retains broad discretion in this regard, due to its obligation to individualise the penalty to the specific circumstances of the case.¹⁴²⁰

380. Pursuant to Article 44(2), the Panel shall also consider, but is not bound by:¹⁴²¹

- a.* the sentencing range for the crime provided under Kosovo Law at the time of the commission, and
- b.* any subsequent more lenient sentencing range for the crime provided in Kosovo Law, as well as the relevant provisions of the legal instruments referred to in paragraph *c.*

381. The Criminal Code of the Socialist Federal Republic of Yugoslavia (“CCSFRY”) of 1 July 1977¹⁴²² was in force at the time of the commission of the charged crimes,¹⁴²³ and is the relevant applicable law.¹⁴²⁴

¹⁴¹⁹ *Mustafa* TJ, para.779; Article 44(1).

¹⁴²⁰ *Mustafa* TJ, paras 784-785, 794-795; *Brđanin* AJ, IT-99-36-A, para.500; *Semanza* AJ, ICTR-97-20-A, para.394.

¹⁴²¹ *Mustafa* TJ, para.780. See also *Limaj et al.* TJ, para.734; *Haradinaj et al.* TJ, para.497; *Tadić* SJ, paras 11-12; *Delalić et al.* AJ, paras 813-816; *Serushago* AJ, para.30.

¹⁴²² Article 15(1); Official Gazette SFRY No. 44 of 8 October 1976.

¹⁴²³ Article 15(1).

¹⁴²⁴ *Mustafa* TJ, para.781.

382. Article 142 of the CCSFRY which addressed, *inter alia*, war crimes of killings, torture, inhuman treatment and illegal arrests and detention - provided for punishment of either imprisonment for not less than five years or the death penalty.¹⁴²⁵ Article 38(1) and (2) of the CCSFRY additionally provided that the punishment of imprisonment may not be greater than 15 years,¹⁴²⁶ but that a term of 20 years may be imposed for criminal acts eligible for the death penalty.¹⁴²⁷ All subsequent relevant laws or codes adopted in Kosovo have provided for equal or more severe sentencing ranges, with higher minimum penalties, and up to life imprisonment.¹⁴²⁸ As found in *Mustafa*, this demonstrates that, pursuant to Article 142 CCSFRY, the most serious crimes, such as war crimes, attract the most severe sentences.¹⁴²⁹

383. The **Accused** was aware, or should have been aware, based on the sentencing provisions of the CCSFRY, that war crimes were subject to severe punishment. This is the conclusion reached by the International Criminal Tribunal for the former Yugoslavia ('ICTY') *Delalić* Appeals Chamber, which found that 'there [could] be no doubt that the accused must have been aware of the fact that the crimes for which they were indicted are the most serious violations of international humanitarian law,

¹⁴²⁵ See Art.142 CCSFRY.

¹⁴²⁶ Art.38(1) CCSFRY.

¹⁴²⁷ Art.38(2) CCSFRY.

¹⁴²⁸ See Provisional Criminal Code of Kosovo, introduced under UNMIK Regulation No.2003/25 in July 2003, Articles 118 and ff.; Kosovo Criminal Code of 20 April 2012, Law No.04/L-082, Articles 150 and ff.; Kosovo Criminal Code of 14 January 2019, Law No.06/L-074, Articles 144 and ff.

¹⁴²⁹ *Mustafa* TJ, para.781.

punishable by the most severe penalties.¹⁴³⁰ Lengthy sentences, in excess of 20 years, were imposed for example in *Stakić*,¹⁴³¹ *Krstić*,¹⁴³² and *Blaškić*.¹⁴³³

384. When determining the appropriate sentence, the Panel may also consider sentencing practices of both national and international courts for similar cases, bearing in mind that the length of sentence ultimately depends on the circumstances of the particular case.¹⁴³⁴

385. Two of the **Accused**'s co-perpetrators have already been convicted by Kosovo courts for some of the crimes charged in this case. Sabit GECI was convicted to 15 years for the charges of inhumane treatment, violation of bodily integrity, and torture, which is the maximum sentence the judges determined could apply under the applicable law.¹⁴³⁵ Pursuant to Article 44(2), the Panel in this case is not bound by that limit.¹⁴³⁶ Xhemshit KRASNIQI was sentenced to 8 years of imprisonment,¹⁴³⁷ reduced to 7 years on appeal¹⁴³⁸ - which falls in the mid-range of what would have been open

¹⁴³⁰ *Delalić et al.* AJ, para.817.

¹⁴³¹ *Stakić* TJ, para.889.

¹⁴³² *Krstić* TJ, para.727; *Krstić* AJ, para.261.

¹⁴³³ *Blaškić* TJ, p.267; *Blaškić* AJ, para.681.

¹⁴³⁴ See *Krstić* AJ, para.248; *Semanza* AJ, para.394; *Taylor* AJ, para.705; *Bemba et al.* SD, para.36.

¹⁴³⁵ *Geci et al.* TJ, p.10 (verdict), paras 273-274, confirmed in *Geci et al.* AJ, p.4; *Geci et al.* Supreme Court Judgment, pp.2-3.

¹⁴³⁶ *Mustafa* TJ, para.780.

¹⁴³⁷ *Krasniqi* TJ, p.8.

¹⁴³⁸ After a reclassification of two counts and their rejection due to expiration of the statutory limitation period, see *Krasniqi* AJ, pp.7, 12-19, 24.

to that Panel, and again (like with GECI's sentence) did not include the crime of murder.

B. The crimes committed by the Accused warrant a severe sentence

386. When determining the sentence, the Panel shall consider the gravity of the crime and its consequences, the convicted person's personal contribution to the crime, the individual circumstances of the convicted person, and the aggravating and mitigating circumstances related to those factors.¹⁴³⁹

1. The gravity of the crimes and their consequences require a severe sentence

387. The gravity of a crime is the primary consideration in guiding the imposition of punishment by the KSC.¹⁴⁴⁰ This requires a qualitative and quantitative assessment, considering the nature, scope, circumstances, and consequences of a crime.¹⁴⁴¹

388. Gravity is measured both *in abstracto*, by analysing the nature of the crime in general terms, and *in concreto*, by assessing the particular circumstances of the case.¹⁴⁴²

¹⁴³⁹ Article 44(5) and Rule 163(1); *Mustafa TJ*, para.783.

¹⁴⁴⁰ See *Mustafa AJ*, para.451; *Gucati and Haradinaj AJ*, para.410; *Mustafa TJ*, para.787.

¹⁴⁴¹ *Mustafa TJ*, para.787.

¹⁴⁴² See *Mustafa TJ*, para.788; See also, *Nshogoza, AJ*, para.98; *Bemba et al. SD*, para.23; *Ayyash et al. SJ*, para.24; *Gucati and Haradinaj TJ*, para.951.

Indicators of gravity include, *inter alia*, the scale of the crime, the number, vulnerability and age of the victims, and the impact of the crimes on them and their relatives.¹⁴⁴³

a) *The Accused's crimes were brutal and devastating for the victims*

389. The crimes committed by the **Accused** were brutal. The victims were apprehended without warning,¹⁴⁴⁴ held in degrading conditions at the KMF,¹⁴⁴⁵ where the mistreatment inflicted on them was unpredictable and extraordinarily violent and harmful.¹⁴⁴⁶ One of the victims was murdered at the KMF.¹⁴⁴⁷

390. Arbitrary detention is a grave crime in nature because it exposes victims to other, additional human rights violations.¹⁴⁴⁸ In the case at hand, at least 18 persons were apprehended without warning and illegally detained between 17 May 1999 and 5 June 1999 at the KMF, in harsh conditions and with no explanation for their detention, and no possibility to challenge it.¹⁴⁴⁹

¹⁴⁴³ See *Mustafa* TJ, para.789; *Mustafa* AJ, para.478.

¹⁴⁴⁴ Section V.A.

¹⁴⁴⁵ Section V.B.

¹⁴⁴⁶ Sections V.C., V.D.

¹⁴⁴⁷ Section V.F.

¹⁴⁴⁸ See *Mustafa* TJ, para.796.

¹⁴⁴⁹ Sections VI.A. and VI.B.

391. The prohibition of cruel treatment and torture aims at protecting core human values, such as human dignity, mental and physical well-being, and security.¹⁴⁵⁰ An attack on these fundamental values is a grave crime in itself. The victims were kept in inhumane and degrading conditions, deprived of basic sustenance, sanitary needs and necessary medical care, and in unbearable temperatures.¹⁴⁵¹

392. Beatings and mistreatment took place on a daily basis, and the victims lived in constant fear, thus adding severe mental harm to the extreme physical one.¹⁴⁵² Completely at their tormentors' mercy, the detainees did not know why or for how long they would be kept and what would happen to them. In the words of TW4-01: '[w]e were expecting to be killed at every moment'.¹⁴⁵³

393. The right to life and the corresponding prohibition against illegal killing protects the highest human value: human life.¹⁴⁵⁴ It is most precious for its own sake as well as a prerequisite for the enjoyment of all other human rights. Murder, accordingly, is inherently one of the most serious crimes. [REDACTED] was murdered at the KMF, shot during a night of terrible torture and left to bleed to his death.¹⁴⁵⁵

¹⁴⁵⁰ See *Mustafa TJ*, para.797.

¹⁴⁵¹ Section V.B.

¹⁴⁵² Sections VI.B. and VI.C.

¹⁴⁵³ TW4-01, 31 May 2023, p.1539

¹⁴⁵⁴ *Mustafa TJ*, para.798.

¹⁴⁵⁵ Sections V.F., VI.D.

394. While the **Accused** did not pull the trigger, his conduct is highly culpable in relation to the murder [REDACTED]. He engaged in potentially lethal torture practices throughout the 20 May 1999 Incident, in complete disregard of the clear risks to the victims' lives, which were evident to all those present that night. [REDACTED] he engaged in a further, night-long beating, where perpetrators were armed with automatic weapons and displayed a clear intent to kill.¹⁴⁵⁶

395. The disastrous detention conditions, the brutal mistreatments and the murder [REDACTED] took a terrible toll on the detainees – and their families. To the victims, the crimes inflicted on them caused far-reaching and long-lasting physical and psychological consequences. TW4-01 testified that he will never be able to leave behind the memories of what happened to him in Kukës: 'I have this dark spot [...] inside, I will never find peace of mind'.¹⁴⁵⁷ To this day, he suffers from physical pain and chronic PTSD related to what he endured at the KMF.¹⁴⁵⁸ [REDACTED].¹⁴⁵⁹

396. The **Accused's** crimes also irreversibly traumatised the victims' families, who feared for their loved ones when they were detained and witnessed their terrible conditions when they finally came back. The pain and suffering caused by the torture

¹⁴⁵⁶ Section VII.A.2.

¹⁴⁵⁷ TW4-01, 31 May 2023, pp.1572-1573; TW4-01, 5 June 2023, p.1760.

¹⁴⁵⁸ Section V.A.1; V4010023-V4010044, pp.V4010040-V4010041.

¹⁴⁵⁹ TW4-01, 31 May 2023, p.1569.

is still vivid for the surviving family members [REDACTED], who explained that: '[w]hat befell on us will stay with us and we will never be able to erase it.'¹⁴⁶⁰

b) Aggravating factor: particularly vulnerable and defenceless victims

397. The victims of the **Accused's** crimes were particularly vulnerable and defenceless in the sense of Rule 163(1)(b).

398. During their mistreatment, they were completely at the mercy of their tormentors, they were civilians, who were detained, rendered even more helpless through beatings, forced to witness the mistreatment of others.¹⁴⁶¹ The state of fear and constant intimidation to which the victims were subjected¹⁴⁶² amplified their vulnerability and defencelessness.

c) Aggravating factor: commission of crimes with particular cruelty and against multiple victims

399. The perpetrators displayed a high level of cruelty against multiple victims in the sense of Rule 163(1)(b).

¹⁴⁶⁰ TW4-06, 28 March 2023, pp.825-826.

¹⁴⁶¹ Section V.C.

¹⁴⁶² Section VI.C.

400. This is evidenced by the harsh detention conditions the detainees suffered - some of them for several weeks.¹⁴⁶³ The high level of cruelty is further evidenced by *inter alia* (i) the prolonged, violent, and harmful character of the beatings, including the instruments and methods used and the injuries caused,¹⁴⁶⁴ (ii) the degrading and humiliating nature of their mistreatment, which included being ordered to beat each other on the genitals and pretend to have sexual intercourse with each other, (iii) being made to witness each other's mistreatments, and (iv) in the case of TW4-01, on one occasion being falsely told that [REDACTED].¹⁴⁶⁵

401. The brutality unleashed on the detainees culminated in [REDACTED].¹⁴⁶⁶

2. The Accused's direct and deliberate participation in the crimes requires a severe sentence

402. Among the factors relevant to the assessment of the **Accused's** contribution to the crimes are his role in their commission, the means employed to execute them and the degree of intent.¹⁴⁶⁷

403. The **Accused's** personal contribution to the crimes was direct, significant, deliberate, and extremely violent. The evidence shows that the **Accused** was

¹⁴⁶³ Section V.C.

¹⁴⁶⁴ Section VI.C.

¹⁴⁶⁵ TW4-01, 31 May 2023, pp.1523-1524.

¹⁴⁶⁶ Section V.F.

¹⁴⁶⁷ *Mustafa TJ*, para.790.

personally involved in the arrest, detention, and severe mistreatment of the victims, who vividly remember the **Accused**'s deliberate participation in their mistreatments and the brutal torture.¹⁴⁶⁸ He beat W01448 with batons for half an hour, so hard that W01448 almost fainted,¹⁴⁶⁹ [REDACTED],¹⁴⁷⁰ during a night when he beat him as much as he could.¹⁴⁷¹ The **Accused** also participated in the brutal beating [REDACTED] the harshest during his detention, which ended with the killing [REDACTED].¹⁴⁷²

3. There are no mitigating factors

404. The Panel has wide discretion in determining what constitutes mitigating circumstances, which must be established on a balance of probabilities, and the weight to be accorded thereto.¹⁴⁷³ Pursuant to Rule 163(1)(a), mitigating circumstances may include the convicted person's conduct after the act, including any efforts to compensate the victims, voluntary surrender, and any cooperation with the SPO or the KSC.

405. In this case, there are no circumstances which could mitigate the sentence to be imposed on the **Accused**. At no point in the almost 25 years since the crimes occurred

¹⁴⁶⁸ Sections V.D, V.F, VII.A.

¹⁴⁶⁹ SITF00016221-00016285RED4, pp.SITF00016231-SITF00016232; SITF00013852-00013869RED6, p.SITF00013857; SITF00013736-SITF00013800RED5, p.SITF00013746.

¹⁴⁷⁰ TW4-01, 2 June 2023, p.1690.

¹⁴⁷¹ TW4-01, 2 June 2023, pp.1691-1692.

¹⁴⁷² Section V.F.

¹⁴⁷³ See e.g. *Simba AJ*, para.328; *Brdanin TJ*, para.1117.

has the **Accused** shown any remorse. On the contrary, in 2016, when he admitted to beating [REDACTED], the **Accused** added that he had no regrets.¹⁴⁷⁴ In 2019, he even said that 'if I had to do it again tomorrow, I would do it without hesitation'.¹⁴⁷⁵ With regard to W04733, the **Accused** stated that 'If I had caught him one year earlier, he wouldn't have been able to testify about anything anymore. Unfortunately, I never found him.'¹⁴⁷⁶

406. Time has not changed the **Accused's** propensity to violence. On 4 January 2018, the **Accused** stabbed a person in a bar five consecutive times, causing deep cuts that required surgery to drain blood in the victim's lungs,¹⁴⁷⁷ for which he was criminally convicted.¹⁴⁷⁸ On 11 February 2019, when interviewed by Belgian authorities in the presence of SPO staff, and asked whether he had a criminal record in Belgium, the **Accused** stated '[c]lean, never had any problems'.¹⁴⁷⁹ Although at that time he was yet to be convicted for the stabbing, his house had already been searched in relation to it, and a knife confiscated.¹⁴⁸⁰

¹⁴⁷⁴ 074117-074129-ET Revised, p.074127.

¹⁴⁷⁵ 066866-066882-ET Revised, p.066876.

¹⁴⁷⁶ 074117-074129-ET Revised, p.074128.

¹⁴⁷⁷ 118356-118384-ET, p.118367.

¹⁴⁷⁸ 118356-118384-ET, p.118368.

¹⁴⁷⁹ 066864-TR-ET Part 1 Revised 1, p.4.

¹⁴⁸⁰ The search took place on 23 February 2018, 118356-118384-ET, p.118367.

407. When providing his unsworn statement at the beginning of this trial, the **Accused** denied any accountability for his actions. He called himself 'a simple fighter for freedom' and claimed that no fighter of the KLA ever fought against civilians,¹⁴⁸¹ even though he had previously confessed to having assaulted TW4-01 [REDACTED].¹⁴⁸²

408. Against this background and considering the gravity of the crimes, no substantial weight should be given to any possible submissions on the **Accused's** good character.

C. Deterrence warrants a severe sentence

409. Deterrence is one of the primary purposes of sentencing individuals under Article 14.¹⁴⁸³ The sentence imposed in this case should recognise the seriousness of the crimes committed and be sufficiently severe to deter others in the future from committing such crimes.¹⁴⁸⁴

410. As set forth above, a significant sentence is warranted because of the gravity of the crimes and the **Accused's** role therein. Such a sentence will send a message to future potential perpetrators that their crimes will be investigated and prosecuted -

¹⁴⁸¹ Defence Opening Statements, pp.603-604.

¹⁴⁸² Section V.H.1.

¹⁴⁸³ *Mustafa* TJ, para.772; *Gucati and Haradinaj* TJ, para.938.

¹⁴⁸⁴ *Todorović* SJ, para.30; *Aleksovski* AJ, para.185; *Delalić et al.* AJ, para.803.

even decades after the events. It will additionally serve to reassure the general public, surviving victims, their relatives, and witnesses, that the rule of law is implemented and enforced, and conveying the message that 'globally accepted laws and rules have to be obeyed by everybody.'¹⁴⁸⁵

D. Requested sentence

411. Having considered the applicable sentencing ranges and the factors set out above (in particular the gravity of the crimes and **Accused's** conduct – including the role played in each of the crimes, the aggravating circumstances, the lack of any mitigating circumstances, the crucial importance of general deterrence), and given that pursuant to Rule 163(4) the Panel must first determine a sentence in respect of each charge in the Indictment, the SPO requests the Panel to impose the following sentences on the **Accused**:

Count 1: 8 years' imprisonment;

Count 2: 15 years' imprisonment;

Count 3: 20 years' imprisonment;

Count 4: 26 years' imprisonment.

¹⁴⁸⁵ *Brđanin* TJ, para.1091; *Dragan Nikolić* SJ, para.139.

412. Rule 163(4) requires the Panel to impose a single sentence reflecting the totality of the criminal conduct of the **Accused**, which shall not be less than the highest individual sentence determined in respect of each charge. It remains open to the Panel to sentence the **Accused** to the terms of imprisonment set out in relation to Counts 1-4 cumulatively, or to a higher sentence of imprisonment than that set out in relation to any specific count.

413. In order to reflect the totality of the criminal conduct of the **Accused**, the SPO requests to impose on the **Accused** a single sentence of **28 years'** imprisonment.

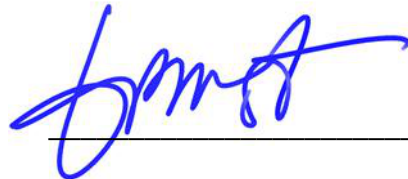
IX. CLASSIFICATION

414. The present submission is filed confidentially in order to protect confidential material such as trial transcripts, confidential exhibits and testimony heard in private session. A public redacted version will be filed.

X. RELIEF SOUGHT

415. For the all the reasons set forth in this brief, the Accused should be convicted of all counts in the Indictment and sentenced to 28 years' imprisonment for his crimes.

Word Count: 44,577



Kimberly P. West

Specialist Prosecutor

Monday, 25 March 2024

At The Hague, the Netherlands.