

**PUBLIC REDACTED VERSION OF AGREEMENT
ON FACTS PURSUANT TO RULE 95(3)
Specialist Prosecutor v. Salih Mustafa
KSC-BC-2020-05**

Contents

12

FACTS RELATING TO THE ACCUSED 2

23

FACTS RELATING TO THE KLA..... 3

310

FACTS RELATING TO CONTEXT..... 10

4.12

FACTS RELATING TO THE ALLEGED CRIMES..... 12

516

FACTS RELATING TO OTHER MISCELLANEOUS MATTERS 16

1			
FACTS RELATING TO THE ACCUSED			
Fact No.	Relating to	Proposed Fact	Defence Agreement/ Position
1.1	THE ACCUSED	Salih MUSTAFA was born on 1 January 1972 in Prishtinë/Priština, Kosovo.	Agreed by the Defence
1.2	THE ACCUSED	Salih MUSTAFA has Kosovan nationality [REDACTED]	Agreed by the Defence
1.3	THE ACCUSED	Salih MUSTAFA was a citizen of the Federal Republic of Yugoslavia ('FRY') at all times relevant to the Indictment.	Not agreed by Defence
1.4	THE ACCUSED	Salih MUSTAFA was also known as "Commander Cali" or "Cali" at all times relevant to the Indictment.	Not agreed by Defence
1.5	THE ACCUSED	Between approximately 1988 and 1993, Salih MUSTAFA was a member of the LPRK.	Not agreed by Defence
1.6	THE ACCUSED	From 1993, Salih MUSTAFA was a member of the National Movement for the Liberation of Kosovo (LKÇK).	Not agreed by Defence
1.7	THE ACCUSED	Between approximately August 1993 and August 1997, Salih MUSTAFA was imprisoned by the Serbian/FRY authorities.	Not agreed by Defence
1.8	THE ACCUSED	From approximately September 1997 and until at least June 1999, Salih MUSTAFA was a member of the Ushtria Çlirimtare e Kosovës ('UÇK'), known in English as the Kosovo Liberation Army ('KLA').	Not agreed by Defence

1.9	THE ACCUSED	Between at least January and June 1999, Salih MUSTAFA sometimes wore a red beret.	Not agreed by Defence
2	FACTS RELATING TO THE KLA¹		
Fact No.	Relating to	Proposed Fact	Defence Agreement/ Position
2.1	THE KLA	From at least 1997, the KLA was organized into Operational Subzones. In 1998, the Operational Subzones became Operational Zones. There were seven KLA Operational Zones: Llap, Drenica, Pashtrik, Dukagjini, Shala, Nerodime, and Karadak.	Not agreed by Defence
2.2	THE KLA	The KLA was headed by a General Staff (GS).	Not agreed by Defence
2.3	THE KLA	Each of the KLA Operational Zones had a Commander and a Staff.	Not agreed by Defence
2.4	THE KLA	The KLA General Staff issued orders and tasks to the KLA Operational Zones.	Not agreed by Defence
2.5	THE KLA	The KLA Operational Zones reported to the KLA General Staff.	Not agreed by Defence
2.6	THE KLA	Members of the KLA General Staff visited the KLA Operational Zones.	Not agreed by Defence
2.7	THE KLA	In August 1998, members of the KLA General Staff, including Hashim Thaçi, Rexhep Selimi and Jakup Krasniqi, visited the Llap Operational Zone.	Not agreed by Defence

¹ All facts relate to the period of the charges unless a specific date is provided in the fact.

2.8	THE KLA	Jakup Krasniqi was the spokesperson of the KLA.	Not agreed by Defence
2.9	THE KLA	The KLA General Staff issued communiques.	Not agreed by Defence
2.10	THE KLA	KLA General Staff communiques contained warnings that persons who collaborated with the enemy would be punished.	Not agreed by Defence
2.11	THE KLA	KLA policy regarding collaborators included them being isolated in detention.	Not agreed by Defence
2.12	THE KLA	The Llap Operational Zone encompassed some or all of the municipalities of Podujevë/Podujevo and Prishtinë/Priština in Kosovo.	Not agreed by Defence
2.13	THE KLA	Rrustem Mustafa was also known as "Commander Remi" or "Remi".	Not agreed by Defence
2.14	THE KLA	Rrustem Mustafa (aka Remi) was the Commander of the Llap Operational Zone.	Not agreed by Defence
2.15	THE KLA	Kadri Kastrati was also known as "Daja".	Not agreed by Defence
2.16	THE KLA	Kadri Kastrati (aka Daja) was the Deputy Commander of the Llap Operational Zone.	Not agreed by Defence
2.17	THE KLA	Nuredin Ibishi was also known as "Leka".	Not agreed by Defence
2.18	THE KLA	Nuredin Ibishi (aka Leka) was the Chief of Staff of the Llap Operational Zone.	Not agreed by Defence
2.19	THE KLA	Latif Gashi was also known as "Lata".	Not agreed by Defence

2.20	THE KLA	Latif Gashi (aka Lata) was the head of intelligence (G2) within the Llap Operational Zone Command Staff.	Not agreed by Defence
2.21	THE KLA	The Llap Operational Zone had a KLA detention centre in Llapashtica.	Not agreed by Defence
2.22	THE KLA	During summer 1998, the Llap Operational Zone had a KLA detention centre in Bajgora.	Not agreed by Defence
2.23	THE KLA	In addition to Rrustem Mustafa, Kadri Kastrati, Nurden Ibishi and Latif Gashi other members of the Llap Operational Zone Command Staff included Hyzri Talla, Nazif Mehmeti, Naim Kadriu, Ibrahim Mehmeti (aka Bimi), Muhamet Latifi and Fatmir Humolli.	Not agreed by Defence
2.24	THE KLA	There were three Brigades in the Llap Operational Zone: 151, 152 and 153.	Not agreed by Defence
2.25	THE KLA	The Commander of the KLA 151 Brigade was Arif Mucolli.	Not agreed by Defence
2.26	THE KLA	The Commander of the KLA 152 Brigade was Idriz Shabani.	Not agreed by Defence
2.27	THE KLA	The Commander of the KLA 153 Brigade was Adem Shehu.	Not agreed by Defence
2.28	THE KLA	The KLA Brigades of the Llap Operational Zone had facilities to detain KLA soldiers who committed misconduct or infringements.	Not agreed by Defence
2.29	THE KLA	The BIA Guerrilla unit ('BIA unit') was a unit within the Llap Operational Zone of the KLA.	Not agreed by Defence
2.30	THE KLA	The BIA unit was created on 20 May 1998.	Not agreed by Defence

2.31	THE KLA	The acronym BIA stood for the names of KLA members who had died in the war: Bahri Fazliu, Ilir Konushefci, and Agron Rrahmani.	Not agreed by Defence
2.32	THE KLA	Prior to May 1998, the units that became the BIA unit were known as the Prishtina Guerillas.	Not agreed by Defence
2.33	THE KLA/ THE ACCUSED	Salih MUSTAFA was the leader of the Prishtina Guerillas.	Not agreed by Defence
2.34	THE KLA	Salih MUSTAFA had been appointed to set up the Prishtina Guerillas by Rrustem Mustafa aka Remi.	Not agreed by Defence
2.35	THE KLA	The tasks of the Prishtina Guerillas included collecting information, recruiting new people into the KLA, organizing logistics, medical supplies, and providing food, clothing and ammunition.	Not agreed by Defence
2.36	THE KLA	From May 1998 onwards, the BIA unit was organised in sub-units.	Not agreed by Defence
2.37	THE KLA	The tasks of the BIA unit included intelligence gathering, recruitment, logistics (including the supply of weapons), medical supplies, propaganda.	Not agreed by Defence
2.38	THE KLA	The BIA unit reported to the Llap Operational Zone Command Staff.	Not agreed by Defence
2.39	THE KLA	The BIA unit received orders and tasks from the Llap Operational Zone Command Staff.	Not agreed by Defence
2.40	THE KLA	During the NATO bombing, between March and June 1999, the BIA unit communicated directly with the KLA General Staff via satellite phone, providing information on enemy locations.	Not agreed by Defence

2.41	THE KLA/ THE ACCUSED	Salih MUSTAFA was the Commander of the BIA unit.	Not agreed by Defence
2.42	THE KLA/ THE ACCUSED	Salih MUSTAFA was appointed commander of the BIA unit by the Llap Operational (Sub)Zone Command Staff.	Not agreed by Defence
2.43	THE KLA/ THE ACCUSED	Salih MUSTAFA remained the Commander of the BIA unit until about 13 June 1999.	Not agreed by Defence
2.44	THE KLA/ THE ACCUSED	Salih MUSTAFA had the ultimate authority over the BIA soldiers and BIA sub-units.	Not agreed by Defence
2.45	THE KLA/ THE ACCUSED	Salih MUSTAFA had the power to discipline his soldiers and would take such decisions himself.	Not agreed by Defence
2.46	THE KLA/ THE ACCUSED	Salih MUSTAFA was to be informed about every infringement committed by a soldier within the BIA unit.	Not agreed by Defence
2.47	THE KLA/ THE ACCUSED	Besides being the Commander of the BIA unit, Salih MUSTAFA was also in charge of intelligence-gathering for the BIA unit.	Not agreed by Defence
2.48	THE KLA/ THE ACCUSED	Salih MUSTAFA would transmit his intelligence reports to the Llap Operational (Sub)Zone Command Staff.	Not agreed by Defence
2.49	THE KLA	The BIA unit operated in the urban areas of Pristina, Fushe Kosove, Gjilan, Fushe Gjilan and Obiliq.	Not agreed by Defence
2.50	THE KLA	The BIA unit assisted other Operational Zones such as Drenica, Shala and Karadak with logistics.	Not agreed by Defence

2.51	THE KLA	The BIA unit operated within the villages of Gollak, a mountainous area of Pristina town, where it recruited people and set up the first KLA cells.	Not agreed by Defence
2.52	THE KLA	BIA soldiers were based in Butovc from the summer of 1998 through until June 1999.	Not agreed by Defence
2.53	THE KLA	The BIA unit used 'safe houses' in Butovc, Sharban, and Zllash/Zlaš.	Not agreed by Defence
2.54	THE KLA	In the Gollak region, KLA cells were set up in the villages of Mramor, Butovc, Rimanishte, Suteske, Zllash/Zlaš, Hajkobile, and Sharban.	Not agreed by Defence
2.55	THE KLA	The Zllash/Zlaš village unit of the BIA unit was first established at the end of May 1998.	Not agreed by Defence
2.56	THE KLA	A KLA training facility was located in the school in Zllash/Zlaš.	Not agreed by Defence
2.57	THE KLA	From the end of July or beginning of August 1998, members of the BIA unit used a house in Zllash/Zlaš as a 'safe house'.	Not agreed by Defence
2.58	THE KLA	Soldiers in the BIA unit slept in the 'safe house' in Zllash/Zlaš.	Not agreed by Defence
2.59	THE KLA	A room in the 'safe house' in Zllash/Zlaš was used as an improvised detention location.	Not agreed by Defence
2.60	THE KLA/THE ACCUSED	Salih MUSTAFA used the 'safe house' in Zllash/Zlaš when he was operating in the area.	Not agreed by Defence
2.61	THE KLA/THE ACCUSED	Salih MUSTAFA stayed at the 'safe house' used by BIA in Zllash/Zlaš on a number of occasions.	Not agreed by Defence

2.62	THE KLA/THE ACCUSED	Salih MUSTAFA was often in Zllash/Zlaš during March and April 1999.	Not agreed by Defence
2.63	THE KLA/THE ACCUSED	Salih MUSTAFA was present in Zllash/Zlaš before the Serbian offensive which started on or about 16 April 1999.	Not agreed by Defence
2.64	THE KLA	After the Serbian offensive started on 16 April 1999, BIA soldiers were involved in the fighting against Serbian forces.	Not agreed by Defence
2.65	THE KLA	'Skifteri' was the code-name used for the BIA unit on radio communications.	Not agreed by Defence
2.66	THE KLA	BIA soldiers wore camouflage uniforms with the KLA insignia.	Not agreed by Defence
2.67	THE KLA	BIA soldiers had an ID and a badge to identify them.	Not agreed by Defence
2.68	THE KLA	BIA soldiers had ID cards which stated: "KLA, operational zone of Llap, guerilla BIA", followed by the name or nickname of the soldier, and the signature of the Commander, Salih MUSTAFA.	Not agreed by Defence
2.69	THE KLA	Brahim MEHMETI, aka 'Bimi', was Salih MUSTAFA's first assistant and deputy until February 1999, when Bimi then became the officer in charge of morale and politics for the Llap Zone and for BIA at the same time.	Not agreed by Defence
2.70	THE KLA	Bahri GASHI was a BIA soldier.	Not agreed by Defence
2.71	THE KLA/THE ACCUSED	Bahri GASHI was present in Zllash/Zlaš, together with Salih MUSTAFA, in April 1999.	Not agreed by Defence
2.72	THE KLA	'Tabuti' (Nazif) was a BIA soldier.	Not agreed by Defence

2.73	THE KLA	'Ilmi Vela' was a BIA soldier.	Not agreed by Defence
2.74	THE KLA	Ilmi Vela had a criminal record and was demobilized at some point after March 1999.	Not agreed by Defence
2.75	THE KLA	Ilmi Vela was demobilized not as a result of anything done in Zllash/Zlaš.	Not agreed by Defence
3	FACTS RELATING TO CONTEXT²		
Fact No.	Relating to	Proposed Fact	Not agreed by Defence
3.1	CONTEXT	An armed conflict existed between the KLA and forces of the FRY and Republic of Serbia.	Not agreed by Defence
3.2	CONTEXT	Units of the Yugoslav Army ('VJ'), police and other units of the Ministry of Internal Affairs ('MUP'), as well as certain paramilitary groups, were amongst the groups fighting on behalf of the FRY and Serbia.	Not agreed by Defence
3.3	CONTEXT	Paramilitary groups fighting on behalf of the FRY and Serbia included Arkan's men, Serbian Radical Party members and a group called the White Eagles.	Not agreed by Defence

² All facts relate to the period of the charges unless a specific date is provided in the fact.

3.4	CONTEXT	In early February 1999, an international peace conference was organised in Rambouillet, France, between Kosovo Albanian representatives and representatives of the FRY.	Not agreed by Defence
3.5	CONTEXT	In late February and early March 1999, FRY forces launched a series of further offensives in Kosovo.	Not agreed by Defence
3.6	CONTEXT	The Rambouillet peace talks collapsed in mid-March 1999.	Not agreed by Defence
3.7	CONTEXT	On 24 March 1999, North Atlantic Treaty Organization ('NATO') forces began air strikes against targets in Kosovo and Serbia.	Not agreed by Defence
3.8	CONTEXT	The Serbian forces created war staffs throughout Kosovo.	Not agreed by Defence
3.9	CONTEXT	Armed hostilities, involving numerous forces, occurred in locations throughout Kosovo.	Not agreed by Defence
3.10	CONTEXT	The KLA planned and conducted armed operations in Kosovo.	Not agreed by Defence
3.11	CONTEXT	In approximately March 1999, members of the BIA unit attempted to sabotage fuel depots of Serbian forces in Prishtina.	Not agreed by Defence
3.12	CONTEXT	At the end of March 1999, the KLA General Staff ordered a general mobilisation.	Not agreed by Defence
3.13	CONTEXT	On 2 April 1999, the composition of the Provisional Government of Kosovo ('PGoK') was announced.	Not agreed by Defence

3.14	CONTEXT	Hashim Thaçi was the Prime Minister of the PGoK.	Not agreed by Defence
3.15	CONTEXT	Zllash/Zlaš is a village in the Prishtina municipality in Kosovo.	Not agreed by Defence
3.16	CONTEXT	Butovc is a village in the Prishtina municipality in Kosovo.	Not agreed by Defence
3.17	CONTEXT	Between approximately 16 and 22 April 1999, Serbian forces carried out an offensive against the KLA in the area of Gollak.	Not agreed by Defence
3.18	CONTEXT	On or around 19 April 1999, the Serbian offensive reached the area of Zllash/Zlaš.	Not agreed by Defence
3.19	CONTEXT	When the Serbian offensive reached the area of Zllash/Zlaš, the BIA unit left the area.	Not agreed by Defence
4.	FACTS RELATING TO THE ALLEGED CRIMES³		
Fact No.	Relating to	Proposed Fact	Defence Agreement/ Position
4.1.1	CRIMES	There was a house in Zllash/Zlaš where people were detained.	Not agreed by Defence
4.1.2	CRIMES	The house in Zllash/Zlaš where people were detained was used by the BIA unit as a base.	Not agreed by Defence

³ All facts relate to the period of the charges unless a specific date is provided in the fact.

4.1.3	CRIMES	Prisoners were kept on the ground floor of the building used by the BIA unit as their base in Zllash/Zlaš.	Not agreed by Defence
4.1.4	CRIMES	Those detained at the KLA detention facility in Zllash/Zlaš included civilians and persons <i>hors de combat</i> .	Not agreed by Defence
4.1.5	CRIMES	Those detained at the KLA detention facility in Zllash/Zlaš included those suspected of collaborating with the Serbian authorities.	Not agreed by Defence
4.1.6	CRIMES	Those detained at the KLA detention facility in Zllash/Zlaš included those accused of or perceived as not being supportive of the KLA.	Not agreed by Defence
4.2	Lack of due process		
4.2.1	CRIMES	Persons detained by the KLA BIA unit at Zllash/Zlaš were not brought before a Judge.	Not agreed by Defence
4.2.2	CRIMES	Persons detained by the KLA BIA unit at Zllash/Zlaš were not given a trial.	Not agreed by Defence
4.2.3	CRIMES	Persons detained by the KLA BIA unit at Zllash/Zlaš did not have access to a lawyer.	Not agreed by Defence
4.2.4	CRIMES	Persons detained by the KLA BIA unit at Zllash/Zlaš were not served with an indictment.	Not agreed by Defence
4.2.5	CRIMES	Persons detained by the KLA BIA unit at Zllash/Zlaš were not explained the reasons for their arrest.	Not agreed by Defence

4.3	Conditions of detention		
4.3.1	CRIMES	Prisoners were kept locked in a stable in the BIA unit's base in Zllash/Zlaš.	Not agreed by Defence
4.3.2	CRIMES	Persons detained by the KLA BIA unit in Zllash/Zlaš were held under guard.	Not agreed by Defence
4.3.3	CRIMES	Prisoners detained by the KLA BIA unit in Zllash/Zlaš were kept in harsh and unsanitary conditions.	Not agreed by Defence
4.3.4	CRIMES	Prisoners detained by the KLA BIA unit in Zllash/Zlaš slept on the floor.	Not agreed by Defence
4.3.5	CRIMES	Prisoners detained by the KLA BIA unit in Zllash/Zlaš had no access to a washroom and had to relieve themselves in a bucket.	Not agreed by Defence
4.3.6	CRIMES	Prisoners detained by the KLA BIA unit in Zllash/Zlaš were given scarce amounts of food.	Not agreed by Defence
4.4	Physical and psychological abuse of the prisoners in Zllash/Zlaš detention facility		
4.4.1	CRIMES	Prisoners at the KLA detention facility in Zllash/Zlaš were interrogated.	Not agreed by Defence
4.4.2	CRIMES	During interrogation at the KLA detention facility in Zllash/Zlaš, some prisoners were accused of collaboration with the Serbs.	Not agreed by Defence

4.4.3	CRIMES	During interrogations at the KLA detention facility in Zllash/Zlaš, prisoners were accused of being spies.	Not agreed by Defence
4.4.4	CRIMES	Salih MUSTAFA participated in the interrogation of persons detained by the KLA BIA unit in Zllash/Zlaš.	Not agreed by Defence
4.4.5	CRIMES	Prisoners at the KLA detention facility in Zllash/Zlaš were beaten.	Not agreed by Defence
4.4.6	CRIMES	Beatings also took place during interrogations at the KLA detention facility in Zllash/Zlaš.	Not agreed by Defence
4.4.7	CRIMES	Beatings and mistreatments happened both in the ground floor and in the upper floor of the Zllash/Zlaš detention facility.	Not agreed by Defence
4.4.8	CRIMES	The mistreatment of prisoners at the KLA detention facility in Zllash/Zlaš included beatings with metal bars and wooden batons.	Not agreed by Defence
4.4.9	CRIMES	The mistreatment of prisoners at the KLA detention facility in Zllash/Zlaš included burnings with candles.	Not agreed by Defence
4.4.10	CRIMES	The mistreatment of prisoners at the KLA detention facility in Zllash/Zlaš included burnings with hot metal rods.	Not agreed by Defence
4.4.11	CRIMES	The mistreatment of prisoners at the KLA detention facility in Zllash/Zlaš included the infliction of electro-shocks.	Not agreed by Defence

5			
FACTS RELATING TO OTHER MISCELLANEOUS MATTERS			
Fact No.	Relates to	Proposed Fact	Defence Agreement/ Position
5.1	Misc.	LPRK is an acronym for <i>Lëvizja Popullore për Republikën e Kosovës</i> , in English People's Movement for the Republic of Kosovo.	Not agreed by Defence
5.2	Misc.	LKÇK is an acronym for <i>Lëvizja Kombëtare për Çlirimin e Kosovës</i> , in English the National Movement for the Liberation of Kosovo.	Not agreed by Defence
5.3	Misc.	The leadership of the LKÇK included Fatmir Humolli, Bahri Fazliu, and Agron Rrahmani.	Not agreed by Defence
5.4	Misc.	In September 1997, the LKÇK reached an agreement with the KLA, pursuant to which the members of the LKÇK joined the KLA.	Not agreed by Defence
5.5	Misc.	On or around 11 May 1998, the September 1997 alliance between the LKÇK and the KLA was strengthened with the signing of a further agreement.	Not agreed by Defence