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ZYRA E PROKURORIT TË SPECIALIZUAR
SPECIJALIZOVANO TUŽILAŠTVO

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

Before: Pre-Trial Judge
Judge Nicolas Guillou

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I. Introduction

1. Between approximately 17 May 1999 and 5 June 1999 ('Indictment Period'), **Pjetër SHALA**, also known as 'Ujku' or 'Wolf', together with Sabit GECI aka 'Qopa', Xhemshit KRASNIQI, KLA soldiers nicknamed 'Bedri' and 'Van Damme' and other KLA soldiers, police, and guards, arbitrarily detained, interrogated, and mistreated at least eighteen victims in the KLA facilities at the site of a former metal works factory at Kukës, Albania ('Kukës Metal Factory'). One of these detainees, [REDACTED], was shot on or about [REDACTED] June 1999, and died from his wounds the following day. On [REDACTED] June 1999, after the death of [REDACTED], a new KLA member was placed in charge of the detainees.

2. **Pjetër SHALA** has admitted that he was present at the Kukës Metal Factory during the Indictment Period.¹ He admitted to have beaten [REDACTED] and TW4-01.² He further admitted to have seen co-detainee W04733 there.³ **SHALA** showed no remorse, claiming he would beat TW4-01 again if he had the chance.⁴

3. The Specialist Prosecutor's Office ('SPO') will present evidence that the detainees were arbitrarily deprived of their liberty at the Kukës Metal Factory, detained in inhumane conditions, beaten, and gravely harmed. This evidence, together with **Pjetër SHALA**'s own admissions of mistreatment, will show that **SHALA** was involved, in concert with other JCE members and/or tools, in every aspect of the crimes charged in this case: he participated in one arrest, enforced the continued detention of the detainees, and played a significant role in the savage

¹ 066864-TR-ET Part 1, pp.38–39; SITF00013181-SITF00013189 RED, pp.4–6.

² 066888-TR-ET Part 1, pp.149–151, 154, 157–160, 165–166.

³ 066888-TR-ET Part 1, pp.58–59, 63, 176.

⁴ 066888-TR-ET Part 1 RED, pp.149–159, 157; 074117-074129-ET RED, pp.5–9; See T000-2748-T000-2748-Albanian and English Transcript-1, pp.36–37, 41.

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beatings of several detainees. He was also present and participated in the beatings that led up to the shooting and death of [REDACTED]. Notwithstanding the critical wounds sustained by [REDACTED] after being shot, **Pjetër SHALA** continued, together with other JCE members and/or tools, to mistreat him and laugh at him as he was bleeding out in his cell.

4. This evidence will establish beyond a reasonable doubt that **Pjetër SHALA** committed the following crimes:

- a. **Count 1: ARBITRARY DETENTION** at the Kukës Metal Factory between approximately 17 May 1999 and 5 June 1999, a WAR CRIME, punishable under Articles 14(1)(c) and 16(1)(a) of the Law;
- b. **Count 2: CRUEL TREATMENT** at the Kukës Metal Factory between approximately 17 May 1999 and 5 June 1999, a WAR CRIME, punishable under Articles 14(1)(c)(i) and 16(1)(a) of the Law;
- c. **Count 3: TORTURE** at the Kukës Metal Factory between approximately 17 May 1999 and 5 June 1999, a WAR CRIME, punishable under Articles 14(1)(c)(i) and 16(1)(a) of the Law; and
- d. **Count 4: MURDER** at the Kukës Metal Factory between approximately 4-5 June 1999, a WAR CRIME, punishable under Articles 14(1)(c)(i) and 16(1)(a) of the Law.

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Map SPOE00127400-00127400, showing the town of Kukës, on the left, and the Kosovo border, on the right.

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II. The KLA's operations in Kukës, Albania

A. The KLA at the Kukës Metal Factory

5. Throughout the Indictment Period, the KLA operated a base at the site of the former Kukës Metal Factory.

6. Kukës is a town in Albania located approximately 20 km from the Kosovo border. The Kukës Metal Factory was located in the outskirts of Kukës, approximately 1.5 kilometers from the centre of Kukës town.⁵ Between at least late March 1999 and the end of June 1999,⁶ the KLA used the Kukës Metal Factory as a headquarters,⁷ for the recruitment and registration of soldiers,⁸ for logistics,⁹ and for the storage and distribution of clothing, food, weapons and equipment¹⁰ to be used for military operations.¹¹

7. Persons enlisting in the KLA¹² and KLA soldiers routinely arrived at the Kukës Metal Factory and remained there until they were mobilised and transported¹³ to other

⁵ 083524-TR-ET Part 4 RED, pp.1–3; 083524-TR-ET Part 9 RED, p.20; 083524-TR-ET Part 5 RED, p.1.

⁶ 060124-TR-ET Part 1 Revised RED, pp.5–8, 13–18, 21–22, 25–28; 083524-TR-ET Part 8 RED, p.18; 065437-065439-ET, p.065437.

⁷ 083524-TR-ET Part 3 RED, p.19.

⁸ 083524-TR-ET Part 4 RED, p.1; 060124-TR-ET Part 2 Revised RED2, pp.6, 30, 52; SITF00012854-00012864 RED, p.4; 066614-TR-ET Part 2 RED, p.4; 060664-TR-ET Part 2 RED2, pp.8–9.

⁹ 083524-TR-ET Part 5 RED, pp.9–10.

¹⁰ 083524-TR-ET Part 4 RED, p.1; 083524-TR-ET Part 5 RED, pp.9–10; 060124-TR-ET Part 2 Revised RED2, pp.5, 11; 083219-TR-ET Part 3 RED2, p.22; SITF00374454-00374485, p.10.

¹¹ 083524-TR-ET Part 4 RED, p.1; 066888-TR-ET Part 1, p.75.

¹² 083524-TR-ET Part 6 RED, p.4; 083524-TR-ET Part 7 RED, p.12.

¹³ 083524-TR-ET Part 6 RED, p.5; 083219-TR-ET Part 2 RED2, p.10; 060124-TR-ET Part 2 Revised RED2, pp.14, 53.

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KLA facilities,¹⁴ including to Cahan¹⁵ and Burrel.¹⁶ At times, 200-300 KLA soldiers were present in the Kukës Metal Factory.¹⁷

8. The Kukës Metal Factory compound comprised an entrance with a metal gate and a yard surrounded by several separate buildings which were walled off.¹⁸ One building was used by the KLA command¹⁹ as a ‘recruitment office,’ where interviews with recruits were conducted and statements taken,²⁰ and an operational centre.²¹ Other buildings in the compound included a kitchen and space for storage,²² and a warehouse/depot.²³ The premises also held a toilet block,²⁴ and sleeping-quarters.²⁵

¹⁴ 083524-TR-ET Part 5 RED, pp.10–11, 13; 060124-TR-ET Part 2 Revised RED2, p.14.

¹⁵ 083524-TR-ET Part 9 RED, p.11.

¹⁶ 083524-TR-ET Part 9 RED, p.11.

¹⁷ 083524-TR-ET Part 6 RED, p.4; 083524-TR-ET Part 9 RED, p.20; 060124-TR-ET Part 2 Revised RED2, p.14; 066614-TR-ET Part 2 RED, p.2; 077857-TR-ET Part 2 RED, p.5.

¹⁸ 083524-TR-ET Part 5 RED, p.1; 083525-083534 RED, pp.083525-083527,083529-083531; 060124-TR-ET Part 1 Revised RED, pp.54–56, 61; 065435-065435-ET; 066614-TR-ET Part 2 RED, pp.12–13; 066612-066613; 083537-TR-ET Part 1 RED, p.16; 060664-TR-ET Part 3 RED2, pp.5–12; 060653-060663-ET.

¹⁹ 083524-TR-ET Part 5 RED, pp.1, 7; 083525-083534 RED, pp.083525–083526, 083528, 083531; 060124-TR-ET Part 1 Revised RED, pp.54-56,58; 065435-065435-ET; 083537-TR-ET Part 1 RED, pp.16–21; *see also* 077857-TR-ET Part 2 RED, pp.3–4.

²⁰ 083524-TR-ET Part 7 RED, p.27.

²¹ 083524-TR-ET Part 4 RED, p.2; 083524-TR-ET Part 5 RED, pp.7–8; 083524-TR-ET Part 9 RED, pp.3–4.

²² 083524-TR-ET Part 4 RED, p.2; 083524-TR-ET Part 5 RED, p.1; 083525-083534 RED, p.083525; 066614-TR-ET Part 2 RED, p.15; 077857-TR-ET Part 2 RED, p.10; 083537-TR-ET Part 1 RED, pp.18–20.

²³ 083524-TR-ET Part 4 RED, p.1; 083524-TR-ET Part 5 RED, p.1; 083525-083534 RED, p.083525; 066614-TR-ET Part 2 RED, p.15; 083537-TR-ET Part 1 RED, pp.16, 18–19.

²⁴ 083524-TR-ET Part 1 RED, p.1; 083525-083534 RED, p.083525.

²⁵ 083524-TR-ET Part 4 RED, p.2; 083524-TR-ET Part 5 RED, p.1; 083525-083534 RED, p.1; 066614-TR-ET Part 2 RED, p.15.

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III. Pjetër SHALA, aka 'Ujku' or 'Wolf'

A. Pjetër SHALA's role and positions within the KLA

9. **Pjetër SHALA** was a member of the KLA and served as a military police commander in 1998²⁶ and was in the 128th Brigade in 1999.²⁷ He referred to himself, and was widely referred to, by the nickname 'Ujku'/'Wolf'.²⁸ He was known to howl like a wolf.²⁹

10. Since the early 1990s, **Pjetër SHALA** sympathised with the People's Movement for Kosovo ('LPK'), which supported the liberation of Kosovo through the use of armed force.³⁰ Starting in 1993, **SHALA** began to engage in propaganda and guerilla activities in Kosovo with the goal, as he explained it, of creating 'a little panic' and getting the Serb state 'disoriented'.³¹ In 1995 or 1996, **SHALA** took an oath for the liberation of Kosovo.³² In 1997, he received military and guerrilla training in Albania.³³

²⁶ 060124-TR-ET Part 2 Revised RED2, p.139; 066864-TR-ET Part 2 RED, pp.81–83, 86; T000-2745-T000-2745-Alb and Eng Transcript-B, p.7; T000-2748-T000-2748-Alb and Eng Transcript-1, p.43; IT-04-84 T9920-T9983, p.37; 074117-074129-ET RED, p.6; U009-9284-U009-9293-ET, p.8; U009-9230-U009-9235-ET, p.1.

²⁷ 060124-TR-ET Part 2 Revised RED2, pp.146–147; 066888-TR-ET Part 1 RED, p.73; U009-9245-U009-9258-ET, p.12; U009-9230-U009-9235-ET, p.1.

²⁸ 060124-TR-ET Part 2 Revised RED2, pp.138, 141; 066864-TR-ET Part 2 RED, pp.75–76; 074117-074129-ET RED, p.4; T000-2742-T000-2742-Alb and Eng Transcript - A, pp.9-10,28; T001-0105-1-A-TR, pp.8–9; IT-04-84 T9920-T9983, p.19; 066856-066862, pp.6–7.

²⁹ 082892-TR-AT-ET Part 9 RED, p.7; 066888-TR-ET Part 1 RED, pp.129, 185–186; 060124-TR-ET Part 2 Revised RED2, pp.146–147.

³⁰ 066864-TR-ET Part 1, pp.55–56, 83–85; T000-2742-T000-2742-Alb and Eng Transcript - A, p.27; U009-9245-U009-9258-ET, p.6; U009-9404-U009-9412-ET, p.2; U009-9284-U009-9293-ET, p.6.

³¹ 066864-TR-ET Part 1 RED, pp.61–63; T000-2742-T000-2742-Alb and Eng Transcript - A, pp.22–23, 25, 35; U009-9245-U009-9258-ET, p.6; U009-9404-U009-9412-ET, p.2; U009-9230-U009-9235-ET, p.1.

³² 066864-TR-ET Part 1 RED, p.67; *see also* T001-0105-1-A-TR, pp.19–20.

³³ 066864-TR-ET Part 1 RED, pp.61–63; 066864-TR-ET Part 2 RED, pp.10–11; T000-2742-T000-2742-Alb and Eng Transcript - A, pp.35–36, 43; T001-0105-1-A-TR, pp.17–18, 37, 42–43.

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In the years leading up to the war, **Pjetër SHALA** crossed the Kosovo-Albanian border multiple times and knew the border area very well.³⁴

11. **Pjetër SHALA** considers himself as having formally become a member of the KLA shortly after Serb forces attacked and killed the JASHARI family in Prekaz, Kosovo.³⁵ **Pjetër SHALA** entered Kosovo from Albania with a group of approximately 20 to 50 people in mid-March 1998 with the goal of joining KLA forces already on the ground in Kosovo.³⁶ They made their way to, and gathered in Jabllanicë/Jablanica.³⁷ There, **Pjetër SHALA** encountered members of the KLA 'General Staff' Hashim THAÇI, aka 'Gjarpëri' or 'Snake', Rexhep SELIMI, aka 'Dhjetshi' or '10' and Lahi BRAHIMAJ.³⁸ For a period, **SHALA** stayed at the premises of the BRAHIMAJ family and contributed to whatever tasks needed to be completed in Jabllanicë/Jablanica and the surrounding villages, such as directing soldiers on how to construct trenches.³⁹

12. The local commander in Jabllanicë/Jablanica, Nazmi BRAHIMAJ, appointed **Pjetër SHALA** to serve as the head of the Military Police covering Jabllanicë/Jablanica.⁴⁰ During this time, **Pjetër SHALA** received orders from Nazmi

³⁴ 066888-TR-ET Part 1 RED, p.148; T001-0105-1-A-TR, pp.24–26.

³⁵ 066864-TR-ET Part 2 RED, pp.13–14; T000-2742-T000-2742-Alb and Eng Transcript - A, pp.30–31; T001-0105-1-A-TR, pp.28, 33; 074117-074129-ET RED, p.5.

³⁶ 066864-TR-ET Part 2 RED, pp.13–14, 21–24; T000-2742-T000-2742-Alb and Eng Transcript - A, pp.33–34; T000-2742-T000-2742-Alb and Eng Transcript-3 - B, p.5; T000-2745-T000-2745-Alb and Eng Transcript-A, p.2; T001-0105-1-A-TR, pp.45–47; IT-04-84 T9920-T9983, pp.19–20.

³⁷ 066864-TR-ET Part 2 RED, pp.13–14, 21–24, 46; T000-2742-T000-2742-Alb and Eng Transcript - A, pp.51–52; T001-0105-1-A-TR, p.46; IT-04-84 T9920-T9983, p.24.

³⁸ 066864-TR-ET Part 2 RED, pp.46–50, 77; T000-2742-T000-2742-Alb and Eng Transcript-3 - B, pp.4–5, 8–9; T001-0105-1-A-TR, pp.54–55; IT-04-84 T9920-T9983, pp.27–28.

³⁹ T001-0105-1-A-TR, pp.77–80; 066864-TR-ET Part 2 RED, p.52; T001-0105-1-A-TR, pp.52–53; IT-04-84 T9920-T9983, p.26; T000-2742-T000-2742-Alb and Eng Transcript-3 - B, pp.2–4, 10, 21–22.

⁴⁰ 066864-TR-ET Part 2 RED, pp.81–83; T000-2742-T000-2742-Alb and Eng Transcript-3 - B, pp.6, 18; 074117-074129-ET RED, p.6.

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BRAHIMAJ,⁴¹ and reported to Nazmi BRAHIMAJ, Lahi BRAHIMAJ and Ramush HARADINAJ.⁴²

13. In his role of Military Police commander, **Pjetër SHALA** received lists of ‘volunteers’ or unchecked persons, who were due to pass through Jabllanicë/Jablanica.⁴³ He selected, sent, and accompanied groups of volunteers and soldiers, who travelled back and forth between Kosovo and Albania to pick up weapons.⁴⁴ **Pjetër SHALA** was issued a KLA ID card and authorisation, both signed by Ramush HARADINAJ.⁴⁵ **SHALA** had a command role⁴⁶ and enjoyed the trust of his soldiers.⁴⁷

14. On [REDACTED] May 1998, **Pjetër SHALA** and other KLA soldiers went to W04733’s family house.⁴⁸ They threatened W04733’s family members with death, demanded their weapons, and told them that W04733, who kept hiding in the house, must report to the KLA HQ in Jabllanicë/Jablanica.⁴⁹ W04733 abandoned his house on the same evening and moved to another part of Kosovo.⁵⁰ **Pjetër SHALA**, as will be

⁴¹ 066864-TR-ET Part 2 RED, p.83; T000-2742-T000-2742-Alb and Eng Transcript-3 - B, p.21; T000-2745-T000-2745-Alb and Eng Transcript-B, p.4; T001-0105-1-A-TR, p.57; T000-2748-T000-2748-Alb and Eng Transcript, p.3; IT-04-84 T9920-T9983, p.35.

⁴² 066864-TR-ET Part 2 RED, p.87.

⁴³ T001-0105-1-A-TR, pp.72-77; 066864-TR-ET Part 2 RED, pp.82-83.

⁴⁴ 066864-TR-ET Part 2 RED, pp.57-58, 76; IT-04-84 T9920-T9983, pp.61-62; T000-2742-T000-2742-Alb and Eng Transcript-3 - B, p.11; T000-2748-T000-2748-Alb and Eng Transcript-1, pp.43-44; T001-0105-2-A-TR, pp.17-19; T001-0105-3-A-TR, p.42.

⁴⁵ 066856-066862, pp.6-7; IT-04-84 P01189.E; IT-04-84 P01189; U009-9219-U009-9221-ET, p.3.

⁴⁶ T001-0105-3-A-TR, pp.34-37, 43-47; IT-04-84 T9920-T9983, pp.56-57; 066856-066862, p.3; U000-2660-U000-2660-ET; U009-9284-U009-9293-ET, p.8.

⁴⁷ 066888-TR-ET Part 1 RED, pp.17-18; T000-2742-T000-2742-Alb and Eng Transcript-3 - B, p.6; 074117-074129-ET RED, p.6; T001-0105-1-A-TR, pp.90-91.

⁴⁸ 082892-TR-AT-ET Part 1 RED, p.25.

⁴⁹ 082892-TR-AT-ET Part 1 RED, pp.26, 32-37, 39-40; 082892-TR-AT-ET Part 9 RED, pp.4, 6.

⁵⁰ 082892-TR-AT-ET Part 1 RED, p.40.

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further discussed below, again took an interest in W04733 in May 1999, transferred him to the Kukës Metal Factory, and participated in his mistreatment.⁵¹

15. Later in the summer of 1998, **Pjetër SHALA** left Kosovo and moved to Albania, where he stayed for one or two weeks, before traveling to Belgium in September 1998, where he [REDACTED] took up residence.⁵²

16. In mid-March 1999, **Pjetër SHALA** re-entered Albania from Belgium via Italy.⁵³ He stated to have travelled to Kukës with a group of trusted friends from Dukagjini.⁵⁴ Upon his arrival, **SHALA** met KLA Chief of Staff Bislim ZYRAPI⁵⁵ and Xheladin GASHI, aka 'Plaku', who was in charge of logistics there and whom he already knew from 1998.⁵⁶

17. **Pjetër SHALA** served there as a member of the 128th Brigade,⁵⁷ which among other places operated in Kukës.⁵⁸ As part of his responsibilities, **SHALA** travelled from Kukës to the front lines at the Kosovo/Albania border and back.⁵⁹ He had free passage and was not stopped for papers.⁶⁰

⁵¹ See below Section V(A).

⁵² 066888-TR-ET Part 1 RED, pp.5–6; U009-9284-U009-9293-ET, p.7; T000-2748-T000-2748-Alb and Eng Transcript-1, pp.27–28; T000-2742-T000-2742-Alb and Eng Transcript - A, pp.9–10, 20; U009-9219-U009-9221-ET, p.3; U009-9414-U009-9427-ET, p.3.

⁵³ 066888-TR-ET Part 1 RED, pp.64–65; T000-2748-T000-2748-Alb and Eng Transcript-1, pp.29–30; 074117-074129-ET RED, p.5; U009-9275-U009-9275-ET.

⁵⁴ 066888-TR-ET Part 1 RED, pp.85–86; T000-2748-T000-2748-Alb and Eng Transcript-1, p.30; 074117-074129-ET RED, p.5.

⁵⁵ 066888-TR-ET Part 1 RED, pp.103–104; see also 066888-TR-ET Part 1 RED, p.63; 077857-TR-ET Part 2 RED, p.19; 083843-TR-ET Part 2 RED, p.10.

⁵⁶ 066888-TR-ET Part 1 RED, pp.100–102; 074117-074129-ET RED, p.7; see also 060124-TR-ET Part 2 Revised RED2, p.15; 066614-TR-ET Part 2 RED, p.18; 077857-TR-ET Part 2 RED, p.19; 083843-TR-ET Part 2 RED, pp.14, 16.

⁵⁷ 066888-TR-ET Part 1 RED, p.73; U009-9245-U009-9258-ET, p.12.

⁵⁸ 083843-TR-ET Part 2 RED, pp.4–7; 060124-TR-ET Part 2 Revised RED2, pp.44–45.

⁵⁹ 060124-TR-ET Part 2 Revised RED2, pp.140–141, 144–145; 066888-TR-ET Part 1 RED, pp.121–122; T000-2748-T000-2748-Alb and Eng Transcript-1, pp.48–49; 066614-TR-ET Part 2 RED, p.28.

⁶⁰ 066888-TR-ET Part 1 RED, pp.125, 132.

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B. Pjetër SHALA was present at the Kukës Metal Factory during the Indictment Period

18. **Pjetër SHALA** was present at the Kukës Metal Factory during the Indictment Period.⁶¹ He himself has acknowledged being present in Kukës and at the Kukës Metal Factory in March 1999,⁶² May 1999, and/or beginning of June 1999.⁶³ Notably, **SHALA** recalled the layout of the Kukës Metal Factory premises.⁶⁴ He further acknowledged having seen three of the detainees inside the Kukës Metal Factory, namely W04733,⁶⁵ [REDACTED], and TW4-01.⁶⁶ In addition to these admissions, **Pjetër SHALA's** presence at the Kukës Metal Factory during the Indictment Period, and his participation in the charged crimes, is amply demonstrated by the evidence discussed below in Section V of this brief. This evidence shows that he participated in one arrest and personally and repeatedly beat several detainees during the Indictment Period. Finally, he was part of the group that beat and shot [REDACTED], thereby causing his death.⁶⁷

IV. Existence of an armed conflict at the times relevant to the charges

19. Throughout the Indictment Period an armed conflict 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

⁶¹ 060124-TR-ET Part 2 Revised RED2, pp.139, 143, 147; SITF00013852-00013869 RED2, p.6; SITF00013736-SITF00013767 RED2, p.9; 083537-TR-ET Part 2 RED, pp.16–17, 20–21; 083537-TR-ET Part 5 RED, p.2.

⁶² 066888-TR-ET Part 1 RED, p.95; 066864-TR-ET Part 1 RED, pp.38–39; 074117-074129-ET RED, pp.6–7; U009-9245-U009-9258-ET, pp.6, 11; U009-9275-U009-9275-ET.

⁶³ 066888-TR-ET Part 1 RED, pp.142–144, 150; 074117-074129-ET RED, pp.6–10; U009-9245-U009-9258-ET, pp.6, 11; U009-9275-U009-9275-ET; U009-9414-U009-9427-ET, p.6.

⁶⁴ 066888-TR-ET Part 1 RED, pp.95–99.

⁶⁵ 066888-TR-ET Part 1 RED, pp.175-177,180,183; 074117-074129-ET RED, pp.7–10.

⁶⁶ 066888-TR-ET Part 1 RED, pp.142–143, 164, 175; 074117-074129-ET RED, pp.7–10.

⁶⁷ See Section V.

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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').

20. In the interests of judicial economy, the SPO intends to request the Trial Panel to take judicial notice, pursuant to Rule 157, of a set of facts establishing the existence of that conflict, its protracted character, and the level of organisation of the warring parties. These facts have been reliably adjudicated in trials before both the International Criminal Tribunal for the former Yugoslavia and Kosovo courts on the basis of a thorough analysis of an extensive body of evidence, including reports of international organisations such as the Organization for Security and Co-operation in Europe ('OSCE') and Human Rights Watch, reports of the FRY forces and its officials on the status of the hostilities, and testimony of KLA members.⁶⁸

21. In the event, however, that the SPO will be required to present evidence on the existence of that armed conflict, it is prepared to do so by offering, among other evidence, the following: OSCE/KVM Reports,⁶⁹ ECMM Reports,⁷⁰ UNHCR Reports,⁷¹ information from NATO,⁷² and KLA General Staff announcements and mobilisation

⁶⁸ See e.g. ICTY, *Prosecutor v. Đorđević*, IT-05-87/1-T, Judgement, 23 February 2011, paras 1531-1579; *Prosecutor v. Milutinović et al.*, IT-05-87-T, Judgement, Volume I, 26 February 2009, paras 790-841; District Court of Mitrovica, *Sabit Geci et al.*, P. Nr. 45/2010, Judgment, 29 July 2011, pp.3-4, 6, 8-9, 18-20; 22-27; Basic Court of Mitrovica, *Xhemshit Krasniqi*, P. 184/15, Judgment, 8 August 2016, pp.3-6,51-54; District Court of Pristina, *Latif Gashi et al.*, C. Nr. 425/2001, Judgment, 16 July 2003, pp.4, 11-12.

⁶⁹ SPOE00061241-00061243; SPOE00061248-00061251; SPOE00061244-00061247; SITF00012249-00012249; SITF00011677-00011685.

⁷⁰ SPOE00304426-00304427; SPOE00305281-00305282; SPOE00305283-00305285; SPOE00133809-00133810; SPOE00133788-00133790; SPOE00305286-00305288; SPOE00305289-00305292; SPOE00305297-00305298; SPOE00133847-00133847; SPOE00133848-00133849; SPOE00305299-00305302; SPOE00305303-00305305; SPOE00134047-00134048; SPOE00305306-00305308; SPOE00133879-00133881; SPOE00305313-00305315; SPOE00304498-00304500; SPOE00304449-00304451.

⁷¹ 075007-075129; 074222-074225; 074226-074231.

⁷² SPOE00215317-SPOE0021534.

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orders/decisions.⁷³ These materials, together with the evidence of witnesses including former KLA soldiers,⁷⁴ will show that between 24 March and early June 1999, the conflict between the FRY forces and the KLA was in full force, with an increase in the number of units fielded by the former and a high frequency of armed clashes between the two warring factions, including along the border with Albania.

22. In February 1999, an international peace conference took place at Rambouillet, France. In March 1999, FRY forces reinforced their positions and the KLA intensified training activities in northern Albania.⁷⁵ The peace talks collapsed in mid-March 1999 and the OSCE's Kosovo Verification Mission ('KVM') withdrew from Kosovo.⁷⁶

23. On 24 March 1999, North Atlantic Treaty Organization ('NATO') forces began air strikes in Kosovo, Serbia and Montenegro.⁷⁷ FRY forces began large-scale operations in Kosovo.⁷⁸ Over 400,000 refugees fled from Kosovo to Albania, with approximately 100,000 of them seeking shelter in Kukës.⁷⁹

⁷³ SPOE00054441-SPOE00054442-ET Revised; SPOE00055399-SPOE00055399-ET; SPOE00054519-SPOE00054522-ET.

⁷⁴ See e.g. 060124-TR-ET Part 2 Revised RED2, pp.15–16; SITF00014088-00014120 RED, p.8; 077857-TR-ET Part 1 RED, pp.6–7; 077857-TR-ET Part 2 RED, pp.31–33; 077857-TR-ET Part 3 RED, pp.2–4; 083843-TR-ET Part 1 RED, pp.13–14; 066888-TR-ET Part 1 RED, p.110.

⁷⁵ IT-05-87 5D00883-E, p.1.

⁷⁶ SITF00011677-00011685, p.6; SPOE00061248-00061251, p.3.

⁷⁷ 066614-TR-ET Part 1 RED, p.13; SPOE00061241-00061243, pp.2–3; SPOE00061244-00061247, p.2; 060124-TR-ET Part 1 Revised RED, p.14.

⁷⁸ 083843-TR-ET Part 1 RED, pp.13–14; SPOE00061248-00061251, pp.2–3; SITF00011677-00011685, pp.3–4; SPOE00061241-00061243, pp.2–3; SPOE00061244-00061247, p.3; SPOE00305270-00305271; SPOE00305281-00305282, p.2; SPOE00305283-00305285, pp.1–2; SPOE00054441-SPOE00054442-ET Revised, p.1.

⁷⁹ 060124-TR-ET Part 1 Revised RED, p.22; 074117-074129-ET RED, p.5; SPOE00305289-00305292, p.3; 075007-075129, p.1; 074222-074225, p.1; 074226-074231, p.1; SITF00011677-00011685, pp.2, 4–5; SPOE00305286-00305288, p.2; SPOE00061248-00061251, p.2; SPOE00305283-00305285, p.1; SPOE00305270-00305271; see also 083524-TR-ET Part 6 RED, p.6.

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24. On 25 March 1999, the KLA General Staff ordered a general mobilisation.⁸⁰ The conflict resulted in significant casualties and damage to property.⁸¹

25. Fighting continued between the FRY forces and KLA throughout Kosovo, and along the border, during the Indictment Period.⁸² The border area remained a focus of the conflict in May and the first part of June 1999 in part because of a desire of the KLA to maintain a re-supply corridor from Albania into Kosovo.⁸³

26. KLA soldiers were constantly present in Albania.⁸⁴ From the end of March 1999 until mid-June 1999 significant KLA activity was observed in Kukës town and the surrounding areas,⁸⁵ and KLA soldiers were seen setting up a checkpoint some 10 km west of Kukës.⁸⁶

27. The Kukës Metal Factory was an important part of the KLA's broader logistical operations in northern Albania and Kosovo.⁸⁷ The premises housed up to 200-300 KLA soldiers⁸⁸ and was used as a main base for the registration and mobilisation of

⁸⁰ 083843-TR-ET Part 1 RED, pp.17–18; 083843-TR-ET Part 2 RED, p.2; 083524-TR-ET Part 3 RED, p.7; 066614-TR-ET Part 1 RED, p.18; SPOE00054441-SPOE00054442-ET Revised; SPOE00061241-00061243, pp.2–3; SPOE00061244-00061247, p.3; IT-05-87 4D00358-E, p.1; SPOE00305281-00305282, p.1.

⁸¹ See e.g. SITF00014088-00014120 RED, p.9; 077857-TR-ET Part 1 RED, pp.6–7; 077857-TR-ET Part 2 RED, pp.31–33; 077857-TR-ET Part 3 RED, pp.2–4; 077857-TR-ET Part 4 RED, pp.2–7, 12; 075138-02-TR-ET; 078249-01; 060124-TR-ET Part 2 Revised RED2, pp.16–18.

⁸² 060124-TR-ET Part 2 Revised RED2, pp.44–45; 066614-TR-ET Part 3 RED, pp.8–9; SITF00014088-00014120 RED, p.8; SPOE00305270-00305271, p.1; SITF00012249-00012249; SITF00011677-00011685, pp.4, 7; SPOE00133809-00133810, p.1; SPOE00305289-00305292, p.1; SPOE00305297-00305298, p.1; SPOE00133848-00133849, p.1; 102282-102285, p.2; IT-05-87 6D01003-E, p.2; SPOE00055399-SPOE00055399-ET; SPOE00215317-SPOE0021534.

⁸³ SITF00011677-00011685, p.3; SPOE00055399-SPOE00055399-ET; SPOE00215317-SPOE0021534.

⁸⁴ SITF00011677-00011685, p.7; SPOE00304426-00304427, p.1; SPOE00133809-00133810, p.1.

⁸⁵ SPOE00305270-00305271, p.1; SPOE00304426-00304427, p.1; IT-05-87 3D00813-E, p.1; SPOE00305281-00305282, p.1; SPOE00305283-00305285, p.1; SPOE00133788-00133790, p.2; IT-05-87 4D00320-E, pp.2–3; SPOE00305297-00305298, p.1; SPOE00133847-00133847, p.1; IT-05-87.1 D00675.E, p.1.

⁸⁶ SPOE00305281-00305282, p.1.

⁸⁷ 066888-TR-ET Part 1 RED, p.100.

⁸⁸ 083524-TR-ET Part 6 RED, p.4; 083524-TR-ET Part 9 RED, p.20.

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soldiers,⁸⁹ logistics, which included the maintenance of weapons,⁹⁰ and storage of supplies, including uniforms and weapons.⁹¹ KLA soldiers were moved from Kukës to KLA bases closer to the frontline, including to Cahan, Tropoje, and Helshan.⁹²

28. **Pjetër SHALA** was aware of the factual circumstances establishing the existence of the armed conflict. He acknowledges that ‘a real war’ had unfolded⁹³ and he knew that part of the frontline went along the Kosovo-Albania border.⁹⁴ **SHALA** was a soldier with the KLA, who participated in the armed conflict with the FRY forces. Amongst other things, he transported KLA soldiers from their point of arrival to the border, conducted military training for KLA soldiers, and organized accommodation for KLA soldiers arriving in Kukës.⁹⁵

29. All acts and omissions charged as war crimes in the Indictment took place in the context of, and were associated with, the armed conflict between the KLA and FRY forces. The crimes were committed at a KLA base and/or during KLA activities. As shown in Section V below, the victims were persons taking no active part in hostilities, many of whom were targeted for their perceived affiliation to Serb nationals and institutions. **Pjetër SHALA** and the other perpetrators of the alleged crimes were

⁸⁹ 077857-TR-ET Part 2 RED, p.19; 083843-TR-ET Part 2 RED, p.11; 083524-TR-ET Part 5 RED, pp.9–10; 083524-TR-ET Part 9 RED, p.20; *See also* SPOE00305270-00305271, p.1; SPOE00305283-00305285, p.1; SPOE00133847-00133847, p.1.

⁹⁰ 077857-TR-ET Part 1 RED, pp.15–18; 083524-TR-ET Part 5 RED, p.9; *See also* 074117-074129-ET RED, p.6.

⁹¹ 077857-TR-ET Part 1 RED, p.20; 066614-TR-ET Part 3 RED, p.2; 074117-074129-ET RED, p.7; 083524-TR-ET Part 4 RED, pp.1–2; 083524-TR-ET Part 5 RED, p.9; SITF00013852-00013869 RED2, p.5; 083537-TR-ET Part 1 RED, pp.18–19.

⁹² 060664-TR-ET Part 2 RED2, p.9; *See also* 077857-TR-ET Part 2 RED, p.19; 083843-TR-ET Part 2 RED, p.15; SPOE00305281-00305282, p.1; SPOE00133847-00133847; IT-05-87 3D00813-E, p.1.

⁹³ 066888-TR-ET Part 1 RED, p.135; 074117-074129-ET RED, p.3.

⁹⁴ 066888-TR-ET Part 1 RED, p.110.

⁹⁵ 074117-074129-ET RED, pp.3–5; 066888-TR-ET Part 1, pp.120–121.

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aware of the factual circumstances establishing the existence of the armed conflict and the status of the victims.

V. The crimes charged in the Indictment

A. Overview

30. Between about 17 May 1999 and 5 June 1999, **Pjetër SHALA** and certain other KLA members, police, and guards, including Sabit GECI aka 'Qopa', Xhemshit KRASNIQI, and KLA soldiers nicknamed 'Bedri' and 'Van Damme,' arbitrarily detained without due process of law at least eighteen civilians and subjected them to cruel treatment and torture at the Kukës Metal Factory. These victims included [REDACTED], TW4-01,⁹⁶ W01448,⁹⁷ W04733,⁹⁸ TW4-11,⁹⁹ TW4-05,¹⁰⁰ TW4-04,¹⁰¹ [REDACTED],¹⁰² [REDACTED],¹⁰³ [REDACTED],¹⁰⁴ [REDACTED],¹⁰⁵ three Roma

⁹⁶ 083219-TR-ET Part 2 RED2, pp.4–7; 059730-TR-ET Part 2 RED, pp.8, 11, 13–14, 18–19.

⁹⁷ SITF00016221-00016285 RED2, p.5.

⁹⁸ SITF00016221-00016285 RED2, pp.4–5, 7; 083219-TR-ET Part 4 RED2, pp.15–16; 083219-TR-ET Part 5 RED2, p.10.

⁹⁹ 059351-TR-ET Part 2 RED2, p.2; SITF00016221-00016285 RED2, p.5; SITF00013852-00013869 RED2, p.7; 064716-TR-ET Part 1 RED2, p.1; 064716-TR-ET Part 3 RED2, pp.6–8; 064716-TR-ET Part 4 RED2, p.16; 064716-TR-ET Part 5 RED2, pp.1–2, 4, 6, 17, 27, 30–31.

¹⁰⁰ SITF00372498-00372510 RED2, p.3; SITF00016221-00016285 RED2, p.5; 083524-TR-ET Part 7 RED, pp.8–9.

¹⁰¹ 064716-TR-ET Part 5 RED2, pp.11–15.

¹⁰² SITF00016221-00016285 RED2, p.5.

¹⁰³ SITF00013736-SITF00013767 RED2, pp.22–23; SITF00016221-00016285 RED2, p.5; 083219-TR-ET Part 4 RED2, p.20; 083219-TR-ET Part 5 RED2, p.10; SITF00013852-00013869 RED2, p.7; 060664-TR-ET Part 3 RED2, p.24.

¹⁰⁴ 060664-TR-ET Part 3 RED2, p.23; SITF00016221-00016285 RED2, p.5; SITF00013852-00013869 RED2, p.7.

¹⁰⁵ 083219-TR-ET Part 2 RED2, pp.8–9; 083219-TR-ET Part 4 RED2, p.2; SITF00012854-00012864 RED, p.8; SITF00016221-00016285 RED2, p.17; 060664-TR-ET Part 3 RED2, p.24; 060664-TR-ET Part 4 RED2, pp.7–11.

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musicians [REDACTED],¹⁰⁶ two women from Gjakova,¹⁰⁷ and a young man identified as the son of [REDACTED], a Kosovar musician.¹⁰⁸ The victims were arrested and detained without legal basis, and had no opportunity to challenge their detention. One of these detainees, [REDACTED], was shot on [REDACTED] June 1999 and died of his wounds on the following day.¹⁰⁹

B. *Arbitrary Detention (Count 1)*

i. Deprivation of liberty

31. W04733 was arrested in Durrës, Albania, on or about [REDACTED] May 1999 by four people wearing KLA black uniforms, and from there he was transferred to a place called Rromanat.¹¹⁰ W04733 was beaten during this time.¹¹¹ **Pjetër SHALA**, together with a KLA member nicknamed 'Loqka' and other KLA members, participated in the transfer of W04733 and other prisoners, under armed guard and threat of death, to the Kukës Metal Factory.¹¹² W04733 was detained there until [REDACTED] June 1999, when members of the [REDACTED] came to Kukës to secure his release and take him to his family.¹¹³

¹⁰⁶ 059351-TR-ET Part 2 RED2, p.14; SITF00016221-00016285 RED2, p.6; 083219-TR-ET Part 2 RED2, p.5,8-9; 083219-TR-ET Part 4 RED2, p.2; SITF00012854-00012864 RED, p.4; SITF00016221-00016285 RED2, p.5; SITF00013852-00013869 RED2, p.7..

¹⁰⁷ 083219-TR-ET Part 3 RED2, p.17; 083219-TR-ET Part 6 RED2, p.15; SITF00016221-00016285 RED2, p.15.

¹⁰⁸ 083219-TR-ET Part 2 RED2, pp.8-9,12; 083219-TR-ET Part 4 RED2, p.2.

¹⁰⁹ 083219-TR-ET Part 7 RED2, pp.28-31; 083219-TR-ET Part 9 RED2, pp.18-19; SITF00013736-SITF00013767 RED2, pp.19-21; SITF00374093-00374104 RED2, pp.3-4..

¹¹⁰ 082892-TR-AT-ET Part 2 RED, pp.27-30..

¹¹¹ 082892-TR-AT-ET Part 4 RED, p.10; SITF00013736-SITF00013767 RED2, p.26..

¹¹² 082892-TR-AT-ET Part 3 RED, pp.3, 8-9; 082892-TR-AT-ET Part 2 RED, pp.42-43; SITF00013181-SITF00013189 RED, pp.4-6..

¹¹³ 082892-TR-AT-ET Part 7 RED, pp.2-3; SITF00013181-SITF00013189 RED, p.7; SITF00013736-SITF00013767 RED2, p.26.

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32. On or around 20 May 1999, KLA military policemen arrested [REDACTED], TW4-01, and [REDACTED] at the Kukës Metal Factory, where they had spent two or three days, having left Kosovo on or around 17 May 1999.¹¹⁴ Sabit GECI ordered their arrest.¹¹⁵

33. They had gone to the Kukës Metal Factory with the intention of joining the KLA.¹¹⁶ When they arrived at the factory, **Pjetër SHALA** was already there.¹¹⁷ He was the first person to hit TW4-01 after his arrest.¹¹⁸ After their arrest, TW4-01, [REDACTED], and [REDACTED] spent one more night in the area of the Kukës Metal Factory's warehouse.¹¹⁹ On the following day, TW4-01 and [REDACTED] were taken to a room in a different building within the Kukës Metal Factory where they spent the rest of their detention,¹²⁰ while [REDACTED] was taken elsewhere in the compound.¹²¹ [REDACTED] was held in Kukës until his death due to gunshot wounds on or around [REDACTED] June 1999. TW4-01 was held there until [REDACTED] June 1999, when he was transferred by KLA members [REDACTED] and subsequently freed from there by [REDACTED].¹²²

34. W01448 was first detained on or around 14 May 1999 upon disembarking a ferry in Durrës, Albania. The people who detained him kept accusing him of not

¹¹⁴ 083219-TR-ET Part 2 RED2, pp.4–7; 059730-TR-ET Part 2 RED, pp.8, 11, 13–14, 18–19; SITF00012758-SITF00012789 RED, p.7.

¹¹⁵ 059730-TR-ET Part 2 RED, pp.18–19; SITF00431831-SITF00431886 RED, pp.16–17.

¹¹⁶ 083219-TR-ET Part 5 RED2, p.1; 083219-TR-ET Part 2 RED2, p.6; 059730-TR-ET Part 2 RED, pp.8, 11, 13–14; SITF00012854-00012864 RED, pp.4–5, 8..

¹¹⁷ 083219-TR-ET Part 2 RED2, p.7; 059730-TR-ET Part 2 RED, pp.13–14.

¹¹⁸ 083219-TR-ET Part 2 RED2, p.3.

¹¹⁹ 083219-TR-ET Part 2 RED2, p.15.

¹²⁰ 083219-TR-ET Part 2 RED2, p.15; 083219-TR-ET Part 3 RED2, pp.16–25; 059118-059144 RED, pp.1–2; 059730-TR-ET Part 2 RED, p.21; SITF00013852-00013869 RED2, p.5..

¹²¹ 083219-TR-ET Part 2 RED2, p.16; 083219-TR-ET Part 3 RED2, pp.10, 17–18.

¹²² 083219-TR-ET Part 6 RED2, p.3; SITF00012854-00012864 RED, p.6; 060664-TR-ET Part 3 RED2, p.23.

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having donated money to the KLA fund.¹²³ W01448 was kept for four days under guard in the area of Durrës before being transferred to the Kukës Metal Factory, where he arrived shortly after midnight on 19 May 1999.¹²⁴ In Kukës, KLA personnel took his money, his passport, and his son's passport.¹²⁵ After a few days of detention, W01448 was transferred to a small room in another area of the Factory, where later, KLA personnel also brought W04733, TW4-01, and [REDACTED].¹²⁶ W01448 remained at the Kukës Metal Factory until [REDACTED] June 1999, when he, TW4-01, TW4-05, and other prisoners were transferred [REDACTED].¹²⁷ The prisoners were freed [REDACTED].¹²⁸

35. On or around [REDACTED] May 1999, two KLA soldiers approached TW4-11 in [REDACTED] and told him he had to go with them for an interview at the KLA headquarters in Kukës.¹²⁹ The KLA soldiers took TW4-11 to the Kukës Metal Factory, where he was kept for about one month.¹³⁰ During this time, TW4-11 was held in the same locked room with other seven or eight people, including TW4-01, [REDACTED], and a group of musicians of Roma ethnicity [REDACTED].¹³¹

¹²³ SITF00013736-SITF00013767 RED2, pp.2, 5.

¹²⁴ SITF00016221-00016285 RED2, pp.4, 7–8; SITF00013736-SITF00013767 RED2, pp.3–4; SITF00016140-00016220 RED2, pp.27–28; SITF00013852-00013869 RED2, pp.3–4; 083219-TR-ET Part 4 RED2, p.15.

¹²⁵ SITF00016221-00016285 RED2, pp.9–10; SITF00013736-SITF00013767 RED2, p.5; SITF00013852-00013869 RED2, pp.4–5; 083219-TR-ET Part 4 RED2, p.15.

¹²⁶ SITF00016221-00016285 RED2, pp.9–10; SITF00013852-00013869 RED2, p.5; SITF00013181-SITF00013189 RED, pp.4–6; 082892-TR-AT-ET Part 2 RED, p.39; SITF00013736-SITF00013767 RED2, pp.6–8.

¹²⁷ SITF00016140-00016220 RED2, p.3; SITF00013852-00013869 RED2, p.10; SITF00013736-SITF00013767 RED2, p.23; 083219-TR-ET Part 4 RED2, pp.15–16; 083219-TR-ET Part 5 RED2, p.11; 083219-TR-ET Part 6 RED2, p.12; 083219-TR-ET Part 8 RED2, p.4,24,26; SITF00012854-00012864 RED, pp.6–7; SITF00372467-00372497 RED2, p.13.

¹²⁸ SITF00016140-00016220 RED2, p.3; SITF00013852-00013869 RED2, p.12; 083219-TR-ET Part 4 RED2, pp.15–16.

¹²⁹ 059351-TR-ET Part 2 RED2, pp.2–3; SITF00374093-00374104 RED2, p.3.

¹³⁰ SITF00374093-00374104 RED2, p.3; 059351-TR-ET Part 2 RED2, p.12.

¹³¹ 059351-TR-ET Part 2 RED2, p.2,6; SITF00374093-00374104 RED2, pp.4–5.

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36. On or around [REDACTED] May 1999, Xhemshit KRASNIQI and two other KLA members in black uniforms detained TW4-05, who had arrived in Kukës with his family from Kosovo, and took him to the Kukës Metal Factory.¹³² TW4-05 was a former [REDACTED].¹³³ Upon arriving there, Xhemshit KRASNIQI and someone 'who posed as a lawyer or a judge' accused TW4-05 of having helped the Serbs [REDACTED].¹³⁴ TW4-05 remained detained there until [REDACTED] June 1999, when he was transferred [REDACTED], where they were freed [REDACTED].¹³⁵ During his detention, TW4-05 spent the nights in a room with three Roma musicians and other five people. [REDACTED].¹³⁶

37. On or around [REDACTED] June 1999, Xhemshit KRASNIQI took TW4-04 to the Kukës Metal Factory. [REDACTED].¹³⁷ [REDACTED].¹³⁸ When TW4-04 was brought to this room, [REDACTED] was still alive. It was [REDACTED] last night before he died after bleeding out from the gunshot wound inflicted by [REDACTED] and the subsequent mistreatment by other KLA members, including **Pjetër SHALA**, as described below in this brief.¹³⁹ During that night, TW4-04 heard gunfire and was afraid bullets would penetrate his room.¹⁴⁰

¹³² SITF00372467-00372497 RED2, pp.3–6.

¹³³ SITF00013736-SITF00013767 RED2, p.23.

¹³⁴ SITF00372467-00372497 RED2, pp.3–6.

¹³⁵ SITF00372467-00372497 RED2, pp.12–13; SITF00016140-00016220 RED2, p.3; 083219-TR-ET Part 4 RED2, p.16; 083219-TR-ET Part 5 RED2, p.11; 083219-TR-ET Part 8 RED2, pp.4, 24, 26; SITF00012854-00012864 RED, pp.6–7; SITF00013852-00013869 RED2, p.10.

¹³⁶ SITF00372467-00372497 RED2, pp.6–7; SITF00013852-00013869 RED2, p.7; 083524-TR-ET Part 7 RED, pp.8–9.

¹³⁷ 064716-TR-ET Part 1 RED2, p.27; 064716-TR-ET Part 3 RED2, pp.6–8; 064716-TR-ET Part 4 RED2, p.16; 064716-TR-ET Part 5 RED2, pp.1–2, 4, 6, 17, 27, 30–31.

¹³⁸ 064716-TR-ET Part 5 RED2, p.11.

¹³⁹ 064716-TR-ET Part 5 RED2, pp.11–15.

¹⁴⁰ 064716-TR-ET Part 5 RED2, p.15.

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38. Other detainees at the Kukës Metal Factory during the Indictment Period included: [REDACTED], who was imprisoned there at the same time as W01448,¹⁴¹ and transferred to [REDACTED] on [REDACTED] June 1999, where he was freed by [REDACTED];¹⁴² two women from Gjakova who were detained at the same time as [REDACTED], TW4-01, and W01448, in a room adjacent to theirs, on accusation of being connected to the Serbian police;¹⁴³ the three musicians of Roma ethnicity [REDACTED], who were held at the Kukës Metal Factory in May 1999 during the detention of TW4-01 and W01448;¹⁴⁴ [REDACTED], who were detained for five or six days;¹⁴⁵ and a person identified by TW4-01 as the son of [REDACTED].¹⁴⁶

39. The detainees were kept under guard in makeshift cells and some of them were handcuffed during their detention.¹⁴⁷

ii. Absence of due process guarantees

40. The detainees were unarmed civilians not taking part in hostilities. They included [REDACTED],¹⁴⁸ musicians,¹⁴⁹ [REDACTED],¹⁵⁰ retired police,¹⁵¹

¹⁴¹ SITF00016221-00016285 RED2, p.5; SITF00013852-00013869 RED2, p.7; 060664-TR-ET Part 3 RED2, p.23; 064716-TR-ET Part 5 RED2, pp.30–31; 060664-TR-ET Part 3 RED2, pp.23–24.

¹⁴² SITF00013852-00013869 RED2, p.10; 083219-TR-ET Part 4 RED2, p.16; 083219-TR-ET Part 5 RED2, p.11; 083219-TR-ET Part 6 RED2, p.12; 083219-TR-ET Part 8 RED2, pp.4, 24, 26; SITF00012854-00012864 RED, pp.6–7.

¹⁴³ SITF00016221-00016285 RED2, p.15; 083219-TR-ET Part 3 RED2, pp.17–18; 083219-TR-ET Part 6 RED2, p.15.

¹⁴⁴ 059351-TR-ET Part 2 RED2, pp.14–15; SITF00016221-00016285 RED2, p.5; 083219-TR-ET Part 2 RED2, pp.5–6, 9; 083219-TR-ET Part 4 RED2, p.3; SITF00012854-00012864 RED, p.4; SITF00016221-00016285 RED2, p.5; SITF00013852-00013869 RED2, p.7.

¹⁴⁵ 083219-TR-ET Part 2 RED2, pp.8–9; 083219-TR-ET Part 4 RED2, p.2; SITF00012854-00012864 RED, p.8; SITF00016221-00016285 RED2, p.17; 060664-TR-ET Part 3 RED2, p.24; 060664-TR-ET Part 4 RED2, pp.7–11; SITF00013736-SITF00013767 RED2, p.27.

¹⁴⁶ 083219-TR-ET Part 2 RED2, pp.8–9, 13; 083219-TR-ET Part 4 RED2, p.2.

¹⁴⁷ SITF00013852-00013869 RED2, pp.6–7.

¹⁴⁸ 083219-TR-ET Part 1 RED2, p.4; SITF00013852-00013869 RED2, p.6.

¹⁴⁹ 083219-TR-ET Part 2 RED2, pp.9, 11.

¹⁵⁰ 083219-TR-ET Part 2 RED2, p.12; SITF00013852-00013869 RED2, p.7.

¹⁵¹ 083219-TR-ET Part 2 RED2, p.31.

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[REDACTED],¹⁵² a [REDACTED],¹⁵³ and [REDACTED].¹⁵⁴ In addition, once detained, they were legally *hors de combat*, and therefore protected under international humanitarian law pursuant to Common Article 3 of the 1949 Geneva Conventions.

41. The arrest and detention of the individuals identified above was arbitrary and illegal. When Xhemshit KRASNIQI and W04848 released [REDACTED], they similarly did not give him any release papers or explain the reasons for his detention.¹⁵⁵ Several detainees were only freed thanks to the intervention of KFOR soldiers in Prizren on [REDACTED] June 1999, while they were still held captive by KLA members.¹⁵⁶ None of the detainees were ever referred for a judicial review or adjudication of their detention.¹⁵⁷

C. Cruel Treatment (Count 2) and Murder (Count 4)

42. Between approximately 17 May 1999 and 5 June 1999, **Pjetër SHALA** and certain other KLA members subjected at least eighteen civilians to cruel treatment by establishing and maintaining inhumane conditions at the Kukës Metal Factory and by beatings and other forms of maltreatment, thereby inflicting on them severe mental and physical harm and attacking their dignity.

¹⁵² 059351-TR-ET Part 1 RED2, p.11; 059351-TR-ET Part 1 RED2, p.3; SITF00013852-00013869 RED2, p.7; SITF00013736-SITF00013767 RED2, p.22; SITF00014088-00014120 RED, p.13; SITF00016908-00016964 RED, p.9.

¹⁵³ SITF00013852-00013869 RED2, p.6; SITF00013736-SITF00013767 RED2, pp.22–23.

¹⁵⁴ 083219-TR-ET Part 6 RED2, p.2.

¹⁵⁵ 064716-TR-ET Part 1 RED2, pp.17–18.

¹⁵⁶ SITF00016140-00016220 RED2, pp.9, 13; SITF00013852-00013869 RED2, p.12; 083219-TR-ET Part 4 RED2, p.16; SITF00372467-00372497 RED2, p.13.

¹⁵⁷ 082892-TR-AT-ET Part 6 RED, pp.5–6; 083219-TR-ET Part 2 RED2, p.5; SITF00013736-SITF00013767 RED2, pp.2–4, 7.

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i. Detention conditions

43. W04733, TW4-01, W01448, TW4-11, TW4-05, [REDACTED], the three Roma musicians, [REDACTED],¹⁵⁸ [REDACTED], and other persons were all detained in one cramped room in the Kukës Metal Factory. The room had barred window openings and no glass.¹⁵⁹ The detainees, [REDACTED],¹⁶⁰ could not leave the room, which was always locked and guarded by KLA soldiers.¹⁶¹ The building where the detainees were kept had three rooms.¹⁶² There was a room next to the detention room where detainees were sometimes taken to be questioned and beaten,¹⁶³ and another room where [REDACTED], the two women from Gjakova, and others were detained.¹⁶⁴ [REDACTED] was detained in a separate building, near the kitchen.¹⁶⁵

44. Detainees slept on a hard, dirty concrete floor.¹⁶⁶ They were not allowed to use their clothes as pillows.¹⁶⁷ There were toilets outside the cell, and a KLA soldier beat and harassed detainees who asked to be escorted there. These toilets were also in very

¹⁵⁸ 060664-TR-ET Part 4 RED2, pp.5, 8; SITF00013852-00013869 RED2, p.6.

¹⁵⁹ SITF00013736-SITF00013767 RED2, pp.6–7, 14, 27; SITF00016140-00016220 RED2, p.6; SITF00013852-00013869 RED2, p.7; 059351-TR-ET Part 2 RED2, pp.6, 10–11; 083219-TR-ET Part 3 RED2, pp.19–20; SITF00012854-00012864 RED, pp.4–5; 082892-TR-AT-ET Part 4 RED, p.16; SITF00013181-SITF00013189 RED, p.7; SITF00372467-00372497 RED2; 060664-TR-ET Part 3 RED2, p.26; 064716-TR-ET Part 5 RED2, pp.27, 30–31; 060664-TR-ET Part 5 RED2, pp.1–2.

¹⁶⁰ SITF00372467-00372497 RED2, pp.6–7; SITF00013736-SITF00013767 RED2, p.13.

¹⁶¹ 083219-TR-ET Part 5 RED2, p.2; 059730-TR-AT Part 3 RED, pp.20–21; SITF00013852-00013869 RED2, p.7.

¹⁶² 083219-TR-ET Part 3 RED2, pp.17, 22, 25; 059118-059144 RED, pp.1–2; 060664-TR-ET Part 3 RED2, pp.3–7; 060653-060663 RED2, p.1.

¹⁶³ SITF00012854-00012864 RED, pp.5, 25; 059730-TR-AT Part 3 RED, pp.25–26, 28–29. SITF00012854-00012878, pp.5, 25; 059730 Part 3 RED, pp.25–26, 28–29.

¹⁶⁴ 083219-TR-ET Part 3 RED2, pp.17–18; 059730-TR-ET Part 3 RED, p.23; SITF00012854-00012864 RED, p.25; SITF00013852-00013869 RED2, p.7; 060664-TR-ET Part 3 RED2, pp.24–25; 060664-TR-ET Part 4 RED2, pp.5, 8; 060653-060663 RED2, p.1.

¹⁶⁵ 083219-TR-ET Part 3 RED2, pp.18–19.

¹⁶⁶ 059730-TR-AT Part 3 RED, p.16; SITF00012854-00012864 RED, p.7; 059351-TR-ET Part 2 RED2, p.28; SITF00016140-00016220 RED2, p.7; SITF00013852-00013869 RED2, pp.7, 16.

¹⁶⁷ SITF00013736-SITF00013767 RED2, p.14; SITF00013852-00013869 RED2, p.7.

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poor hygienic condition and produced a stark smell.¹⁶⁸ Detainees were not allowed to wash.¹⁶⁹ They received drinking water, but insufficient amounts of food and no or inadequate medical care.¹⁷⁰

ii. Beatings and other forms of mistreatment

45. Detainees were regularly subjected to severe physical abuse by **Pjetër SHALA** and other KLA members, including Sabit GECI, Xhemshit KRASNIQI, 'Bedri,' and 'Van Damme'.¹⁷¹ The detainees were beaten and mistreated with iron bars, batons, guns, knives, and other sharp objects.¹⁷² **Pjetër SHALA** has admitted to having beaten TW4-01 and [REDACTED], stating that he would do it again if he had the chance.¹⁷³ The detainees were also ordered to hit one another and to perform humiliating acts.¹⁷⁴ These beatings caused them severe physical harm and caused some of them to lose consciousness.¹⁷⁵

¹⁶⁸ SITF00016140-00016220 RED2, pp.6–8; SITF00013852-00013869 RED2, pp.7, 16; SITF00013736-SITF00013767 RED2, p.15; 083524-TR-ET Part 7 RED, pp.14–15; 083219-TR-ET Part 3 RED2, p.22; 059118-059144 RED, p.1; 083524-TR-ET Part 7 RED, p.14.

¹⁶⁹ 059730-TR-ET Part 3 RED, p.22; SITF00013736-SITF00013767 RED2, p.15.

¹⁷⁰ SITF00016140-00016220 RED2, p.8; SITF00016221-00016285 RED2, p.19; SITF00013852-00013869 RED2, p.8; SITF00013736-SITF00013767 RED2, p.15; SITF00019279-SITF00019312 RED, p.16; SITF00012854-00012864 RED, p.7; 083219-TR-ET Part 7 RED2, pp.27, 30–31; 083219-TR-ET Part 3 RED2, pp.10, 13, 14–15; 059730-TR-ET Part 3 RED, pp.17, 21.

¹⁷¹ SITF00013736-SITF00013767 RED2, pp.8–10; SITF00013852-00013869 RED2, pp.6–7; 082892-TR-AT-ET Part 3 RED, p.27; 082892-TR-AT-ET Part 4 RED, pp.21–25; 059351-TR-ET Part 3 RED2, pp.10–11; 083219-TR-ET Part 5 RED2, pp.7–8, 12; SITF00019279-SITF00019312 RED, p.19; 060664-TR-AT Part 2 RED2, p.5; 060664-TR-ET Part 4 RED2, p.7.

¹⁷² 083219-TR-ET Part 3 RED2, pp.6, 8–9, 12; 083219-TR-ET Part 4 RED2, pp.9–11, 13–14, 21; 059351-TR-ET Part 2 RED2, p.19; 082892-TR-AT-ET Part 4 RED, pp.5–6, 21.

¹⁷³ 066888-TR-ET Part 1 RED, pp.149–159, 157; 074117-074129-ET RED, pp.5–9; *See* T000-2748-T000-2748-Albanian and English Transcript-1, pp.36–37, 41.

¹⁷⁴ 059351-TR-ET Part 2 RED2, pp.19–20; SITF00016221-00016285 RED2, p.17; SITF00013852-00013869 RED2, p.7.

¹⁷⁵ SITF00013852-00013869 RED2, pp.6–8; 083219-TR-ET Part 3 RED2, pp.16–17; 059351-TR-ET Part 2 RED2, p.19.

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46. In addition to physical abuse, which took place on a daily basis,¹⁷⁶ KLA members at the Kukës Metal Factory routinely inflicted severe psychological abuse on the detainees.¹⁷⁷ TW4-01 stated that during his detention he saw ‘death’ and that there was nothing that he did not experience.¹⁷⁸

Beating on or about [REDACTED] May 1999

47. On or around the night between [REDACTED] May 1999, **Pjetër SHALA**, Xhemshit KRASNIQI, and other KLA members severely beat W01448, W04733, [REDACTED] and another female named [REDACTED]. The beating took place in an office located in a two-storey building 40 to 50 meters away from the room where they were detained.¹⁷⁹

48. When [REDACTED] was brought into this office in the evening of [REDACTED] May 1999, W04733 was already there and was covered in blood from the beatings.¹⁸⁰ That night, **Pjetër SHALA** beat W04733 with a rubber baton and a baseball bat on his head, chest and back, breaking his ribs.¹⁸¹ W04733 stated that **Pjetër**

¹⁷⁶ SITF00013736-SITF00013767 RED2, pp.12, 18–19, 22, 24, 26; SITF00013852-00013869 RED2, p.7; 083219-TR-ET Part 4 RED2, pp.17–18; 059730-TR-ET Part 3 RED, pp.4, 25–26, 28–29; SITF00012854-00012864 RED, pp.5–6; 064716-TR-ET Part 5 RED2, pp.5, 15; 060664-TR-ET Part 4 RED2, pp.7, 10, 12.

¹⁷⁷ SITF00372467-00372497 RED2, pp.9, 12; 059351-TR-ET Part 3 RED2, pp.19–20; SITF00013852-00013869 RED2, p.7.

¹⁷⁸ 083219-TR-ET Part 4 RED2, p.8.

¹⁷⁹ 083219-TR-ET Part 2 RED2, pp.14–15, 19, 26, 28–30; 083219-TR-ET Part 3 RED2, pp.17, 22, 25; 059118-059144 RED, p.1, n.3; 059730-TR-ET Part 2 RED, p.22; 059730-TR-ET Part 3 RED, p.13; 082892-TR-AT-ET Part 4 RED, p.25; SITF00019824-00019876 RED, p.11; SITF00019685-00019792 RED, pp.3, 5–6; SITF00013736-SITF00013767 RED2, pp.8–12; SITF00016221-00016285 RED2, pp.11–12; SITF00013736-SITF00013767 RED2, pp.11–12.

¹⁸⁰ 083219-TR-ET Part 2 RED2, pp.27–28; 059730-TR-ET Part 2 RED, pp.22–23; 082892-TR-AT-ET Part 4 RED, pp.10, 26–27; 082892-TR-AT-ET Part 5 RED, p.11; SITF00013852-00013869 RED2, pp.5–6.

¹⁸¹ 082892-TR-AT-ET Part 5 RED, pp.9–12.

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SHALA beat him ‘like a horse’.¹⁸² The beating was so severe that it damaged his eyesight.¹⁸³

49. When [REDACTED] was brought into the room, [REDACTED].¹⁸⁴ At that point, **Pjetër SHALA** and Xhemshit KRASNIQI began beating the soles of W04733’s feet with police batons ‘as hard as they could’.¹⁸⁵ At the end of the beating, W04733 had to be dragged out of the room as he could not walk.¹⁸⁶

50. As W04733 was being removed from the room, **Pjetër SHALA** started beating [REDACTED], who was screaming that his bones had been broken.¹⁸⁷ The subsequent autopsy report of [REDACTED] would reveal the presence of ante-mortem fractures on the left and right humerus and on a number of ribs.¹⁸⁸

51. **Pjetër SHALA**, together with Xhemshit KRASNIQI and another KLA soldier, also beat [REDACTED], and W01448 during this night.¹⁸⁹

52. During this night of violence and abuses, **Pjetër SHALA**, Xhemshit KRASNIQI, and other KLA members beat their victims with fists, kicks, sticks, batons, screwdrivers, and knives. The beatings caused severe physical harm, extensive bleeding, and extreme pain to the victims.¹⁹⁰ During the beatings, and in the presence

¹⁸² 082892-TR-AT-ET Part 3 RED, pp.11–12.

¹⁸³ 082892-TR-AT-ET Part 5 RED, pp.5–6.

¹⁸⁴ 083219-TR-ET Part 2 RED2, pp.27–28; 059730-TR-ET Part 2 RED, pp.22–23; 082892-TR-AT-ET Part 4 RED, pp.10, 26–27; 082892-TR-AT-ET Part 5 RED, p.11; SITF00013852-00013869 RED2, pp.5–6..

¹⁸⁵ 082892-TR-AT-ET Part 5 RED, p.11.

¹⁸⁶ 082892-TR-AT-ET Part 2 RED, pp.31–32; SITF00013852-00013869 RED2, p.6.

¹⁸⁷ 082892-TR-AT-ET Part 5 RED, p.13.

¹⁸⁸ 031049-031095 RED, p.2.

¹⁸⁹ SITF00013736-SITF00013767 RED2, p.11; SITF00013852-00013869 RED2, p.6; 083219-TR-ET Part 3 RED2, pp.8–9; 059730-TR-ET Part 2 RED, pp.28–29, 31; SITF00013852-00013869 RED2, p.6.

¹⁹⁰ 082892-TR-AT-ET Part 4 RED, p.25; SITF00019824-00019876 RED, p.11; SITF00019685-00019792 RED, pp.3, 5–6; SITF00013736-SITF00013767 RED2, p.11; SITF00013736-SITF00013767 RED2, pp.8–12; SITF00016221-00016285 RED2, pp.11–12; SITF00013852-00013869 RED2, pp.5–6; 083219-TR-ET Part 2 RED2, pp.14–15, 19, 26, 28–30; 083219-TR-ET Part 3 RED2, pp.6–7, 9.

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of **Pjetër SHALA**, Xhemshit KRASNIQI poured salt on W04733 and [REDACTED]'s wounds, extinguished cigarettes on W04733's body, and broke W04733's left elbow.¹⁹¹ The beatings lasted until the next morning.¹⁹²

53. As they were abusing their victims, the perpetrators accused them of having had personal and professional relations with Serb individuals and institutions.¹⁹³ A man named 'Thaci' and W04848, who worked as a sort of 'KLA prosecutor', were also present during this incident.¹⁹⁴ After hours of beatings, the victims, with the exception of [REDACTED], were returned to the detention room in the nearby building.¹⁹⁵ As [REDACTED] was being led back to the detention room, a KLA soldier cut him on the neck with a knife.¹⁹⁶

Beatings after [REDACTED] May 1999

54. After this night, **Pjetër SHALA**, Xhemshit KRASNIQI, and other KLA soldiers and military policemen in black uniforms beat and humiliated [REDACTED], W01448, TW4-01, TW4-11, TW4-05, and other detainees every night, either in the detention room or in different locations.¹⁹⁷ These beatings caused severe physical harm.¹⁹⁸ **Pjetër**

¹⁹¹ SITF00013736-SITF00013767 RED2, p.8; SITF00013736-SITF00013767 RED2, pp.8, 12; SITF00019685-00019792 RED, pp.4-5; 083219-TR-ET Part 2 RED2, p.31; 083219-TR-ET Part 3 RED2, p.8; 059730-TR-ET Part 2 RED, p.26.

¹⁹² SITF00013736-SITF00013767 RED2, p.10.

¹⁹³ SITF00013736-SITF00013767 RED2, p.9.

¹⁹⁴ 083219-TR-ET Part 3 RED2, pp.4-5, 7-8; *See also* SITF00014088-00014120 RED, p.9.

¹⁹⁵ 083219-TR-ET Part 3 RED2, pp.16-17; 083219-TR-ET Part 4 RED2, p.1.

¹⁹⁶ 083219-TR-ET Part 3 RED2, pp.6, 12; 083219-TR-ET Part 4 RED2, p.9; 059730-TR-ET Part 2 RED, pp.26-27.

¹⁹⁷ SITF00013736-SITF00013767 RED2, pp.12, 18-19, 22-23, 24, 26; SITF00013852-00013869 RED2, p.7; 083219-TR-ET Part 4 RED2, pp.17-18; 059730-TR-ET Part 3 RED, pp.4, 25-29; SITF00012854-00012864 RED, pp.5-6; 064716-TR-ET Part 5 RED2, pp.10-11, 13-15; 060664-TR-ET Part 4 RED2, pp.7, 10, 12.

¹⁹⁸ 083219-TR-ET Part 3 RED2, p.8; 083219-TR-ET Part 4 RED2, p.18; SITF00012854-00012864 RED, p.6; SITF00013852-00013869 RED2, p.7.

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SHALA personally participated in the mistreatment of TW4-01 on ten to twelve separate occasions.¹⁹⁹

55. **Pjetër SHALA** and other KLA members also beat [REDACTED], the three Roma musicians, during their detention at the Kukës Metal Factory.²⁰⁰ W04733 stated that they were ‘beaten up like horses, as if they were animals.’²⁰¹ **Pjetër SHALA** also forced them to perform manual labour such as making them clean blocked toilets all night and requiring them to unload large trucks.²⁰²

56. During his detention at the Kukës Metal Factory, [REDACTED], too, suffered cruel treatment by KLA soldiers, including ²⁰³hard beatings.²⁰⁴ During more than one month of detention, TW4-11 was questioned about whether he had collaborated with the Serbs,²⁰⁵ accused of being a spy, and kicked or punched in the face.²⁰⁶

Mistreatment on [REDACTED] June 1999

57. On or about [REDACTED] June 1999, Xhemshit KRASNIQI and ‘Van Damme’ took [REDACTED] and [REDACTED] out of the detention room and to another room in the same building.²⁰⁷ Once there, they beat them with police batons,²⁰⁸ accusing them of the killing of [REDACTED].²⁰⁹ At some point, Xhemshit KRASNIQI ordered

¹⁹⁹ 083219-TR-ET Part 4 RED2, p.14; 082892-TR-AT-ET Part 5 RED, pp.9–11.

²⁰⁰ 082892-TR-AT-ET Part 9 RED, pp.5–7; 083219-TR-ET Part 2 RED2, pp.5–6; 059730-TR-ET Part 3 RED, p.19; 059351-TR-ET Part 2 RED2, pp.19–20.

²⁰¹ 082892-TR-AT-ET Part 4 RED, p.5.

²⁰² 082892-TR-AT-ET Part 9 RED, pp.5–7.

²⁰³ SITF00013852-00013869 RED2, p.7; 060664-TR-ET Part 4 RED2, p.7.

²⁰⁴ SITF00013852-00013869 RED2, p.7; 060664-TR-ET Part 4 RED2, p.7. SITF00013852-00013869 RED2, p.7; 060664-TR-ET Part 4 RED2, p.7. SITF00013852-00013885 RED, p.7; 060664-TR-ET, Part 4, p.7.

²⁰⁵ 059351-TR-ET Part 2 RED2, pp.6, 20.

²⁰⁶ SITF00374093-00374104 RED2, p.3.

²⁰⁷ 083219-TR-ET Part 7 RED2, p.5; 059118-059144 RED, pp.1, 2..

²⁰⁸ 083219-TR-ET Part 7 RED2, p.8.

²⁰⁹ 083219-TR-ET Part 7 RED2, p.12..

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[REDACTED].²¹⁰ [REDACTED], [REDACTED] had trouble breathing and his ribs were in pain.²¹¹ Two soldiers then dragged [REDACTED] back to the nearby detention room.²¹² After a few minutes, [REDACTED]. [REDACTED].²¹³ [REDACTED], however, had not been killed at that time and was brought back to the detention room the following morning.²¹⁴

The killing of [REDACTED] on [REDACTED] June 1999

58. A few hours after [REDACTED] was brought back to the detention room, Xhemshit KRASNIQI entered the detention room and told [REDACTED].²¹⁵

59. The evening of that day, a group of people including **Pjetër SHALA**, Sabit GECI, Xhemshit KRASNIQI, 'Van Damme,' 'Bedri,' and other KLA members went back to the detention room and took [REDACTED].²¹⁶ There, the group savagely beat [REDACTED], including with metal bars, a baseball bat, and rifle butts.²¹⁷ As they were beating [REDACTED], they were they were urging them to admit to having killed [REDACTED].²¹⁸

60. As the beatings continued throughout the night, [REDACTED].²¹⁹ During this same night, TW4-04, [REDACTED], heard the gunfire and was afraid bullets would penetrate the walls of his room.²²⁰

²¹⁰ 083219-TR-ET Part 7 RED2, pp.5–14; 083219-TR-ET Part 9 RED2, pp.3–4; SITF00012854-00012864 RED, p.6.

²¹¹ 083219-TR-ET Part 7 RED2, pp.5–14; SITF00012854-00012864 RED, p.6.

²¹² 083219-TR-ET Part 7 RED2, p.12.

²¹³ 083219-TR-ET Part 7 RED2, p.13.

²¹⁴ 083219-TR-ET Part 7 RED2, pp.13–14..

²¹⁵ 083219-TR-ET Part 7 RED2, pp.19–20; 083219-TR-ET Part 9 RED2, p.5.

²¹⁶ 083219-TR-ET Part 7 RED2, pp.21–22; 083219-TR-ET Part 12 RED2, pp.2–3, 5.

²¹⁷ 083219-TR-ET Part 7 RED2, pp.20–23, 26, 32; 083219-TR-ET Part 12 RED2, p.3.

²¹⁸ 083219-TR-ET Part 7 RED2, p.24; 083219-TR-ET Part 12 RED2, p.6.

²¹⁹ 059730-TR-ET Part 4 RED, p.4; SITF00013736-SITF00013767 RED2, p.19; 083219-TR-ET Part 7 RED2, pp.23–26, 28–29; 083219-TR-ET Part 12 RED2, p.4; SITF00013736-SITF00013767 RED2, p.20.

²²⁰ 064716-TR-ET Part 5 RED2, p.15. 064716-TR-ET Part 5 RED2, p.15.

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61. In spite of the wounds caused by the close-range shots, **Pjetër SHALA** and other KLA soldiers continued to severely beat and mistreat [REDACTED].²²¹ [REDACTED].²²² [REDACTED].²²³ **Pjetër SHALA**, who was present throughout this incident, was laughing at the victims with other KLA members.²²⁴ [REDACTED] were refused adequate medical attention, [REDACTED].²²⁵ KLA members on the scene had in fact refused to take [REDACTED] to a hospital, with one stating that they had not hurt him like that to then allow him to survive.²²⁶

62. After [REDACTED] died, his body was taken away wrapped in a Red Cross blanket.²²⁷ After his death [REDACTED].²²⁸ [REDACTED].²²⁹ Another KLA member pointed at the detainees, including TW4-01 and W01448, and told them that he would be dealing with them next.²³⁰

63. The beatings of the detainees lasted until [REDACTED] June 1999, [REDACTED]. [REDACTED] a new person, Osman HOXHA, was put in charge of the persons who continued to be arrested and held at the site.²³¹

²²¹ 083219-TR-ET Part 7 RED2, pp.23, 26–27.

²²² 083219-TR-ET Part 7 RED2, p.27.

²²³ 083219-TR-ET Part 7 RED2, p.27; 083219-TR-ET Part 12 RED2, pp.8–9.

²²⁴ 083219-TR-ET Part 12 RED2, p.6.

²²⁵ 083219-TR-ET Part 7 RED2, pp.28–31; 083219-TR-ET Part 9 RED2, pp.18–19; SITF00013736-SITF00013767 RED2, pp.19–21; 064716-TR-ET Part 5 RED2, p.15; SITF00013736-SITF00013767 RED2, p.20.

²²⁶ 083219-TR-ET Part 7 RED2, p.28.

²²⁷ 083219-TR-ET Part 7 RED2, p.30; SITF00013736-SITF00013767 RED2, p.21. .

²²⁸ SITF00012854-00012864 RED, para.26.

²²⁹ 083219-TR-ET Part 7 RED2, p.31.

²³⁰ SITF00013852-00013869 RED2, p.8; SITF00013736-SITF00013767 RED2, p.19.

²³¹ SITF00013852-00013869 RED2, p.9; 083219-TR-ET Part 8 RED2, pp.5–6; 060664-TR-ET Part 4 RED2, p.6.

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64. After his release, and after undergoing treatment for his injuries in [REDACTED],²³² TW4-01 travelled to Kukës and found [REDACTED].²³³ [REDACTED].²³⁴

65. On [REDACTED], EULEX's Office on Missing Persons and Forensics exhumed [REDACTED]'s remains and, on [REDACTED], [REDACTED] conducted an autopsy confirming that the exhumed remains showed two or three gunshot wounds [REDACTED].²³⁵

D. Torture (Count 3)

66. Between approximately 17 May 1999 and 5 June 1999, **Pjetër SHALA**, Xhemshit KRASNIQI, Sabit GEÇI, Van Damme, Bedri, and other KLA soldiers, policemen, and guards subjected the detainees at the Kukës Metal Factory to torture. They did so by creating and maintaining inhumane detention conditions, through beatings, and through other forms of mistreatment, thereby inflicting on them severe physical and psychological harm. The mistreatment was aimed at obtaining information or confessions, punishing, coercing, or intimidating the victims, and/or discriminating against the victims, including on political grounds.²³⁶

67. Evidence of infliction of severe physical and psychological harm to the detainees of the Kukës Metal Factory is set forth above under Counts 2 and 4.²³⁷ The evidence also shows that, in the course of their mistreatment, KLA soldiers attempted

²³² 083219-TR-ET Part 3 RED2, p.8; SITF00012854-00012864 RED, p.7.

²³³ SITF00012854-00012864 RED, p.7.

²³⁴ SITF00012854-00012864 RED, p.7.

²³⁵ 031049-031095 RED, pp.3, 44–45; 103427-103428a, pp.2–3.

²³⁶ Corrected Indictment, para.26.

²³⁷ See *supra* Section V(C).

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to extract confessions and other information from the victims.²³⁸ The beatings were also a form of punishment for the victims who were accused of being spies,²³⁹ or friends or collaborators of Serbs.²⁴⁰

68. For instance, as **Pjetër SHALA** was beating W04733 with a baton and a baseball bat in the night of [REDACTED] May 1999, he accused him of being a spy.²⁴¹ Similarly, during the same night, when Sabit GECI [REDACTED], GECI accused W04733 of being a Serbian police officer.²⁴² During this beating, W04733 was repeatedly asked why he had worked for the Serb police in the past.²⁴³ As Xhemshit KRASNIQI was beating [REDACTED] and another woman that night, he accused them of having had relationships with Serb men.²⁴⁴

69. As **Pjetër SHALA**, Xhemshit KRASNIQI, Van Damme and other KLA members were beating [REDACTED], they were trying to make them confess to the murder of [REDACTED]. They levied the same accusations when they [REDACTED].²⁴⁵ On another occasion, they told TW4-01 that his mother had relationships with Serbs, and that he himself had links with the Serbs.²⁴⁶ **Pjetër SHALA** admits that he viewed TW4-01 and [REDACTED] as collaborators because they had

²³⁸ 083219-TR-ET Part 4 RED2, p.9; 083219-TR-ET Part 7 RED2, p.19; SITF00012854-00012864 RED, p.5; 059351-TR-ET Part 2 RED2, pp.4–6, 20; 082892-TR-AT-ET Part 4 RED, pp.16–17, 26–27..

²³⁹ 083219-TR-ET Part 7 RED2, p.12; 059351-TR-ET Part 2 RED2, pp.20–22; SITF00374093-00374104 RED2, p.3.

²⁴⁰ 066888-TR-ET Part 1, pp.147, 149, 153, 163; 083219-TR-ET Part 2 RED2, pp.28, 31; SITF00012854-00012864 RED, pp.5–6; 059351-TR-ET Part 2 RED2, pp.6, 20; 082892-TR-AT-ET Part 4 RED, p.18; SITF00013852-00013869 RED2, p.10; See also 060664-TR-ET Part 4 RED2, pp.20–21; SITF00013736-SITF00013767 RED2, p.9.;

²⁴¹ 082892-TR-AT-ET Part 5 RED, p.10.

²⁴² 083219-TR-ET Part 2 RED2, pp.26–28; SITF00012854-00012864 RED, p.5.

²⁴³ SITF00013852-00013869 RED2, p.6; SITF00013736-SITF00013767 RED2, p.9.

²⁴⁴ SITF00013736-SITF00013767 RED2, pp.11–12.

²⁴⁵ 083219-TR-ET Part 7 RED2, pp.12, 24.

²⁴⁶ SITF00013852-00013869 RED2, p.6.

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killed or were accused of having killed [REDACTED].²⁴⁷ After the beatings, a KLA member named 'Thaci' took TW4-01 and the other victims, individually, for interrogation.²⁴⁸

70. During his detention, TW4-11 was questioned about whether he had collaborated with the Serbs. The night that he was punched and kicked in the face, he was accused of being a Serb spy.²⁴⁹ TW4-05, too, was subjected to harsh questioning about who his Serb friends were, and was asked to say that he had a gun and that he had cooperated with the Serbs [REDACTED].²⁵⁰

VI. Pjetër SHALA's Individual Criminal Responsibility

A. Joint Criminal Enterprise ('JCE')

71. **Pjetër SHALA**, together with Sabit GECI aka 'Qopa', Xhemshit KRASNIQI, KLA soldiers nicknamed 'Bedri' and 'Van Damme' and other KLA soldiers, police, and guards at the Kukës Metal Factory were members of a joint criminal enterprise ('JCE') who shared, from at least 17 May 1999 to 5 June 1999, the common purpose to arbitrarily detain, interrogate, and mistreat individuals at the Kukës Metal Factory. This common purpose encompassed the crimes of arbitrary detention, cruel treatment, torture, and murder.²⁵¹ The JCE charged in the Indictment continued at least until the death of [REDACTED] on or about [REDACTED] June 1999.

72. As described in Section V above, each of the JCE members significantly contributed to furthering the common purpose by enforcing the arbitrary detention of

²⁴⁷ 066888-TR-ET Part 1, p.149.

²⁴⁸ 083219-TR-ET Part 3 RED2, p.4; 083219-TR-ET Part 5 RED2, p.8.

²⁴⁹ 059351-TR-ET Part 2 RED2, pp.19-22; SITF00374093-00374104 RED2, p.3.

²⁵⁰ SITF00372467-00372497 RED2, p.9.

²⁵¹ Indictment, paras 9-10.

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the detainees and participating in the savage beatings, including resulting in the death of [REDACTED]. The direct and escalating nature of the conduct, and continued participation of the JCE members – including **Pjetër SHALA** - in it, is evidence of their intent to commit the crimes.

73. In particular, as described above, and notwithstanding his knowledge of the rules governing the treatment of civilians during warfare,²⁵² **Pjetër SHALA** personally participated in the arrest of W04733 and in the continued detention of the other detainees;²⁵³ he personally, severely, and repeatedly beat several detainees with batons and other objects over the course of their detention, causing them severe physical and psychological harm;²⁵⁴ and continued to assault [REDACTED] after their point-blank shooting by [REDACTED].²⁵⁵

74. Indeed, **Pjetër SHALA** admits to beating TW4-01 and [REDACTED], saying that he ‘would do it [again] without hesitation’ as ‘even today I think that they collaborated with the enemy.’²⁵⁶ For example, when **Pjetër SHALA** met TW4-01 and [REDACTED] in the presence of Sabit GECI, GECI told him that they ‘had come from the side of the Serbian police,’²⁵⁷ after which **Pjetër SHALA** admits ‘explod[ing]’ and beating them with a piece of wood.’²⁵⁸ Significantly, **Pjetër SHALA** commented, with reference to suspected collaborators, that ‘it’s everyone’s dream to catch someone.’²⁵⁹

²⁵² 066864-TR-ET Part 2 RED, pp.83–84, 88; T000-2742-T000-2742-Alb and Eng Transcript-3 - B, pp.16–17; 074117-074129-ET RED, p.4. 066864-TR-ET Part 2 RED, pp.83-84, 88; T000-2742-T000-2742-Alb and Eng Transcript-3 – B, pp.16-17; 074117-074129-ET RED, p.6.

²⁵³ See *supra* Section V(B).

²⁵⁴ See *supra* Section V(C).

²⁵⁵ 083219-TR-ET Part 12 RED2, p.6 See also *supra* Section V(C).

²⁵⁶ 066888-TR-ET Part 1, pp.151, 165.

²⁵⁷ 066888-TR-ET Part 1, p.44.

²⁵⁸ 066888-TR-ET Part 1, p.50..

²⁵⁹ 066888-TR-ET Part 1, p.31.

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75. In addition, **Pjetër SHALA** failed to take any steps to ensure humane detention conditions or to limit the cruel treatment of the victims at the Kukës Metal Factory. This was despite the fact that **Pjetër SHALA** had full knowledge of the beatings and other forms of mistreatment committed at the Kukës Metal Factory. **Pjetër SHALA**'s inaction in this respect is particularly significant in light of his close proximity with, and access to, senior commanders at the Kukës Metal Factory. As noted above, at the times relevant to the charges, **Pjetër SHALA** was within the inner circle of the high-ranking KLA members at the Kukës Metal Factory, namely Sabit GECI and Xhemshit KRASNIQI.²⁶⁰ Nevertheless, **Pjetër SHALA** took no action to stop the arbitrary detention and cruel treatment of the detainees, thereby aiding and encouraging their continued mistreatment. On the contrary, he repeatedly engaged in acts of violence together with the other JCE members.

76. **Pjetër SHALA** and the other JCE members also intended the murder of [REDACTED], or were aware of the substantial likelihood that their actions would lead to his death. [REDACTED] was repeatedly and severely beaten, including with potentially lethal weapons such as baseball bats, police batons, metal bars, and sharp objects. During prior assaults, including in which **Pjetër SHALA** willingly participated, firearms were displayed and/or used.²⁶¹ The degree of violence used was such that **Pjetër SHALA** should reasonably have known that it might lead to death. For example, detainees – including [REDACTED] - were rendered unconscious by the severity of the mistreatment.²⁶² After [REDACTED] were shot on or about [REDACTED] June 1999, **Pjetër SHALA** and other KLA soldiers continued to mistreat

²⁶⁰ 083219-TR-ET Part 2 RED2, pp.33–34.

²⁶¹ See *supra* Section V.

²⁶² 083219-TR-ET Part 3 RED2, p.17; 083219-TR-ET Part 4 RED2, p.12.

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them while they were bleeding out in their cell.²⁶³ In addition to their actions, JCE members also expressly stated their intent. For example, [REDACTED].²⁶⁴ Even after [REDACTED]'s death, KLA members continued to threaten detainees with one telling W01448, TW4-01, and other detainees 'I'll deal with you tonight'.²⁶⁵ Further, despite having been informed by a doctor that [REDACTED] would die without medical assistance, KLA members on the scene refused to take him to a hospital, stating that they had not hurt him like that to then allow him to survive.²⁶⁶

77. In the alternative, for the reasons stated above, it was at least foreseeable to **Pjetër SHALA** that [REDACTED] might die as a result of his mistreatment.

B. Physical commission

78. As discussed above in Section V, **Pjetër SHALA** personally participated in the crimes at the Kukës Metal Factory, where he arbitrarily detained people and personally mistreated and beat those detained.

C. Aiding and Abetting

79. Through his conduct as described above, as well as his proximity to senior commanders of the Kukës Metal Factory, **Pjetër SHALA** provided assistance, encouragement, and/or moral support to the members of the KLA and other individuals perpetrating the crimes in the Kukës Metal Factory, which had a substantial effect on their commission. By virtue of his presence in the Kukës Metal Factory, including when detainees were being beaten, Pjetër SHALA was aware of the consequences of his conduct on the commission of the crimes.

²⁶³ 083219-TR-ET Part 7 RED2, pp.26–27.

²⁶⁴ 083219-TR-ET Part 7 RED2, pp.19–20; 083219-TR-ET Part 9 RED2, p.5.

²⁶⁵ SITF00013852-00013869 RED2, p.8; SITF00013736-SITF00013767 RED2, p.19.

²⁶⁶ 083219-TR-ET Part 7 RED2, p.28. 083219-TR-ET Part 7 RED2, p.28.

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VII. Conclusion

80. The evidence summarised in this pre-trial brief, which the SPO will present in the upcoming trial of **Pjetër SHALA**, will prove beyond reasonable doubt Pjetër SHALA's responsibility for the crimes alleged in Counts 1 to 4 of the Indictment.

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At The Hague, the Netherlands.