

**DISTRICT PUBLIC PROSECUTOR'S OFFICE**  
**Hep. No. 65/2002**  
**February 4 ,2003**  
**PRISTINA**

**TO THE DISTRICT COURT of PRISTINA**

Based on the Article 45 Para 2, item 3 and the Article 261 Para 1 LCP as made applicable by UNMIK Regulation 1999/24 I hereby present this

**AMENDED INDICTMENT**

**AGAINST:**

**Latif GASHI**, aka Commander 'Lata,' ethnicity Kosovar Albanian, father's name Riza, mother's name Raba, born on 12.09.61, place of birth Doberdol, living in the Pristina city center off of Mother Theresa Avenue, grid coordinates EN 1328 2333;

**Nazif MEHMETI**, aka 'Dini,' ethnicity Kosovar Albanian, born on 20.09.61, father's name Haradin, mother's name unknown, place of birth Shajkofc, residing in the village of Shajkofc, employed as KPS officer in Pristina, Station 3;

**Naim KADRIU**, aka 'Lumi,' born on 05/03/73, place of birth unknown, ethnicity Kosovar Albanian, living in the city of Podujevo at grid coordinates EN 1630 5062, employed by Kosovo Petrol, HEP 65/20002, in the District Court of Pristina,

**Rrustem MUSTAFA**, aka 'Remi', ethnicity Kosovar Albanian, born on 27 February 1971, place of birth Perpellac, father's name Musli, mother's name Nefise, residing in the city of Podujevo, Fiteria Street, at grid coordinates EN 1601/5245.

Latif GASHI, Nazif MEHMETI and Naim KADRIU held in pre-trial detention since 28 January 2002 and Rrustem MUSTAFA held in pre-trial detention since 11 August 2002.

**BECAUSE**

**A. GENERAL LEGAL ALLEGATIONS**

1. The International Prosecutor files this Indictment against Latif GASHI, Nazif MEHMETI, Naim KADRIU and Rrustem MUSTAFA ("co-accused") who are charged

with committing war crimes pursuant to Article 142 of the Criminal Code of Yugoslavia (CCY), as read with Articles 24, 30, 22 and 26 of the CCY, committing, ordering, aiding, committing by omission, acting in complicity with others, and participating in a joint criminal design, for the purpose of committing war crimes. It is alleged that the co-accused are responsible both personally, and through their command authority, for the illegal abduction, unlawful detention, beating, torture and, in some cases, murder of Kosovar Albanians civilians.

2 At all times relevant to this Indictment, a state of internal armed conflict existed between the "UCK" or Kosovo Liberation Army and the Federal Republic of Serbia and the Federal Republic of Yugoslavia, including the Yugoslav Army (VJ), the forces of the Federal Republic of Yugoslavia (FRY) Ministry of the Interior, forces of the Republic of Serbia Ministry of the Interior and Serbian paramilitary soldiers in the territory of Kosovo (see Minutes of Investigative Hearing-Latif Gashi-January 28/02—internal conflict as of May 15 or 16, 1998)

. Both armed forces were under responsible command, exercising control over part of the territory of Kosovo, to enable them to carry out sustained and concerted military operations. An international armed conflict co-existed alongside the internal armed conflict during the period 24 March 1999 to 12 June 1999.<sup>1</sup>

3. Conduct set forth in Article 142 of the CCY, and as listed in this Indictment, constitutes war crimes, as each of the key identified acts constitute a violation of applicable international law, including Common Article 3 to the four Geneva Conventions of 1949, customary international law, as applicable in internal and international armed conflict; the Hague Conventions of 1899 and 1907, the four Geneva Conventions of 1949, and Protocol 1 of 1977 to the Geneva Conventions of 1949, as applicable in international armed conflict; and Additional Protocol II of 1977 to the Geneva Conventions of 1949, as applicable in internal armed conflict.

4. Article 142 of the CCY is the law applicable to Kosovo in accordance with UNMIK Regulation 1999/24, which states that the law applicable to Kosovo is that law which was in force in Kosovo on 22 March 1989. In conformity with the requirements of the Socialist Federal Republic of Yugoslavia Constitution 1974, Article 181, part of the applicable law in Kosovo, (that criminal offences and criminal sanctions can only be based on a legal provision that defines the offence and threatens a punishment), Article 142 of the CCY defines the offences of war crimes against the civilian population and threatens a punishment thereto.

5. All victims of war crimes referred to in the charges of this Indictment are expressly protected members of the civilian population, as prescribed in Article 142 of the CCY, and pursuant to the above-mentioned international law.

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<sup>1</sup> The armed conflict between NATO states and FRY constituted an international armed conflict. It started on 24 March 1999 at the beginning of NATO's air campaign, and lasted at least until 12 June 1999, when FRY forces withdrew from Kosovo at the end of NATO's air campaign. See *Tadic*, Appeals Chamber Decision on Jurisdiction 1995, par 84 which states: "It is indisputable that an armed conflict is international if it takes place between two or more States. In addition, in the case of internal armed conflict breaking out on the territory of a State, it may become international (or, depending upon the circumstances, be international in character alongside an internal armed conflict) if i) another State intervenes in that conflict through its troops, or alternatively if ii) some of the participants in the internal armed conflict act on behalf of that other State".

6. There is a nexus between the war crimes committed, as charged in this Indictment and the internal and international armed conflicts. The existence of the armed conflicts played a substantial part in the ability of the co-accused to carry out the offenses and the actions of the co-accused were directly linked to the armed conflict.

7. The acts of the co-accused took place during a period when an internal armed conflict existed within Kosovo and, with respect to those acts which occurred during the period of 24 March 1999 to 12 June 1999, they took place whilst an international armed conflict existed within Kosovo. These two categories of conflict simultaneously existed within Kosovo during the period 24 March 1999 to 12 June 1999.

8. The co-accused, as perpetrators of war crimes, acted on behalf of and were closely linked to the armed forces of the UCK or KLA rendering them parties to the conflict. The KLA declared itself a legal army on 15 or 16 May 1998.

## **B. FACTUAL BACKGROUND**

9. From August of 1998 until mid June of 1999, various detention centers were used by the UCK command of the Llap Zone to hold civilian detainees. A detention center existed in Bajgora from at least August of 1998 until September or October of 1998, a detention center existed in Llapashtica from at least November of 1998 until late March of 1999, a detention center existed in Majac from March of 1999 until mid April of 1999, a detention center existed in Potok from March of 1999 until mid or late April of 1999 and a detention center existed in Kolec from May of 1999 until mid June of 1999.

10. From August of 1998 until mid June of 1999 the co-accused, in concert with other unidentified guards and soldiers of the KLA and pursuant to a joint criminal enterprise, unlawfully detained civilians in the detention centers identified above. The co-accused, in concert with other unidentified guards and soldiers of the KLA and pursuant to a joint criminal enterprise, unlawfully arrested civilians and transported them to the detention centers, or sent requests to individual civilians that they attend one of the KLA HQ's, or one of above identified detention centers, for the purpose of "informative talks". Those civilians that responded to such a request were unlawfully detained thereto. The purpose of the co-accused in establishing the detention centers was to detain Kosovo Albanian civilians suspected of collaborating with the Serbs and to force those detained to confess to disloyalty to the KLA and to punish those detained for that alleged disloyalty to the KLA.

11. The civilians detained at the detention centers were housed in inhumane conditions, denied adequate sanitation, food, water and medical treatment. They were subject to routine beatings and tortures, forced to beat each other, forced to make false confessions and threatened with death.

12. At all times material to this Indictment the accused Latif GASHI was the Commander of the Intelligence Service in the Llap Zone. Through his role as Commander of the Intelligence Services, Latif GASHI, acting in concert with his co-accused and pursuant to a joint criminal enterprise, ordered the detention of civilian detainees and exercised the power to release civilian detainees. Latif GASHI was responsible personally and as a superior for the unlawful detention of the civilian detainees and the establishment and perpetuation of the inhumane conditions in which the civilians were held. Latif

GASHI, in concert with his co-accused and other unidentified persons, participated in the interrogation and torture of the civilian detainees and in the murder of a number of the civilian detainees.

13. From approximately October of 1998 until May of 1999, the accused Nazif MEHMETI was the Commander of the Military Police in the Llap Zone. Through his role as Commander of the Military Police in the Llap Zone Nazif MEHMETI, acting in concert with his co-accused and pursuant to a joint criminal enterprise, ordered the detention of civilian detainees and exercised the power to release civilian detainees. Nazif MEHMETI was responsible personally and as a superior for the unlawful detention of the civilian detainees and the establishment and perpetuation of the inhumane conditions in which the civilians were held. Nazif MEHMETI, in concert with his co-accused and other unidentified persons, participated in the interrogation and torture of the civilian detainees and in the murder of a number of the civilian detainees.

14. From approximately May of 1999 until mid June of 1999, the accused Naim KADRIU was a member of the UCK Military Police in the Llap Zone. Through his role as a member of the Military Police, he was responsible personally for the unlawful detention of two civilian detainees, Witness "Q" and Witness "R", and the establishment and perpetuation of the inhumane conditions in which these civilians were held. Naim KADRIU, in concert with his co-accused and other unidentified persons, participated in the interrogation and torture of these civilian detainees.

15. At all times material to this Indictment, the accused Rustem MUSTAFA was the Commander of the Llap Zone. Through his role as Commander of the Llap Zone, Rustem MUSTAFA, acting in concert with his co-accused and pursuant to a joint criminal enterprise, ordered the detention of civilian detainees and exercised the power to release civilian detainees. Rustem MUSTAFA was responsible personally and as a superior for the unlawful detention of the civilian detainees and the establishment and perpetuation of the inhumane conditions in which the civilians were held. Rustem MUSTAFA, in concert with his co-accused and other unidentified persons, participated in the interrogation and torture of the civilian detainees and in the murder of a number of the civilian detainees.

### **C. STATEMENT OF OFFENCES**

16. In the Statement of Offences, which follows, each Count of War Crime is preceded by a recitation of one or more specific crimes which could be encompassed within it and which would constitute specific offences under the Criminal Law of Kosovo (KCC) as read with the Criminal Code of Yugoslavia.

#### **COUNT 1**

From August of 1998 until late September of 1998, Latif GASHI and Rustem MUSTAFA, acting in concert with other unidentified individuals, and pursuant to a joint criminal enterprise to unlawfully detain Kosovo Albanian civilians ordered and participated in the illegal arrest and detention of Kosovo Albanian civilians and held those civilians in detention center located at Bajgora. Among those civilians arrested and illegally detained were:

Victim "1" illegally arrested on 28 August 1998 and illegally detained at Bajgora detention facility from 28 August 1998 until his murder in August or September of 1998;

Sabit BERISHA illegally arrested in August of 1998 and illegally detained at Bajgora detention facility from August of 1998 until his release in September of 1998;

By ordering and participating in the illegal arrest and detention of Kosovo Albanian civilians, Latif GASHI and Rustem MUSTAFA incurred personal and superior responsibility for the war crimes of illegal arrests and detention pursuant to Article 142 of the CCY as read with Articles 22,24, 26 and 30 of the CCY.

## **COUNT 2**

From October of 1998 until late April of 1999, Latif GASHI, Nazif MEHMETI and Rustem MUSTAFA, acting in concert with other unidentified individuals, and pursuant to a joint criminal enterprise to unlawful detain Kosovo Albanian civilians ordered and participated in the illegal arrest and detention of Kosovo Albanian civilians and held those civilians in detention centers located at Llapashtica, Majac and Potok. Among those civilians arrested and illegally detained were:

Anonymous Witness "7" illegally arrested in November of 1998 and illegally detained at Llapashtica detention facility from November of 1998 until his release in late December of 1998;

Anonymous Witness "4" illegally arrested in November of 1998 and illegally detained at Llapashtica detention facility from November of 1998 until his release in late March of 1999;

Drita BUNJAKU illegally arrested in January of 1999 and illegally detained at Llapashtica detention facility and Majac detention facility from January of 1999 until her murder in April of 1999;

Witness "H" illegally arrested in January of 1999 and illegally detained at Llapashtica detention facility until his release in January of 1999;

Agim MUSLIU illegally arrested in November of 1998 and illegally detained at Llapashtica detention facility from November of 1998 until his conditional release in January of 1999;

Agim MUSLIU illegally arrested in February of 1999 and illegally detained at Llapashtica detention facility and Majac detention facility from February of 1999 until his murder in April of 1999;

Idriz SVARQA illegally arrested in November of 1998 and illegally detained at Llapashtica detention facility and Majac detention facility from November of 1998 until his murder in April of 1999;

Alush KASTRATI illegally arrested in February of 1999 and illegally detained at Llapashtica detention facility and Potok detention facility from February of 1999 until his murder in April of 1999;

Hetem JASHARI illegally arrested in January of 1999 and illegally detained at Llapashtica detention facility and Potok detention facility from January of 1999 until his murder in April of 1999;

Witness "V" illegally arrested in January of 1999 and illegally detained at Llapashtica detention facility until his release in January of 1999;

By ordering and participating in the illegal arrest and detention of Kosovo Albanian civilians, Latif GASHI, Nazif MEHMETI and Rustem MUSTAFA incurred personal and superior responsibility for the war crimes of illegal arrests and detention pursuant to Article 142 of the CCY as read with Articles 22,24, 26 and 30 of the CCY.

### **COUNT 3**

From May of 1999 until mid June of 1999, Latif GASHI, Naim KADRIU and Rustem MUSTAFA, acting in concert with other unidentified individuals, and pursuant to a joint criminal enterprise to unlawful detain Kosovo Albanian civilians ordered and participated in the illegal arrest and detention of Kosovo Albanian civilians and held those civilians in detention center located at Kolec. Among those civilians arrested and illegally detained were:

Witness "Q" illegally arrested in early June of 1999 and illegally detained at Kolec detention facility until his release in early June of 1999;

Witness "R" illegally arrested in early June of 1999 and illegally detained at Kolec detention facility until his release in early June of 1999.

By ordering and participating in the illegal arrest and detention of Kosovo Albanian civilians, Latif GASHI, Naim KADRIU and Rustem MUSTAFA incurred personal and superior responsibility for the war crimes of illegal arrests and detention pursuant to Article 142 of the CCY as read with Articles 22,24, 26 and 30 of the CCY.

### **COUNT 4**

From August of 1998 until late September of 1998, Latif GASHI and Rustem MUSTAFA, acting in concert with other unidentified individuals and pursuant to a joint criminal enterprise, ordered and participated in the establishment and perpetuation of the inhumane treatment of the Kosovo Albanian civilians illegally detained in the detention center located at Bajgora by housing those civilian detainees in inhumane conditions, depriving them of adequate sanitation, food and water, and needed medical treatment. The inhumane treatment of the civilian detainees caused immense suffering or was a violation of the bodily integrity and health of those detainees and constituted an application of measures of intimidation and terror. Among those civilians subject to inhumane treatment were:

Victim "1" detained in inhumane conditions at Bajgora detention facility from 28 August 1998 until his murder in August or September of 1998;

Sabit BERISHA detained in inhumane conditions at Bajgora detention facility from August of 1998 until his release in September of 1998;

By ordering and participating in the establishment and perpetuation of the inhumane treatment of the Kosovo Albanian civilians, Latif GASHI and Rrustem MUSTAFA incurred personal and superior responsibility for the war crimes of inhumane treatment and immense suffering or violation of the bodily health of the civilian detainees and constituted an application of measures of intimidation and terror contrary to Article 142 of the CCY as read with Articles 22, 24, 26 and 30 of the CCY.

### **COUNT 5**

From October of 1998 until late April of 1999, Latif GASHI, Nazif MEHMETI and Rrustem MUSTAFA, acting in concert with other unidentified individuals and pursuant to a joint criminal enterprise, ordered and participated in the establishment and perpetuation of the inhumane treatment of the Kosovo Albanian civilians illegally detained in the detention centers located at Llapashtica, Majac and Potok by housing those civilian detainees in inhumane conditions, depriving them of adequate sanitation, food and water, and needed medical treatment. The inhumane treatment of the civilian detainees caused immense suffering or was a violation of the bodily integrity and health of those detainees and constituted an application of measures of intimidation and terror. Among those civilians subject to inhumane treatment were:

Anonymous Witness "7" detained in inhumane conditions at Llapashtica detention facility from November of 1998 until his release in late December of 1998;

Anonymous Witness "4" detained in inhumane conditions at Llapashtica detention facility from November of 1998 until his release in late March of 1999;

Drita BUNJAKU detained in inhumane conditions at Llapashtica detention facility and Majac detention facility from January of 1999 until her murder in April of 1999;

Witness "H" detained in inhumane conditions at Llapashtica detention facility during January of 1999;

Agim MUSLIU detained in inhumane conditions at Llapashtica detention facility from November of 1998 until his conditional release in January of 1999;

Agim MUSLIU detained in inhumane conditions at Llapashtica detention facility and Majac detention facility from February of 1999 until his murder in April of 1999;

Idriz SVARQA detained in inhumane conditions at Llapashtica detention facility and Majac detention facility from November of 1998 until his murder in April of 1999;

Alush KASTRATI detained in inhumane conditions at Llapashtica detention facility and Potok detention facility from February of 1999 until his murder in April of 1999;

Hetem JASHARI detained in inhumane conditions at Llapashtica detention facility and Potok detention facility from January of 1999 until his murder in April of 1999;

Witness "V" detained in inhumane conditions at Llapashtica detention facility during January of 1999;

By ordering and participating in the establishment and perpetuation of the inhumane treatment of the Kosovo Albanian civilians, Latif GASHI, Nazif MEHMETI and Rustem MUSTAFA incurred personal and superior responsibility for the war crimes of inhumane treatment and immense suffering or violation of the bodily health of the civilian detainees and constituted an application of measures of intimidation and terror contrary to Article 142 of the CCY as read with Articles 22, 24, 26 and 30 of the CCY.

#### **COUNT 6**

From May of 1999 until mid June of 1999, Latif GASHI, Naim KADRIU and Rustem MUSTAFA, acting in concert with other unidentified individuals and pursuant to a joint criminal enterprise, ordered and participated in the establishment and perpetuation of the inhumane treatment of the Kosovo Albanian civilians illegally detained in the detention center located at Kolec by housing those civilian detainees in inhumane conditions, depriving them of adequate sanitation, food and water, and needed medical treatment. The inhumane treatment of the civilian detainees caused immense suffering or was a violation of the bodily integrity and health of those detainees and constituted an application of measures of intimidation and terror. Among those civilians subject to inhumane treatment were:

Witness "Q" detained in inhumane conditions at Kolec detention facility during early June of 1999;

Witness "R" detained in inhumane conditions at Kolec detention facility during early June of 1999.

By ordering and participating in the establishment and perpetuation of the inhumane treatment of the Kosovo Albanian civilians, Latif GASHI, Naim KADRIU and Rustem MUSTAFA incurred personal and superior responsibility for the war crimes of inhumane treatment and immense suffering or violation of the bodily health of the civilian detainees and constituted an application of measures of intimidation and terror contrary to Article 142 of the CCY as read with Articles 22, 24, 26 and 30 of the CCY.

#### **COUNT 7**

From August of 1998 until late September of 1998, Latif GASHI and Rustem MUSTAFA, acting in concert with other unidentified individuals and pursuant to a joint criminal enterprise, ordered and participated in the beating and torture of Kosovo Albanian civilians illegally detained in the detention center located at Bajgora in an attempt to force those detainees to confess to acts of disloyalty to the KLA. Among those civilians subject to beatings and torture was:

Victim "1" detained at Bajgora detention facility and subjected to beatings and torture from 28 August 1998 to August or September of 1998 inflicted by unidentified individuals;



By ordering and participating in the beating and torture of Kosovo Albanian civilians illegally detained in the detention center located at Bajgora, Latif GASHI and Rustem MUSTAFA incurred personal and superior responsibility for the war crimes of inhumane treatment, immense suffering or violation of bodily integrity or health, application of measures of intimidation and terror and torture contrary to Article 142 of the CCY as read with Articles 22, 24, 26 and 30 of the CCY.

### **COUNT 8**

From October of 1998 until late April of 1999, Latif GASHI, Nazif MEHMETI and Rustem MUSTAFA, acting in concert with other unidentified individuals and pursuant to a joint criminal enterprise, ordered and participated in the beating and torture of Kosovo Albanian civilians illegally detained in the detention centers located at Llapashtica, Majac and Potok in an attempt to force those detainees to confess to acts of disloyalty to the KLA. Among those civilians subject to beatings and torture were:

Anonymous Witness "7" detained at Llapashtica detention facility and subjected to beatings and torture from November of 1998 to late December of 1998 inflicted by Latif GASHI, Nazif MEHMETI and other unidentified individuals;

Anonymous Witness "4" detained at Llapashtica detention facility and subjected to beatings and torture from November of 1998 to late March of 1999 inflicted by Latif GASHI, Nazif MEHMETI and other unidentified individuals;

Drita BUNJAKU detained at Llapashtica detention facility and Majac detention facility and subjected to beatings and torture from January of 1999 to April of 1999 inflicted by Latif GASHI, Nazif MEHMETI and other unidentified individuals;

Witness "H" detained at Llapashtica detention facility and subjected to torture during January of 1999 inflicted by Latif GASHI, Nazif MEHMETI and other unidentified individuals;

Agim MUSLIU detained at Llapashtica detention facility and subjected to beatings and torture from November of 1998 to January of 1999 inflicted by Latif GASHI, Nazif MEHMETI and other unidentified individuals;

Agim MUSLIU detained at Llapashtica detention facility and Majac detention facility and subjected to beatings and torture from February of 1999 to April of 1999 inflicted by Latif GASHI, Nazif MEHMETI and other unidentified individuals;

Idriz SVARQA detained at Llapashtica detention facility and Majac detention facility and subjected to beatings and torture from November of 1998 to April of 1999 inflicted by Latif GASHI, Nazif MEHMETI and other unidentified individuals;

Alush KASTRATI detained at Llapashtica detention facility and Potok detention facility and subjected to beatings and torture from February of 1999 to April of 1999 inflicted by Latif GASHI, Nazif MEHMETI and other unidentified individuals;

Hetem JASHARI detained at Llapashtica detention facility and Potok detention facility and subjected to beatings and torture from January of 1999 to April of 1999 inflicted by Latif GASHI, Nazif MEHMETI and other unidentified individuals;

Witness "V" detained at Llapashtica detention facility and subjected to beatings and torture during January of 1999 inflicted by unidentified individuals;

By ordering and participating in the beating and torture of Kosovo Albanian civilians illegally detained in the detention centers located at Llapashtica, Majac and Potok, Latif GASHI, Nazif MEHMETI and Rustem MUSTAFA incurred personal and superior responsibility for the war crimes of inhumane treatment, immense suffering or violation of bodily integrity or health, application of measures of intimidation and terror and torture contrary to Article 142 of the CCY as read with Articles 22, 24,26 and 30 of the CCY.

#### **COUNT 9**

From May of 1999 until mid June of 1999, Latif GASHI, Naim KADRIU and Rustem MUSTAFA, acting in concert with other unidentified individuals and pursuant to a joint criminal enterprise, ordered and participated in the beating and torture of Kosovo Albanian civilians illegally detained in the detention center located at Kolec in an attempt to force those detainees to confess to acts of disloyalty to the KLA. Among those civilians subject to beatings and torture were:

Witness "Q" detained at Kolec detention facility and subjected to beatings and torture during early June of 1999 inflicted by Latif GASHI, Naim KADRIU and other unidentified individuals;

Witness "R" detained at Kolec detention facility and subjected to beatings and torture during early June of 1999 inflicted by Latif GASHI, Naim KADRIU and other unidentified individuals.

By ordering and participating in the beating and torture of Kosovo Albanian civilians illegally detained in the detention center located at Kolec, Latif GASHI, Naim KADRIU and Rustem MUSTAFA incurred personal and superior responsibility for the war crimes of inhumane treatment, immense suffering or violation of bodily integrity or health, application of measures of intimidation and terror and torture contrary to Article 142 of the CCY as read with Articles 22, 24,26 and 30 of the CCY.

#### **COUNT 10**

From August of 1998 until September of 1998, Latif GASHI and Rustem MUSTAFA, acting in concert with other unidentified individuals and pursuant to a joint criminal enterprise, ordered and participated in the killing of a Kosovo Albanian civilian illegally detained in the detention center located at Bajgora. The civilian killed at the detention center was:

Victim "1" detained by the UCK in Bajgora in August of 1998, and killed by unidentified members of the UCK in August or September of 1998;

By ordering and participating in the killing of the Kosovo Albanian civilian illegally detained in the detention center located at Bajgora, Latif GASHI and Rustem MUSTAFA incurred personal and superior responsibility for the war crime of killing a member of the Kosovo Albanian civilian population contrary to Article 142 of the CCY as read with Articles 22, 24, 26 and 30 of the CCY.

### **COUNT 11**

From October of 1998 until late April of 1999, Latif GASHI, Nazif MEHMETI and Rustem MUSTAFA, acting in concert with other unidentified individuals and pursuant to a joint criminal enterprise, ordered and participated in the killing of Kosovo Albanian civilians illegally detained in the detention centers located at Majac and Potok. Among those civilians killed at the detention centers were:

Drita BUNJAKU detained by the UCK in Llapashtica in January of 1999 and Majac on 25 or 26 March 1999, and killed by unidentified members of the UCK in April of 1999;

Agim MUSLIU detained by the UCK in Llapashtica in November of 1998, conditionally released in January of 1999, re-detained in Llapashtica in February of 1999 and Majac on 25 or 26 March 1999, and killed by unidentified members of the UCK in April of 1999;

Idriz SVARQA detained by the UCK in Llapashtica in November of 1998 and Majac on 25 or 26 March 1999, and killed by unidentified members of the UCK in April of 1999;

Alush KASTRATI detained by the UCK in Llapashtica in February of 1999 and Potok in March of 1999, and killed by unidentified members of the UCK in April of 1999;

Hetem JASHARI detained by the UCK in Llapashtica in January of 1999 and Potok in March of 1999, and killed by unidentified members of the UCK in April of 1999.

By ordering and participating in the killing of Kosovo Albanian civilians illegally detained in the detention centers located at Majac and Potok, Latif GASHI, Nazif MEHMETI and Rustem MUSTAFA incurred personal and superior responsibility for the war crime of killing members of the Kosovo Albanian civilian population contrary to Article 142 of the CCY as read with Articles 22, 24, 26 and 30 of the CCY.

### **THEREFORE I RECOMMEND:**

I. That we hold before this court the main public hearing and that the following people be summoned:

- International Prosecutor at the Office of the District Public Prosecutor of Pristina;
- The accused Latif GASHI via the Detention Center;
- The accused Nazif MEHMETI via the Detention Center;
- The accused Naim KADRIU via the Detention Center;
- The accused Rustem MUSTAFA via the Detention Center;
- Defence Counsel of the accused.

**The Witness-Injured Parties:**

- Anonymous Witness "3"
- Anonymous Witness "7"
- Anonymous Witness "4"
- Anonymous Witness "5"
- Anonymous Witness "6"
- Witness "H"
- Witness "I"
- Witness "J"
- Witness "U"
- Witness "D"
- Witness "E"
- Witness "G"
- Witness "S"
- Witness "C"
- Witness "V"
- Witness "Q"
- Witness "R"
- Witness "F"
- Witness "P"
- Witness "W"

**The Witnesses:**

- CCIU Investigator Steven PETTY
- CCIU Investigator Mario SHERER
- Bajram ISUFI, Majac
- Naip GUBETINI, KPS-Pristina
- Kamber HOXHA, St. Skenderbeu No. 460, Podujevo
- Jetullah ZHDRELLA, Ulpjane, Ceipez, 1<sup>st</sup> Entrance #1
- Idriz BAJRAMI, KPS-Podujevo
- Gani ZUKA, Rs. Sejdi Skirqca, Nr. 22 Podujevo
- Fatmir MUSTAFA, Pakashtice e Poshtme
- Milovan STANKOVIC, Bvcic Municipality Merosina
- Jashar EJUPI, Village of Sekiraca, Podujevo
- Arif MUCOLLI, TMK-Pristina
- Nuredin IBISHI, KPS-Pristina
- Sabit BERISHA, Village Konushevc, Podujevo
- Dr. Marek GASIOR, UNMIK-Pristina

II. That during the investigation proceedings the court shall examine the following:

- To examine the evidence collected pursuant to the police investigation including evidence recovered pursuant to search

warrants executed at the homes and businesses of Latif GASHI,  
, Naim KADRIU and Rustem MUSTAFA;

On January 27,2002, a search warrant was issued for:

- 1 Office of Latif Gashi-KSHIK-Pristina City Center
- 2 Home of Latif Gashi-apt –Pristina City Center, near intersection of  
Jump Street and Mother Theresa Blvd
- 3 Office of Naim Kadriu -KSHIK Headquarters-Podujevo
- 4 Home of Naim Kadriu-Podujevo

This warrant was executed at each of the above locations on January 28,2002.  
Numerous items, including notebooks, diaries, computers and other documents  
were seized by the police. A list of all of the seizures has or will be supplied to  
defence counsel

Of particular relevance are personal notebooks of the accused Kadriu, which were  
the subject of questioning at the investigative hearing

Of significance as well are certain lists of suspected collaborators found during the  
search of the KSHIK office

On August 10,2002, a search warrant was issued for

- 1 Home of Rustem Mustafa- Fitoria Street, Podujevo
- 2 Home of Rustem Mustafa and /or Laun Pllana-Flat 29 , Block  
10,Velica Rovina, Sunny Hill, Pristina
- 3 Home of Rustem Mustafa and /or Ellenora Ceku—Dardanija SU7/11,  
Flat A , No2, Pristina

This warrant was executed at each of the authorized locations on August 11, 2002.  
Numerous items, including notebooks, diaries, computers and other documents  
were seized by the police. A list of the seizures has or will be supplied to defence  
counsel

- To examine the statements of the accused and other witnesses  
taken during the investigative hearings.

## EXPLANATION

It is established that during the time period of August of 1998 until 12 June 1999, various detention centers were used by the UCK command of the Llap Zone to hold Kosovo Albanian civilians, including detention centers in Bajgora, Llapashtica, Majac, Potok and Kolec. The civilian detainees were beaten, tortured and, in some cases, murdered in or around these detention centers. Rustem MUSTAFA as the Llap Zone Commander was ultimately responsible for the creation of these facilities and the offenses committed therein. He was aware of their existence, he ordered arrests and releases, and he was responsible for the actions of his subordinates in these facilities. Latif GASHI and Nazif MEHMETI both held command positions and personally participated in the interrogations, beatings and torture of the civilian detainees. Naim KADRIU, a member of the UCK military police, participated in the beatings and torture of several civilian detainees. The testimony of a number of witnesses proves that these events did happen.

The position of the accused seems to be (variable depending on the individual accused):

- no one was ever arrested. Any suspected collaborators were "invited" to the camps for informal talks

- no one was detained for more than a few days
- no detainee was ever beaten or tortured
- the premises of the detainees was fit for human habitation
- the detainees ate the same food and as often as the soldiers
- no detainee was murdered. Those who were later discovered dead had been released from detention and were killed by Serbs

Kadriu says that he was a member of the KLA for only 24 days( ending in March 1999) and adopts all of the above defences

Gashi said that he was rarely at zone headquarters, as he was engaged in fighting for almost all the relevant time. He adopts the above defences

Mustafa said that there were no individual decisions on the detainees but that all decisions were collective ones of the command officers. He adopts the above defences

In answer to these defences, the prosecution states that the evidence of the witnesses is to be preferred over the denials of the accused. There are numerous inconsistencies in the stories of the accused and their explanations as to how the KLA was operated in this area strain credulity

## **WE ALSO PROPOSE DETENTION FOR THE CO-ACCUSED**

That the detention of Latif GASHI, Nazif MEHMETI, Naim KADRIU and Rustem MUSTAFA be extended under the authority of Article 191, Para 2, items 1 and 2 of the LCP.

This request is based upon the following independent grounds:

The possibility of fleeing is based on the fact that for the criminal act in question, the law allows the pronouncement of the most severe sentence. The co-accused have or used to have connections to military police and intelligence service and their resources, and thus may have access and opportunity, through these connections, to exit Kosovo through both legal borders and legal and unapproved boundary crossing points. In this regard, UNMIK Police have documented daily attempts to leave Kosovo with false passports and other forms of identification. Moreover, associates of the co-accused wanted by the police for separate, more recent offenses have absented themselves from the province delaying and/or preventing their arrests.

There is a justified fear that the co-accused, if released, would hinder the investigation through influencing witnesses and warning accomplices. The use of threats of violence is already shown by the torture, detention and beating of the victims. The defendants hold positions of considerable power and influence and have significant connections to former military, police and intelligence officer. Consequently, the defendants, or others acting on their behalf, are likely to contact and attempt to influence witness testimony. The case file documents demonstrate that a number of witnesses have already been threatened, which required the expunging of their names from official records. Due to this level of intimidation, a number of witnesses have recanted the identification of the defendants and gave contradicting evidence. Continued police investigation and identification of additional witnesses was slowed, in large part, due to fear of the co-accused and their associates. In fact, a witness who had previously been involved in the case and who was approached by law enforcement authorities shortly after the arrest of Rustem MUSTAFA was shot and wounded in front of his home before a summons could be delivered for him to appear. Moreover, testimony heard since MUSTAFA's arrest has included one witness testifying that he was called on his phone by an unknown person and offered a sum of money in exchange for not testifying. Consequently, the prosecutor was required to request the use of UNMIK Regulation 2001/20 to ensure the protection of witnesses and witness identities.

In the request for investigation and the expansion of the investigation, the murders of five Kosovar Albanian civilians were attributed to several of the defendants. New evidence was developed during the investigation showing that these defendants are responsible for a sixth murder of a Kosovar Albanian civilian. Additionally, evidence continues to be developed, which could implicate several of the accused and their associates in additional

criminal acts after the Kosovo Conflict, including murder, witness intimidation, bribery and judicial corruption.

Accordingly, I propose that detention against the defendants be continued, since legal grounds under article 191 paragraph 2 item 1 -3 of the LCP, exist.

Based on the above, it is obvious to the prosecution that the actions of the co-accused comprise all essential qualifications of the criminal acts of which they are charged, so this Indictment is justified, proven and based upon the law.

**Gary McCuaig**  
**International Prosecutor**  
**Pristina District Court**