

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA

Case No.: IT-04-82

**THE PROSECUTOR
OF THE TRIBUNAL
AGAINST
LJUBE BOSKOSKI
JOHAN TARCULOVSKI**

INDICTMENT

The Prosecutor of the International Criminal Tribunal for the Former Yugoslavia, pursuant to her authority under Article 18 of the Statute of the International Criminal Tribunal for the Former Yugoslavia ("the Statute of the Tribunal"), charges:

**LJUBE BOSKOSKI
JOHAN TARCULOVSKI**

with **VIOLATIONS OF THE LAWS OR CUSTOMS OF WAR**, as set forth below:

THE ACCUSED

LJUBE BOSKOSKI

1. **Ljube BOSKOSKI** was born on 24 October 1960 in the town of Tetovo in the Republic of Macedonia of the Socialist Federal Republic of Yugoslavia. From May 2001 until November 2002, **Ljube BOSKOSKI** was the Minister of Interior of FYROM. At this time, he was a prominent member of the governing political party known as the Internal Macedonian Revolutionary Organization –

Democratic Party for Macedonian National Unity ("VMRO- DPMNE").

JOHAN TARCULOVSKI

2. **Johan TARCULOVSKI** was born on 17 November 1974 in the city of Skopje in the Republic of Macedonia of the Socialist Federal Republic of Yugoslavia. In 2001, he was a police officer acting as an Escort Inspector in the President's Security Unit. His duties included providing personal security for the President. At the same time he was a member of VMRO-DPMNE.

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INDIVIDUAL CRIMINAL RESPONSIBILITY

Article 7(1) of the Statute of the Tribunal

3. **Johan TARCULOVSKI** is individually criminally responsible pursuant to Article 7(1) of the Statute of the Tribunal for crimes referred to in Article 3 of the Statute of the Tribunal as alleged in this Indictment, which he committed, ordered, planned, instigated or aided and abetted. By using the word "committed" in this Indictment, the Prosecutor does not allege that the accused physically committed any of the crimes charged. "Committed" in this Indictment includes participation in a joint criminal enterprise ("JCE").

Joint Criminal Enterprise

4. A JCE came into existence no earlier than Friday 10 August 2001 and continued up to and including Sunday 12 August 2001 during the armed conflict in FYROM. The object of the JCE was to direct an unlawful attack on civilians and civilian objects in the village of Ljuboten, which was not justified by military necessity, a crime under Article 3 of the Statute of the Tribunal. The crimes occurring in Ljuboten and charged in Counts 1 to 3 of this Indictment were within the object of the JCE.
5. **Johan TARCULOVSKI** worked in concert with the other members of the JCE, namely members of FYROM regular and reserve police under his command.
6. **Johan TARCULOVSKI** participated throughout the existence of the JCE in one or more of the following ways:
 - a. From July to August 2001 he personally selected individuals to form his regular and reserve police unit that took part in the attack.

- b. From July to August 2001 he co-ordinated the arming of the members of his regular and reserve police unit that took part in the attack.
 - c. Between 10 and 12 August 2001 with the assistance of high level government and police officials, he persuaded the most senior police and army commanders responsible for security in the Ljuboten area to support the attack on Ljuboten.
 - d. He sought and gained logistical, material and fire support for the attack on Ljuboten from the most senior police and army commanders based in the area of Ljuboten between 10 and 12 August 2001.
 - e. He prompted the regular and reserve police in his unit to participate in the attack on Ljuboten.
 - f. He decided on the weaponry, manpower, logistical and other material support that would be used in the attack.
 - g. He determined the timing, method, manner, goals and targets of the attack.
 - h. He instructed, by using his position of authority, the regular and reserve police in his unit to attack Ljuboten.
 - i. He was present and participated by way of leadership and personal guidance in the ground attack and was present at the scenes of individual crimes charged in this indictment.
7. **Johan TARCULOVSKI** participated in the JCE as a co-perpetrator. **Johan TARCULOVSKI** and the other members of the JCE acted on the basis of the common purpose, with shared intent.
8. Alternatively, the crimes enumerated in Counts 1 to 3 of this Indictment were the natural and foreseeable consequences of the execution of the object of the JCE, to direct an unlawful attack on civilians and civilian objects in the village of Ljuboten, and **Johan TARCULOVSKI** was aware that such crimes were a possible consequence of the execution of the JCE and with that awareness decided to participate in the enterprise.

Ordering, Planning and Instigating

9. **Johan TARCULOVSKI** is also individually criminally responsible for ordering, planning and instigating the crimes charged in the Indictment by virtue of his participation in the attack on Ljuboten as described in paragraphs 6 (a) to (i) above. He directly intended that these crimes be committed or at least he had the awareness of the substantial likelihood that the crimes would be committed in the execution of his orders, plans and instigation.

Aiding and Abetting

10. Additionally, **Johan TARCULOVSKI** aided and abetted the crimes charged in the indictment by virtue of his participation in the attack on Ljuboten as described in paragraphs 6 (a) to (i) above. He was aware that he was assisting

the commission of the specific crimes charged in this Indictment by the perpetrators or at least he was aware that one or a number of crimes would probably be committed by them and knew his acts would assist in the commission of this or these crimes.

Article 7(3) of the Statute of the Tribunal

11. **Ljube BOSKOSKI** is individually criminally responsible pursuant to Article 7 (3) of the Statute of the Tribunal for crimes referred to in Article 3 of the Statute of the Tribunal as alleged in this Indictment. A superior is responsible for the criminal acts of his subordinates if he knew or had reason to know that his subordinates were about to commit such acts or had done so, and the superior failed to take necessary and reasonable measures to prevent such acts or to punish the perpetrators.
12. **Ljube BOSKOSKI** in his capacity as Minister of Interior exercised de jure and de facto command and control over the police forces that participated in the crimes alleged in this indictment. **Ljube BOSKOSKI**, as Minister of FYROM Ministry of Interior ("MOI"), was the highest authority in the MOI. His official responsibility included public and state security. In his capacity as Minister of FYROM MOI, **Ljube BOSKOSKI** had the overall authority and responsibility for the functioning of the police forces both regular and reserve within FYROM.
13. **Ljube BOSKOSKI** exercised command and control of all FYROM police forces. All subordinates were under an obligation to carry out all the orders given by him. He had the authority to appoint, punish, discipline, suspend and dismiss police from duty for crimes they may have committed. Other powers included powers to establish police units, execute police operations and determine police rules and regulations. Often the Minister would exercise his command in uniform at major police tactical operations.
14. **Ljube BOSKOSKI** knew or had reason to know that the crimes alleged in this indictment had been committed by his subordinates. His knowledge was obtained amongst other means by his observations of property damage and mistreated detainees close to the scene of the attack in the early afternoon of 12 August 2001, meetings with participants in the attack on 12 August 2001, internal police reports, public media including daily Albanian and Macedonian newspapers, meetings with international representatives and journalists and international organisation reports produced within days and weeks of the crimes.
15. Between 12 August 2001 and May 2002, after the Prosecutor of the

International Criminal Tribunal for the Former Yugoslavia informed FYROM authorities that she was exercising primacy over the allegations of crimes arising out of the Ljuboten attack in August 2001, **Ljube BOSKOSKI** was under an obligation to punish his subordinates who committed the crimes in this Indictment. However, he failed to take necessary and reasonable measures to do so. During this period no subordinate was punished in any way for the crimes charged in this Indictment, nor was any genuine investigation conducted or authorised by him nor a genuine referral made by him to another authority to effectively investigate the crimes.

16. **Ljube BOSKOSKI**'s duty included an obligation to investigate and establish the facts of the crimes and to impose appropriate punitive measures on the perpetrators. **Ljube BOSKOSKI** having knowledge of the perpetrators involved in the attack did not initiate an investigation of **Johan TARCULOVSKI**, or his police unit's activities on 12 August 2001, or of the activities of the police responsible for the cruel treatment of Ljuboten residents detained in custody, after the attack, in any genuine way, when he was in a position to do so.
17. **Ljube BOSKOSKI** was aware of **Johan TARCULOVSKI**'s police unit's preparation for and involvement in the Ljuboten attack prior to and during its operation on 12 August 2001, and yet failed to ensure that any inquiries were made to investigate their involvement in the crimes charged in this Indictment. **Ljube BOSKOSKI** was aware of the large scale detentions of ethnic Albanian civilians from Ljuboten and was aware or at least had reason to know that the cruel treatment of the Albanian detainees on and following 12 August 2001 had occurred, and made no genuine effort to investigate these allegations and punish the perpetrators.

THE CHARGES

COUNT 1 MURDER

RAMI JUSUFI

18. At about 8:20 a.m. on Sunday 12 August 2001 members of a police unit commanded by **Johan TARCULOVSKI** forcibly entered the yard of Rami JUSUFI's house situated in the northern part of Ljuboten near Ljubanci. Rami JUSUFI, a 33 year old ethnic Albanian male, was asleep in bed when his mother called him to the front door. He went to the door in his pyjamas, unarmed, and was immediately shot at close range in his stomach through the open door by one of the police. He died two hours later.

SULEJMAN BAJRAMI, MUHAREM RAMADANI and ATULLA QAILI

19. A few hours later, at about 11.00 a.m., on Sunday 12 August 2001, **Johan TARCULOVSKI** and members of the police unit arrived at Adem AMETOVSKI's and Zija ADEMI's houses situated about 20 metres apart in the upper eastern part of the village. In these two houses, men, women and children, all unarmed, were seeking refuge from the police and army attack in the two basements.
20. The police ordered the men out from the basements, and grouped 13 of them near the main gate of Adem AMETOVSKI's house. The police forced the men to lie on the ground where they all were beaten repeatedly and severely. Sulejman BAJRAMI, a 23 year old ethnic Albanian, got up and attempted to escape. He was then shot dead by at least one of the police. After this, the police then ordered ten of the twelve remaining men to walk towards the neighbouring Macedonian village of Ljubanci. The other two men, both elderly, were ordered to leave the area by the police. As these two men walked away, the police fired at them killing Muharem RAMADANI, a 65 year old ethnic Albanian.
21. Atulla QAILI, a 35 year old ethnic Albanian, was one of the ten men who were forced to walk towards Ljubanci. He, like the others, was further beaten by the police as they left the village. Atulla QAILI arrived at the police checkpoint outside the Braca House at the Ljuboten-Ljubanci village border in a seriously injured state. He was further kicked at that location. He was transported with the others in the back of an open truck to Mirkovci police station where he was beaten again by police. Before being taken to hospital from the station his whole body was bruised, battered and bloody. He was unable to speak due to the injuries. On the afternoon of 13 August 2001, Atulla QAILI died at the Skopje hospital as a result of the beatings.

XHELAL BAJRAMI, BAJRAM JASHARI and KADRI JASHARI

22. At about 12.00 noon on Sunday 12th August 2001 following the killings of Sulejman BAJRAMI and Muharem RAMADANI, **Johan TARCULOVSKI** and members of the police unit under his command moved further east across the village to the house of Qani JASHARI where five unarmed men had taken refuge from the advancing police unit. On arrival, the police called out for the owner of the house and then opened fired on it. The police then set the house and hay-barn on fire using gasoline. Following this, the men inside jumped out of the back window of the house where they hid under a tobacco drying stall, about 30 meters away. The police then shot at the men forcing them to run

towards the mountain behind the house. As they ran, three of the men, Xhelal BAJRAMI, Bajram JASHARI, and Kadri JASHARI, ethnic Albanian men, 29 years, 34 years and 31 years old respectively were shot dead about 100 to 150 metres away from the house. The other two escaped, one injured by a bullet and the other unharmed.

23. By the acts or omissions described above **Ljube BOSKOSKI** and **Johan TARCULOVSKI** are criminally responsible as particularised in paragraphs 3 to 17 for;

Count 1: Murder, a VIOLATION OF THE LAWS OR CUSTOMS OF WAR, recognised by Article 3(1)(a) of the Geneva Conventions of 1949 and punishable under Article 3 and Article 7(1) and 7(3) of the Statute of the Tribunal.

COUNT 2 WANTON DESTRUCTION OF CITIES, TOWNS OR VILLAGES

24. Between about 10.00 a.m. and 5.00 p.m. on Sunday 12 August 2001 as the police unit commanded by **Johan TARCULOVSKI** walked through Ljuboten village from the north east edge to the south east end, the members of the group intentionally set alight at least 14 houses. These incidents occurred during the general attack on the civilian population of Ljuboten. In addition to setting fire to houses the police also damaged houses by use of hand grenades and small arms. As a result of these acts 14 houses were seriously damaged or destroyed. In the northern part, 6 adjacent houses were destroyed or seriously damaged. In the upper eastern part, 5 houses were destroyed or seriously damaged and in the lower eastern part 3 houses were destroyed or seriously damaged. Further details of the identity and extent of these 14 wantonly damaged properties in this attack are contained in **Schedule A** which is attached to and forms a part of this Indictment.
25. By the acts or omissions described above **Ljube BOSKOSKI** and **Johan TARCULOVSKI** are criminally responsible as particularised in paragraphs 3 to 17 for;

Count 2: Wanton Destruction of cities, towns or villages, a VIOLATION OF THE LAWS OR CUSTOMS OF WAR punishable under Article 3(b) and Article 7(1) and 7(3) of the Statute of the Tribunal.

COUNT 3 CRUEL TREATMENT

26. Between Sunday 12 August 2001 and Wednesday 15 August 2001 during and after the ground attack by **Johan TARCULOVSKI** and members of his police

unit on Ljuboten detained over one hundred ethnic Albanian male residents of the village and subjected them intentional infliction of severe pain or suffering by beatings, humiliation, harassment and psychological abuse. These residents were cruelly treated within Ljuboten, at two police checkpoints nearby and outside the village, at five police stations in Cair municipality and Skopje city as well as at a Skopje court and hospital.

27. The cruel treatment first occurred at two locations, one inside and one outside of Ljuboten. In the village, 13 Albanian residents were seriously beaten at Adem AMETOVSKI's house as described above and below. Outside of the village, at a police checkpoint 3 – 4 kilometres from Ljuboten towards Skopje, regular and reserve police detained at least ninety male residents and physically and psychologically abused at least half of them who were fleeing from the ground attack by **Johan TARCULOVSKI** and members of his police unit on Ljuboten.
28. After these initial detentions and beatings at these two locations, both groups of detained people were transferred to different police stations and then in some cases to the Skopje Court II and Skopje City Hospital. The first group of detained and beaten residents were taken from Adem AMETOVSKI's house in Ljuboten first to the police checkpoint at the Braca House outside of the village and from there to Mirkovci Police Station. From the Police Station half of them were later taken to Skopje City Hospital and the other half to Skopje Court II.
29. The second group of residents detained and beaten was selected from a convoy of hundreds of Ljuboten residents who attempted to leave the village on foot in fear, as a result the attack in the direction of Skopje. About 3-4 km from the village on the Ljubotenski Pat road, at a police checkpoint called "Buzalak", unarmed civilian male residents of Ljuboten were separated from the women and children in the convoy. At least half of the men were beaten at Buzalak by police and then ninety of them were transferred in separate groups to successive police stations mostly in Skopje, namely Cair (Butel), Kisela Voda (Prolece), Bit Pazar and Karpo{ where they were further cruelly treated. As a result of injuries received some of these men were sent to the Skopje City Hospital. At all of these places the beatings were committed by police officers, reservists or civilians who were allowed by the police to carry out the beatings.
30. The detention and beatings of these arrested men were organised, systematic and pervasive. Most of the detainees were beaten repetitively at successive locations. For example, over this three day period, at least seven men were beaten at five different locations, at least twenty-five men were beaten at four different locations, at least forty-four men were beaten at three different locations, at least twelve men were beaten at two locations and at least two men were beaten at one location.

ADEM AMETOVSKI'S HOUSE

31. Between 11.00 a.m. and 12.00 noon on 12 August 2001, the 13 Ljuboten residents ordered out of Adem AMETOVSKI's and Zija ADEMI's house by **Johan TARCULOVSKI** and members of his police unit were forced to lie on the ground face down. The police then punched, kicked, jumped on and hit these men with rifle butts and wooden sticks. One police officer shot the father of Sulejman BAJRAMI in the hand. Another of the men had a large cross carved on his back with a knife. These men sustained injuries to their hands, heads, ribs and shoulders. Sulejman BAJRAMI was kicked forcefully in the head before being shot dead.

BRACA'S HOUSE

32. In the early afternoon, between about 12.30 p.m. and 1.00 p.m. after the beatings outside Adem AMETOVSKI's house, ten of the remaining men from the original group of 13 were marched to the police checkpoint at the Braca house, at the outskirts of the village. On the way these men were further beaten and on their arrival at the Braca House the beatings continued for about half an hour. They were kicked, jumped on, and hit with a pieces of burning wood. This mistreatment resulted in injuries to their backs, shoulders, heads, noses and ribs. The ten men were then thrown forcibly onto a police truck and taken to the Mirkovci Police Station where they were detained.

MIRKOVCI POLICE STATION

33. Between the afternoons of 12 and 14 August 2001 regular and reserve police officers in and outside of the Mirkovci Police Station physically and mentally abused the ten detained men from Ljuboten. On arrival at the station some of the men were thrown off the truck while still unconscious from earlier beatings. These men were punched, kicked and hit with various implements such as rifle butts, shovels, truncheons and other objects. The beatings were executed with such force that some detainees could not move due to the pain. Injuries such as broken teeth, wounding and bruising were suffered.

BUZALAK CHECKPOINT

34. Between the early afternoon and 6 p.m. on Sunday 12 August 2001, about ninety men were arrested at gunpoint at this checkpoint as they were fleeing the

village with their families. These men were beaten by regular and reserve police, as well as some civilians. They were kicked, punched and stepped on, whilst they were forced to lie face down on the ground. They were hit repeatedly with rifle butts, truncheons, tree branches, wooden sticks and other objects. One man was shot in the head as he ran away from the checkpoint in fear. Another man who was carrying a 2 month old baby was beaten. A mentally disabled man was beaten. The injuries inflicted included lacerations to the head, blood noses, ears, heavy bruising, swollen eyes and broken ribs. Permanent disabilities resulted from some of the injuries received from the beatings such as a damaged shoulder, recurring headaches and permanent back pains.

CAIR (BUTEL) POLICE STATION

35. During the afternoon of 12 August 2001 at Cair Police Station at least 76 of the detainees from Buzalak checkpoint arrived in separate groups and were detained there. At least 30 of them were beaten by regular and reserve police officers in and outside of the station, during their detention and on their arrival and departure. They were hit with rifle butts, fists, boots, wooden sticks, baseball sticks and metal pipes on the neck, back and head. One detainee's face was smashed against the floor. Another detainee received a broken rib. Others fainted from the beatings. The men were kept in cramped cells for about 2 to 3 hours with between 15 and 50 men detained in a small cell. These cells had no fresh air, water or proper toilet facilities.

KISELA VODA (PROLECE) POLICE STATION

36. Between 12 and 14 August 2001, at least 32 Ljuboten villagers were detained at Kisela Voda Police Station. Of these, at least 27 were beaten by regular and reserve police officers in front of and inside the police station. The men were punched, kicked, kneed in the face, neck and hit over the whole body. They were hit with rifle butts, truncheons, sticks and cables as well as being stepped on. One detainee had a gun barrel placed in his mouth while another had his hand cut with scissors. The beatings were accompanied by verbal abuses and threats.

BIT PAZAR POLICE STATION

37. Between 12 August 2001 and 14 August 2001, at least a quarter of the 24

detainees held at Bit Pazar police station were beaten in the station yard by regular or reserve police. Detainees were punched and hit with rifle butts. Conditions of detention were poor.

KARPOS POLICE STATION

38. Between 12 and 14 August 2001 at least 53 detainees were brought to this station in different groups and detained. At least 19 of these were beaten by regular, reserve and special police. They were beaten en route to the station and inside the station. The detainees were punched, kicked, and hit with rifles and baseball bats by the police.

SKOPJE COURT II

39. On 14 August 2001, in the late afternoon and evening, 22 detainees were brought and tried at the Skopje Court II, where at least 19 of them were beaten. The beatings occurred in the hallways and corridors of the court. They were beaten by regular and reserve police, prison guards and some civilians. They were beaten about their bodies with truncheons and rifle butts, in addition they were stepped on and burnt with cigarettes.

SKOPJE CITY HOSPITAL

40. Between 12 August and 21 August 2001, 14 badly injured detainees were brought from various locations cited above and kept at the hospital. At least 11 of them were beaten, in front of the hospital or in their rooms by regular and reserve police and hospital personnel. Victims were punched, jumped on and hit with truncheons.
41. Further details of the victims, dates, locations and nature of the cruel treatment are contained in **Schedule B** which is attached to and forms a part of this Indictment.
42. For the acts or omissions described in paragraphs 31 to 40 inclusive above **Ljube BOSKOSKI** is criminally responsible as particularized in paragraphs 3 to 17 and for the acts or omissions described in paragraphs 31 to 32 inclusive above **Johan TARCULOVSKI** is criminally responsible as particularised in paragraphs 3 to 17 for;

Count 3: Cruel Treatment, a VIOLATION OF THE LAWS OR CUSTOMS

OF WAR, as recognised by Article 3(1)(a) of the Geneva Conventions of 1949 and punishable under Article 3 and Article 7(1) and 7(3) of the Statute of the Tribunal.

GENERAL LEGAL ALLEGATIONS

43. At all times relevant to this indictment, a state of armed conflict existed in FYROM.
44. At all times relevant to this indictment, **Ljube BOSKOSKI** and **Johan TARCULOVSKI** were required to abide by the laws and customs governing the conduct of armed conflicts, including the Geneva Conventions of 1949 and the additional protocols thereto.

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ADDITIONAL FACTS

GEOGRAPHY

45. Macedonia was constituted as a Yugoslav republic in 1944, and remained one of the six constituent republics of Socialist Federal Republic of Yugoslavia (SFRY) together with Bosnia-Herzegovina, Croatia, Montenegro, Serbia and Slovenia until the SFRY dissolution in 1991-1992. On 8 April 1993 the country was admitted to the United Nations after being recognised by the international community as the FYROM.
46. FYROM is land-locked bordered by Albania, Bulgaria, Greece and Serbia and Montenegro. According to the 1994 population census, Macedonians constituted 66,6% and Albanians 22,7% of the country's population. The areas with a considerable distribution of FYROM's Albanian population are in the north and the south-west of the country, bordering on Serbia and Montenegro (Kosovo) and Albania respectively.
47. In 2001 FYROM was divided into 123 municipalities. Cair municipality covers a part of the city of Skopje, as well as a number of near-by villages, including the village of Ljuboten. According to the 1994 population census, the municipality of Cair had a population of 63,375 persons, of whom approximately 57% were Macedonians, 29% were Albanians and 14% were described as "other."

ETHNIC DIVISION IN MACEDONIA

48. Relations between ethnic Albanians and ethnic Macedonians reflect the complexities of the historical evolution of the Macedonian State and Macedonian identity in the context of national and ethnic strife in the region in the 20th century. Dissatisfaction of ethnic Albanians with their group status, language and educational rights, as well as alleged discriminatory practices contributed to political tensions between the ethnic Albanian and the ethnic Macedonian communities. Ethnic Albanians boycotted the referendum on independence in 1991 and held their own referendum on territorial autonomy in January 1992, in which about 99,9% of the ethnic Albanians voted in favour of autonomy. The Macedonian government declared the referendum illegal.
49. The ethnic Albanian community's demands for greater language and educational rights reflected the dispute over Article 7 of the FYROM Constitution, which declared the Macedonian language and Cyrillic alphabet the official language of the country. The ethnic Albanian community had been demanding equal status for the Albanian language. The Albanian community also demanded legitimacy for the Tetovo University with instruction in Albanian. The University was declared unconstitutional by the FYROM government.
50. The ethnic Albanian community also expressed dissatisfaction about its limited representation in all spheres of Macedonian society. The pre-conflict statistics show that ethnic minorities constituted 8.7% of law-enforcement officers of the Ministry of the Interior, while the proportion of ethnic Albanians in the FYROM Army was 25%.
51. Subsequent to the dissolution of SFRY, the FYROM Parliament adopted a declaration of independence on 17 September 1991. Following this, simmering political tensions between the country's ethnic Macedonian and Albanian communities were exacerbated by the war in Kosovo and the subsequent influx of Albanian refugees into Macedonia in 1999. In 2001 these tensions finally culminated in an internal ethnic Albanian-Macedonian armed conflict within the FYROM borders.

ARMED CONFLICT

52. The armed conflict began in January 2001 and continued until August 2001. The two major warring parties in the conflict were the FYROM Security Forces (the army and police units) and the ethnic Albanian National Liberation Army ("NLA"). The conflict formally ended on 13 August 2001 with the signing of the Ohrid peace agreement. Occasional clashes continued thereafter. During the conflict, at least 60 members of the FYROM security forces were killed and about 300 were wounded. According to one source, the NLA lost 67 men. About 170,000 people fled their homes during the seven month conflict with 160,000 having returned by August 2002. As of August 2002, about 7,400

persons remained displaced within the country, with some 3,000 refugees residing in Kosovo.

53. During the armed conflict approximately 6,500 houses were damaged to varying degrees in the conflict affected areas. The majority of the damaged houses belonged to ethnic Albanian residents. About 3547 were damaged between 0 and 20%, 1531 were damaged between 21 and 40%, 717 were damaged between 41 to 60% and 848 were damaged between 61 to 100%.
54. The NLA waged the conflict as guerrilla warfare in the form of hit and run operations. It attacked FYROM police stations and police patrols, planted mines, and engaged units of the FYROM army. As the conflict spread out from the areas bordering on Kosovo towards Tetovo and Skopje, the NLA established control over a number of villages. Almost daily skirmishes between NLA and the FYROM security forces culminated in full-scale battles in the area of Tetovo in March and in the Skopje suburb of Aracinovo in June 2001. In the course of the conflict the FYROM security forces used tanks, artillery and combat aircraft. The attack on Ljuboten was the last joint operation of the FYROM security forces before the signing of the Ohrid peace agreement on 13 August 2001.

LJUBOTEN VILLAGE

55. Ljuboten is a predominately ethnic Albanian village about 12 kilometres by air from the closest section of the Serbia and Montenegro - FYROM border, and 10 kilometres by air from the centre of Skopje, the capital of FYROM. The village is situated in Cair municipality and sits at the south-western foot of the Skopska Crna Gora mountain ridge in the northern part of Macedonia. It is surrounded by the predominantly ethnic Macedonian villages of Ljubanci, Raštak and Radišani. The village of Ljubanci abuts the village of Ljuboten, its centre being about 1,5 kilometres from Ljuboten.
56. According to the 1994 population census, Ljuboten had a population of 2,010 persons comprising of 93% ethnic Albanians. On the morning of Sunday 12 August 2001 there were about 2300 men, women and children in Ljuboten. On the afternoon of 10 August 2001 about 50 people had left the village. After the major attack on Ljuboten on Sunday 12 August 2001, hundreds of residents started to leave the village in convoys in the direction of Skopje to flee the attack.

FYROM ARMY AND NLA POSITIONS NEAR LJUBOTEN

57. In August 2001 Ljuboten was in the operational area of the 1st Guardist Brigade

of the FYROM army. Units of the 1st Guardist Brigade held the front-line Ečmenište, Kula, Vukova Glava, St. Nikita monastery, Bel Kamen and Čaršija. The positions of the 3rd Battalion of the 1st Guardist Brigade were in the immediate vicinity of Ljuboten. The headquarters of the 3rd Battalion were located in Ljubanci, less than 1 kilometre away from Ljuboten. The total strength of the 3rd Battalion was about 500 men.

58. The 1st company of the Battalion held positions in the village of Brodec, about 6 kilometers from Ljuboten. The 2nd company of the Battalion held positions in the mountain ridge north of Ljuboten, directly above the village. The nearest FYROM army position "Smok" manned by the 2nd company of the 3rd Battalion was about 300 meters from Ljuboten. The 2nd company also had two 82-mm mortars and two B-1 76-mm artillery pieces. The 3rd Company of the Battalion held positions in the village of Račtak, about 5 kilometers from Ljuboten by road. The Battalion's heavy mortar battery of six 120-mm mortars was located at a distance of about 2 kilometers above Ljuboten. As of 10th August 2001 there were no FYROM or NLA military elements in Ljuboten.
59. As of the 10 August 2001 the nearest positions of the NLA were those of the NLA 114th Brigade. These positions were based in the area of Matejce monastery across the other side of the Skopska Crna Gora ridge, about 8 km by air north east of Ljuboten, and were manned by the 114th Brigade's 2nd battalion. The strength of the 2nd Battalion was approximately between 400 - 500 men. The Battalion had several 60-mm and 82-mm mortars.

MINE INCIDENT

60. At about 8.00 a.m., on Friday 10 August 2001, about 5 kilometres north of Ljuboten, in the Skopska Crna Gora mountain ridge area, a FYROM military vehicle belonging to the 3rd battalion of the 1st Guardist Brigade was destroyed by a remote-controlled explosive device in an ambush at a place called Ljubotenski bacila which was about 200 meters from the positions of the FYROM 3^d battalion. The vehicle was carrying an outgoing shift of soldiers of the 2nd company to Ljubanci.
61. Eight FYROM soldiers were killed in the incident. Two of those killed were residents of the bordering village of Ljubanci. Immediately following the explosion, members of the NLA opened fire on the truck causing the FYROM 2nd company to respond resulting in an exchange of fire between the two groups which lasted for several hours. This NLA element was further attacked by the FYROM Air Force Mi-24 helicopters in the area of Ljubotenski bacila that morning.

ATTACK ON LJUBOTEN - FRIDAY 10 AUGUST 2001

62. The same day, on Friday 10 August 2001, following the exchange of fire between the NLA and the 3rd Battalion, the 3rd Battalion opened small arms fire and fired at least two mortar/cannon rounds into Ljuboten, presumably in retaliation for the death of the 8 soldiers in the Ljubotenski bacila area. These rounds killed two civilians including a 5 year old child. There were no legitimate military targets in the village other than possibly a group of 3 armed persons. No hostile acts were committed by these men or any members of the population from the village. Later that day, a police unit commanded by **Johan TARCULOVSKI** arrived in the neighboring village of Ljubanci. During the night of the 10 and 11 August 2001 this unit made a reconnaissance of Ljuboten.

ATTACK ON LJUBOTEN VILLAGE – SATURDAY 11 AUGUST 2001

63. Between 8.00 a.m. and 10.00 a.m. on Saturday 11 August 2001, the 3rd Battalion opened small arms fire on Ljuboten. Later that day between 5.30 p.m. and 6.00 p.m. **Johan TARCULOVSKI**'s police unit fired several 64-mm rockets into the village. There were no legitimate military targets in the village nor were any hostile acts committed by members of the population from the village.

ATTACK ON LJUBOTEN VILLAGE – SUNDAY 12 AUGUST 2001

64. On Sunday 12 August 2001 the village of Ljuboten came under an intensive combined attack by a police unit commanded by **Johan TARCULOVSKI** and the FYROM army. At about 8.00 a.m. **Johan TARCULOVSKI**'s police unit comprised of about 100 men entered the north-western end of Ljuboten from Ljubanci. The ground assault of this group developed along the road along the north-south axis of the village. The assault focused mainly on the northern and eastern parts of the village, as the unit moved down the Fifth Street (Ulica Pet), before turning east towards Raštak by road. The unit burnt houses and left a trail of destruction as they progressed through Ljuboten.
65. The 3rd Battalion of the 1st Guardist Brigade provided fire support for the police ground assault and fired between 40 and 60 120-mm, 82-mm and 76-mm rounds into and around the village between about 6.00 a.m. and 10.00 a.m. The shelling was calculated to dissolve any possible resistance that may have been present in the village to the advancing police unit of **Johan TARCULOVSKI**.

66. As a result of the combined police and army attack on the village on Sunday 12 August 2001, within 4 to 6 hours, six Albanian civilian residents were shot by **Johan TARCULOVSKI**'s police unit and one Albanian civilian resident was killed by the army's shelling. Simultaneously **Johan TARCULOVSKI**'s police unit systematically torched at least 14 houses in the village. In conjunction with the shelling of the houses by the army, a total of 21 houses were destroyed, partially destroyed or damaged by torching, shooting, shelling or by a combination of all three. Twelve residents were severely beaten and detained, ten of whom and taken to Mirkovci police station. One of these men died due to the cruel treatment he received. Most of the residents were forced to flee the village to avoid death and injury.
67. After the ground attack, in the early to late afternoon, about 90 male civilian residents from Ljuboten were arrested by police when they were fleeing the village. They were then transported to and detained at various detention centres in and around Skopje where they were held and cruelly treated for up to 48 hours.
68. On Sunday 12 August 2001, the presence of armed Albanian combatants in Ljuboten was assessed to be limited to a maximum of about 10-15 persons armed with automatic weapons and at least one machine-gun. These individuals acted either alone or in small groups to oppose the advance of **Johan TARCULOVSKI**'s police unit.
69. In addition, on 12 August 2001, a contingent of about 60 NLA combatants arrived outside Ljuboten from Nikuštak, a village about 12 kilometres from Ljuboten. The group attempted to outflank the 2nd Company of the 3rd battalion and enter Ljuboten. However, this group was spotted by the army in the area Bel Kamen and Raštanski Potok, about 4 kilometres from Ljuboten and the 2nd company of the 3d Battalion opened fire on them. Sources report that the NLA suffered casualties from the firepower of the army.
70. Between 10.00 and 11.00 a.m. the NLA opened fire with 82-mm mortars from the area of Bel Kamen, hill 1470, up to 4 kilometres from Ljuboten, at the positions of the 2nd company of the 3rd Battalion, in an attempt to cover the withdrawal of the NLA unit. All fire activities on 12 August 2001 around the village of Ljuboten ceased between 4.00 and 5.00 p.m.

Carla Del Ponte
Prosecutor

Dated this 22nd day of December 2004
At The Hague
The Netherlands