

**THE INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIA**

Case No. IT-03-66-I

IN THE TRIAL CHAMBER

Before: Judge Liu Daqun, Presiding
Judge Mohamed El Mahdi
Judge Alphonsus Orié

Registrar: Mr Hans Holthuis

Date Filed: 7 March 2003

THE PROSECUTOR

v.

**Fatmir LIMAJ
Haradin BALA
Isak MUSLIU**

ATTACHMENT A to

PROSECUTOR'S MOTION TO AMEND THE INDICTMENT

The Office of the Prosecutor:

**Andrew Cayley
Alex Whiting**

**THE INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIA**

Case No. IT-03-66-I

**THE PROSECUTOR
OF THE TRIBUNAL**

AGAINST

**Fatmir LIMAJ,
Haradin BALA,
Isak MUSLIU**

AMENDED 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 (hereinafter "the Statute of the Tribunal"), charges:

**Fatmir LIMAJ, aka Çeliku
Haradin BALA, aka Shala
Isak MUSLIU, aka Qerqiz**

with **CRIMES AGAINST HUMANITY** and **VIOLATIONS OF THE LAWS OR CUSTOMS OF WAR**.

THE ACCUSED

1. **Fatmir LIMAJ**, aka Çeliku, was born on 4 February 1971 in Banja, then in the municipality of Suva Reka in the autonomous province of Kosovo ("Kosovo"). At all times relevant to this indictment, **Fatmir LIMAJ** was a commander in the *Ushtria Çlirimtare e Kosovës* (UÇK), known in English as the Kosovo Liberation Army (hereinafter the "KLA"). In this position, **Fatmir LIMAJ** was responsible for the operation of the Lapušnik/Llapushnik Prison Camp of the KLA (hereinafter

“Lapušnik/Llapushnik Prison Camp”), located in the municipality of Glogovac/Gllogoc in Kosovo.

2. **Haradin BALA**, aka Shala, was born on 10 June 1957 in Gornja Koretica/Koroticë E Epërme in the municipality of Glogovac/Gllogoc in Kosovo. At all times relevant to this indictment, **Haradin BALA** was a member of the KLA and a commander/guard at the Lapušnik/Llapushnik Prison Camp.
3. **Isak MUSLIU**, aka Qerqiz, was born on 31 October 1970 in Račak/Reçak in the municipality of Štimlje/Shtime in Kosovo. At all times relevant to this indictment, **Isak MUSLIU** was a member of the KLA and a commander/guard at the Lapušnik/Llapushnik Prison Camp.

STATEMENT OF FACTS

4. No later than early 1998, after years of increasing tension and violence, armed conflict commenced between Serb forces and the KLA in Kosovo. This development was consistent with the KLA's generally militant approach of active, armed resistance to Serb rule in Kosovo.
5. Together with Serb civilians, Albanian civilians who were perceived by the KLA either as refusing to cooperate with or resisting the KLA by non-military means were targeted for intimidation, imprisonment, violence, and murder.

INDIVIDUAL CRIMINAL RESPONSIBILITY

6. At all times relevant to this indictment, **Fatmir LIMAJ**, in his position described above, exercised both *de jure* and *de facto* command and control over KLA members operating the Lapušnik/Llapushnik Prison Camp.
7. In his position described above, **Fatmir LIMAJ** had the authority to discipline and punish subordinates who committed breaches of military discipline and/or illegal acts, including violations of international humanitarian law.
8. **Fatmir LIMAJ**, **Haradin BALA**, and **Isak MUSLIU** are responsible for the crimes charged against them in this indictment,

pursuant to Article 7(1) of the Statute of the Tribunal, as further specified below for planning, instigating, ordering, committing, or otherwise aiding and abetting the planning, preparation, or execution of acts or omissions set forth in this indictment.

9. **Fatmir LIMAJ** is also criminally responsible for the crimes charged against him in this indictment as a superior pursuant to Article 7(3) of the Statute of the Tribunal. This criminal responsibility involves the responsibility of a superior officer for the acts of his subordinate if the superior knew or had reason to know that this subordinate was about to commit such acts or had done so and the superior failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof.

GENERAL ALLEGATIONS

10. At all times relevant to this indictment, a state of armed conflict existed in Kosovo.
11. All acts and omissions charged as Crimes against Humanity were part of a widespread and systematic attack directed against the Serb civilian population and members of the Albanian civilian population perceived as refusing to cooperate with or resisting the KLA by non-military means.
12. At all times relevant to this indictment, **Fatmir LIMAJ**, **Haradin BALA**, and **Isak MUSLIU** were required to abide by the laws and customs of war, including the Geneva Conventions of 1949 and Additional Protocol II.

CHARGES COUNTS 1 to 2 (IMPRISONMENT, CRUEL TREATMENT)

13. From in or about May 1998 through to on or about 25 July 1998, in the municipalities of Štimlje/Shtime, Glogovac/Gllogoc, and Lipljan/Lipjan in Kosovo, **Fatmir LIMAJ**, individually and in concert with KLA forces under his command and control, planned, instigated, ordered, committed, or otherwise aided and abetted the planning, preparation, or execution of the crimes of Imprisonment and Cruel Treatment of Serb and Albanian civilians. **Fatmir LIMAJ** also knew or had reason to know that the crimes of Imprisonment and Cruel Treatment were about to be committed or

had been committed by his subordinates, and he failed to take the necessary and reasonable measures to prevent such acts or punish the perpetrators thereof. **Haradin BALA** and **Isak MUSLIU** committed, or otherwise aided and abetted the execution of, the crimes of Imprisonment and Cruel Treatment of Serb and Albanian civilians.

14. During the time period set forth above, KLA forces under the command and control of **Fatmir LIMAJ** unlawfully seized at least thirty-five Serb and Albanian civilians from the municipalities of Štimlje/Shtime, Glogovac/Gllgoc, and Lipljan/Lipjan in Kosovo, and forcibly brought them to the Lapušnik/Llapushnik Prison Camp.
15. At the Lapušnik/Llapushnik Prison Camp, KLA forces under the command and control of **Fatmir LIMAJ** unlawfully detained the Serb and Albanian civilians for prolonged periods. Albanian civilian detainees were repeatedly interrogated about alleged “collaboration” with Serbs, often on the basis only of non-military interactions with Serb civilians. **Fatmir LIMAJ**, **Haradin BALA**, and **Isak MUSLIU** personally participated in the guarding of the detainees at the Lapušnik/Llapushnik Prison Camp and in the interrogations of the detainees.
16. By these acts and omissions, **Fatmir LIMAJ**, **Haradin BALA**, and **Isak MUSLIU** participated in:

Count 1: Imprisonment, a CRIME AGAINST HUMANITY, punishable under Articles 5(e), 7(1) (**Fatmir LIMAJ**, **Haradin BALA**, and **Isak MUSLIU**) and 7(3) (**Fatmir LIMAJ**) of the Statute of the Tribunal.

Count 2: Cruel Treatment, a VIOLATION OF THE LAWS OR CUSTOMS OF WAR as recognised by Common Article 3(1)(a) of the Geneva Conventions of 1949, punishable under Articles 3, 7(1) (**Fatmir LIMAJ**, **Haradin BALA**, and **Isak MUSLIU**) and 7(3) (**Fatmir LIMAJ**) of the Statute of the Tribunal.

COUNTS 3 to 5 (TORTURE, CRUEL TREATMENT)

17. From in or about May 1998 through to on or about 25 July 1998, at the Lapušnik/Llapushnik Prison Camp, **Fatmir LIMAJ**,

individually and in concert with KLA forces under his command and control, planned, instigated, ordered, committed, or otherwise aided and abetted the planning, preparation, or execution of the crimes of Torture and Cruel Treatment of Serb and Albanian civilians. **Fatmir LIMAJ** also knew or had reason to know that the crimes of Torture and Cruel Treatment were about to be committed or had been committed by his subordinates, and he failed to take the necessary and reasonable measures to prevent such acts or punish the perpetrators thereof. **Haradin BALA** and **Isak MUSLIU** committed, or otherwise aided and abetted the execution of, the crimes of Torture and Cruel Treatment of Serb and Albanian civilians.

18. During the time period set forth above, KLA forces under the command and control of **Fatmir LIMAJ** held the detainees at the Lapušnik/Llapushnik Prison Camp under conditions that were brutal and inhumane, and routinely subjected them to physical and psychological assault, including torture and beatings. **Fatmir LIMAJ**, **Haradin BALA**, and **Isak MUSLIU** participated in maintaining and enforcing the inhumane conditions at the camp, which included inadequate food and medical care, and participated in or aided and abetted the torture and beatings of the detainees.
19. By these acts and omissions, **Fatmir LIMAJ**, **Haradin BALA**, and **Isak MUSLIU** participated in:

Count 3: Torture, a CRIME AGAINST HUMANITY, punishable under Articles 5(f), 7(1) (**Fatmir LIMAJ**, **Haradin BALA**, and **Isak MUSLIU**) and 7(3) (**Fatmir LIMAJ**) of the Statute of the Tribunal.

Count 4: Torture, a VIOLATION OF THE LAWS OR CUSTOMS OF WAR as recognised by Common Article 3(1)(a) of the Geneva Conventions of 1949, punishable under Articles 3, 7(1) (**Fatmir LIMAJ**, **Haradin BALA**, and **Isak MUSLIU**) and 7(3) (**Fatmir LIMAJ**) of the Statute of the Tribunal.

Count 5: Cruel Treatment, a VIOLATION OF THE LAWS OR CUSTOMS OF WAR as recognised by Common Article 3(1)(a) of the Geneva Conventions of 1949, punishable under Articles 3, 7(1) (**Fatmir LIMAJ**, **Haradin BALA**, and **Isak MUSLIU**) and 7(3) (**Fatmir LIMAJ**) of the Statute of the Tribunal.

**COUNTS 6 to 7
(MURDER)**

20. From a date in or about June 1998 through to 25 July 1998, KLA forces under the command and control of **Fatmir LIMAJ**, including **Haradin BALA** and **Isak MUSLIU**, planned, instigated, ordered, committed, or otherwise aided and abetted the planning, preparation, or execution of the crime of Murder of Serb and Albanian civilians at the Lapušnik/Llapushnik Prison Camp. In each of the instances set forth below, **Fatmir LIMAJ** knew or had reason to know that the crime of Murder was about to be committed or had been committed by his subordinates, and he failed to take the necessary and reasonable measures to prevent such acts or punish the perpetrators thereof.
21. On a date after 24 June 1998 but before 25 July 1998, KLA forces under the command and control of **Fatmir LIMAJ** murdered a number of Serb and non-Albanian detainees at the Lapušnik/Llapushnik Prison Camp whose names are set forth in Annex I to this indictment.
22. On a date in or about mid-July 1998, KLA forces under the command and control of **Fatmir LIMAJ** beat, tortured, and murdered a number of Serb and Albanian detainees at the Lapušnik/Llapushnik Prison Camp whose names are set forth in Annex II to this indictment. **Haradin BALA** and **Isak MUSLIU** participated in or aided and abetted the murder of the four detainees.
23. On a date in or about June or July 1998, KLA forces under the command and control of **Fatmir LIMAJ** beat, tortured, and murdered Fehmi XHEMA, aka Fehmi Tafa, at the Lapušnik/Llapushnik Prison Camp. **Haradin BALA** and **Isak MUSLIU** participated in or aided and abetted the murder of Fehmi XHEMA, aka Fehmi Tafa.
24. By these acts and omissions, **Fatmir LIMAJ**, **Haradin BALA** and **Isak MUSLIU** participated in:

Count 6: Murder, a CRIME AGAINST HUMANITY, punishable under Articles 5(a), 7(1) (**Haradin BALA** and **Isak MUSLIU**) and 7(3) (**Fatmir LIMAJ**) of the Statute of the Tribunal.

Count 7: Murder, a VIOLATION OF THE LAWS OR CUSTOMS OF WAR as recognised by Common Article 3(1)(a) of the Geneva Conventions of 1949, punishable under Articles 3, 7(1) (**Haradin BALA** and **Isak MUSLIU**) and 7(3) (**Fatmir LIMAJ**) of the Statute of the Tribunal.

**COUNTS 8 to 9
(MURDER)**

25. On or about 25 July 1998, in or around the Beriša/Berisha mountains near the Lapušnik/Llapushnik Prison Camp, **Fatmir LIMAJ**, individually and in concert with KLA forces under his command and control, planned, instigated, ordered, or otherwise aided and abetted the planning, preparation, or execution of the crime of Murder of eleven Albanian detainees. **Fatmir LIMAJ** also knew or had reason to know that the crime of Murder was about to be committed or had been committed by his subordinates, and he failed to take the necessary and reasonable measures to prevent such acts or punish the perpetrators thereof. **Haradin BALA** committed, or otherwise aided and abetted the execution of, the crime of Murder of the eleven Albanian detainees.
26. Shortly before 25 July 1998, Serb forces retook the area around the Lapušnik/Llapushnik Prison Camp. As a result, on 25 July 1998, the KLA abandoned the Lapušnik/Llapushnik Prison Camp and **Haradin BALA** and another guard marched approximately twenty-one detainees from the camp into the Beriša/Berisha mountains. On the way, they met up with **Fatmir LIMAJ** who gave orders to **Haradin BALA**.
27. Shortly thereafter, **Haradin BALA** divided the detainees into two groups. One group of approximately nine detainees was released. The other group of approximately twelve detainees was marched by **Haradin BALA**, the other guard and a third KLA soldier to a clearing in the woods. **Haradin BALA**, the other guard, and the third KLA soldier then shot them, killing ten of the detainees whose names are set forth in Annex III to this indictment.
28. By these acts and omissions, **Fatmir LIMAJ** and **Haradin BALA** participated in:

Count 8: Murder, a CRIME AGAINST HUMANITY, as punishable under Articles 5(a), 7(1) (**Fatmir LIMAJ** and **Haradin BALA**) and 7(3) (**Fatmir LIMAJ**) of the Statute of the Tribunal.

Count 9: Murder, a VIOLATION OF THE LAWS OR CUSTOMS OF WAR as recognised by Common Article 3(1)(a) of the Geneva Conventions of 1949, punishable under Articles 3, 7(1) (**Fatmir LIMAJ** and **Haradin BALA**) and 7(3) (**Fatmir LIMAJ**) of the Statute of the Tribunal.

Dated this 7th day of March 2003
At The Hague
The Netherlands

ANNEX I

Paragraph 22: Detainees murdered between 24 June 1998 and 25 July 1998 at the Lapušnik/Llapushnik Prison Camp

Milovan KRSTIĆ
Miodrag KRSTIĆ
Boban MITROVIĆ
Miroslav ŠULJNIĆ
Živorad KRSTIĆ
Stamen GENOV
Đorđe ČUK

ANNEX II

Paragraph 23: Detainees murdered in mid-July 1998 at the
Lapušnik/Llapushnik Prison Camp

Siniša BLAGOJEVIĆ
Dragan LNU
Agim ADEMI
Vesel AHMETI

ANNEX III

Paragraph 28: Detainees murdered on or about 25 July 1998 in or around the Beriša/Berisha mountains near the Lapušnik/Llapushnik Prison Camp

Emin EMINI
Ibush HAMZA
Hyzri HARJIZI
Shaban HOTI
Hasan HOXHA
Safet HYSENAJ
Bashkim RASHITI
Hetem REXHAJ
Lutfi XHEMSHITI
Shyqyri ZYMERI