

# THE INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA

Case No. IT-03-66-PT

## THE PROSECUTOR OF THE TRIBUNAL

### AGAINST

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

## SECOND 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 Lapusnik/Llapushnik area and the Lapusnik/Llapushnik Prison Camp of the KLA (hereinafter "Lapusnik/Llapushnik Prison Camp"), located in the municipality of Glogovac/Gllogoc in Kosovo.
2. **Isak MUSLIU**, aka Qerqiz, was born on 31 October 1970 in Racak/Reçak in the municipality of Stimlje/Shtime in Kosovo. At all times relevant to this indictment, **Isak MUSLIU** was a member of the KLA and a commander of the Lapusnik/Llapushnik area and the Lapusnik/Llapushnik Prison Camp, and at times acted as a guard at the Lapusnik/Llapushnik Prison Camp.
3. **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

## 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 co-operate with or resisting the KLA by non-military means (often described as "collaborators" by members of the KLA and hereinafter referred to as "perceived Albanian collaborators") were targeted for intimidation, imprisonment, violence, and murder.

## INDIVIDUAL CRIMINAL RESPONSIBILITY

### Article 7(1) of the Statute of the Tribunal

6. **Fatmir LIMAJ, Isak MUSLIU, and Haradin BALA** 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 the crimes set forth in this indictment. By using the word "committed" in this indictment, the Prosecutor does not intend to suggest that the three Accused physically committed all of the crimes charged. Committing in this indictment includes the three Accused's participation in a joint criminal enterprise.
7. This joint criminal enterprise came into existence before May 1998 and continued until at least August 1998. Its purpose was to target Serb civilians and perceived Albanian collaborators for intimidation, imprisonment, violence, and murder in violation of Articles 3 and 5 of the Statute of the Tribunal.
8. The crimes enumerated in this indictment were within the objective of the joint criminal enterprise and the three Accused held the state of mind necessary for the commission of each of these crimes, or had knowledge of the system of ill treatment at the Lapusnik/Llapushnik Prison Camp and intended to further it. Alternatively, the crimes enumerated in Counts 7 to 10 were the natural and foreseeable consequence of the execution of the objective of the joint criminal enterprise and the three Accused were aware that such crimes were the possible outcome of the execution of the joint criminal enterprise.
9. In order for the joint criminal enterprise to succeed in its objective, the three Accused worked in concert with or through one another and several other individuals in the joint criminal enterprise. Individuals participating in this joint criminal enterprise included the three Accused, other KLA soldiers and guards at the Lapusnik/Llapushnik Prison Camp, and other KLA soldiers participating in the arrests of Serb civilians and perceived Albanian collaborators. Each participant or co-perpetrator within the joint criminal enterprise, through his or her acts or omissions, significantly contributed to the overall objective of the enterprise.
10. **Fatmir LIMAJ**, acting individually or in concert with other members of the joint criminal

enterprise, participated in the joint criminal enterprise in the following ways:

- a. He commanded, controlled, directed and otherwise exercised effective control over the other participants in the joint criminal enterprise and over the operation of the Lapusnik/Llapushnik Prison Camp.
- b. He planned, instigated, and ordered the arrests of Serb civilians and perceived Albanian collaborators.
- c. He planned, instigated, ordered and personally participated in the enforcement of the detention of Serb civilians and perceived Albanian collaborators at the Lapusnik/Llapushnik Prison Camp. At times he ordered the release of prisoners.
- d. He planned, instigated, ordered, and personally participated in the interrogation of Serb civilians and perceived Albanian collaborators at the Lapusnik/Llapushnik Prison Camp.
- e. He planned, instigated, ordered, and personally participated in the brutal and inhumane treatment, physical and psychological assault, torture, and beatings of Serb civilians and perceived Albanian collaborators imprisoned at the Lapusnik/Llapushnik Prison Camp.
- f. He planned, instigated, and ordered the murders of Serb civilians and perceived Albanian collaborators imprisoned at the Lapusnik/Llapushnik Prison Camp.
- g. He planned, instigated, and ordered the murder of ten Albanian civilians in the Berisa/Berisha mountains on or about 26 July 1998.
- h. He planned, instigated, ordered and personally participated in efforts to keep the existence of the Lapusnik/Llapushnik Prison Camp, and events that occurred there, secret by ordering detainees not to divulge any knowledge of the Lapusnik/Llapushnik Prison Camp on penalty of death.
- i. He instigated and aided and abetted the crimes alleged in this indictment by consistently failing to prevent, investigate or punish crimes committed by his subordinates against Serb civilians and perceived Albanian collaborators, as well as by the example of his own participation in such crimes.

11. **Isak MUSLIU**, acting individually or in concert with other members of the joint criminal enterprise, participated in the joint criminal enterprise in the following ways:

- a. He commanded, controlled, directed and otherwise exercised effective control over other KLA soldiers and guards at the Lapusnik/Llapushnik Prison Camp.
- b. He planned, instigated, ordered and personally participated in the enforcement of the detention of Serb civilians and perceived Albanian collaborators at the Lapusnik/Llapushnik Prison Camp.
- c. He planned, instigated, ordered and personally participated in the interrogation of

Serb civilians and perceived Albanian collaborators at the Lapusnik/Llapushnik Prison Camp.

- d. He planned, instigated, ordered and personally participated in the brutal and inhumane treatment, physical and psychological assault, torture, and beatings of Serb civilians and perceived Albanian collaborators imprisoned at the Lapusnik/Llapushnik Prison Camp.
- e. He planned, instigated, ordered and personally participated in the murder of Serb civilians and perceived Albanian collaborators imprisoned at the Lapusnik/Llapushnik Prison Camp.
- f. He participated in efforts to keep the existence of the Lapusnik/Llapushnik Prison Camp, and events that occurred there, secret by threatening prisoners not to observe or discuss events occurring in the Camp.
- g. He instigated and aided and abetted the crimes alleged in this indictment by consistently failing to prevent, investigate or punish crimes committed by his subordinates against Serb civilians and perceived Albanian collaborators, as well as by the example of his own participation in such crimes.

12. **Haradin BALA**, acting individually or in concert with other members of the joint criminal enterprise, participated in the joint criminal enterprise in the following ways:

- a. He personally participated in the enforcement of the detention of Serb civilians and perceived Albanian collaborators at the Lapusnik/Llapushnik Prison Camp.
- b. He personally participated in the interrogation of Serb civilians and perceived Albanian collaborators at the Lapusnik/Llapushnik Prison Camp.
- c. He personally participated in the brutal and inhumane treatment, physical and psychological assault, torture, and beatings of Serb civilians and perceived Albanian collaborators imprisoned at the Lapusnik/Llapushnik Prison Camp.
- d. He personally participated in the murder of Serb civilians and perceived Albanian collaborators imprisoned at the Lapusnik/Llapushnik Prison Camp and participated in the concealment of these crimes through the burial of bodies.
- e. He planned, instigated, ordered and personally participated in the murder of ten Albanian civilians in the Berisa/Berisha mountains on or about 26 July 1998.
- f. He participated in efforts to keep the existence of the Lapusnik/Llapushnik Prison Camp, and events that occurred there, secret by threatening prisoners not to observe or discuss events occurring in the Camp.

13. The three Accused knowingly and wilfully participated in the joint criminal enterprise, sharing the intent of other participants in the joint criminal enterprise or being aware of the foreseeable consequences of the execution of the objective of the joint criminal enterprise. On this basis, they bear individual criminal responsibility for these crimes under Article 7

(1) of the Statute of the Tribunal, in addition to their responsibility under the same Article for having planned, instigated, ordered, committed, or otherwise aided and abetted in the planning, preparation, execution, and commission of these crimes.

Article 7(3) of the Statute of the Tribunal

14. Fatmir **LIMAJ** and Isak **MUSLIU** are also criminally responsible for the crimes charged against them in this indictment as superiors pursuant to Article 7(3) of the Statute of the Tribunal.
15. At all times relevant to this indictment, **Fatmir LIMAJ** and Isak **MUSLIU**, in the positions described above, exercised both *de jure* and *de facto* command and control over KLA members operating the Lapusnik/Llapushnik Prison Camp.
16. In the positions described above, **Fatmir LIMAJ** and Isak **MUSLIU** had the authority to discipline and punish subordinates who committed breaches of military discipline and/or illegal acts, including violations of international humanitarian law.
17. **Fatmir LIMAJ** and Isak **MUSLIU** knew or had reason to know that the crimes alleged in this indictment were about to be committed or had been committed by their subordinates and they failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof.

**GENERAL ALLEGATIONS**

18. At all times relevant to this indictment, a state of armed conflict existed in Kosovo.
19. All acts and omissions charged as Crimes against Humanity were part of a widespread and systematic attack directed against the Serb civilian population and perceived Albanian collaborators.
20. At all times relevant to this indictment, **Fatmir LIMAJ**, **Isak MUSLIU** and **Haradin BALA** 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)**

21. From in or about May 1998 through to on or about 26 July 1998, in the municipalities of Stimlje/Shtime, Glogovac/Gllogoc, and Lipljan/Lipjan in Kosovo, **Fatmir LIMAJ** and **Isak MUSLIU**, individually and in concert with KLA forces under their 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** and **Isak MUSLIU** 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 their subordinates, and they 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 crimes of Imprisonment and Cruel Treatment of Serb and Albanian civilians.

22. 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 Stimlje/Shtime, Glogovac/Gllogoc, and Lipljan/Lipjan in Kosovo, and forcibly brought them to the Lapusnik/Llapushnik Prison Camp.
23. At the Lapusnik/Llapushnik Prison Camp, KLA forces under the command and control of **Fatmir LIMAJ** and **Isak MUSLIU** 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 interaction with Serb civilians. **Fatmir LIMAJ**, **Isak MUSLIU** and **Haradin BALA** personally participated in the guarding of the detainees at the Lapusnik/Llapushnik Prison Camp and in the interrogations of the detainees.
24. By these acts and omissions, **Fatmir LIMAJ**, **Isak MUSLIU** and **Haradin BALA** participated in:

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

### **COUNTS 3 to 6 (TORTURE, INHUMANE ACTS, CRUEL TREATMENT)**

25. From in or about May 1998 through to on or about 26 July 1998, at the Lapusnik/Llapushnik Prison Camp, **Fatmir LIMAJ** and **Isak MUSLIU**, individually and in concert with KLA forces under their command and control, planned, instigated, ordered, committed, or otherwise aided and abetted the planning, preparation, or execution of the crimes of Torture, Inhumane Acts and Cruel Treatment of Serb and Albanian civilians. **Fatmir LIMAJ** and **Isak MUSLIU** also knew or had reason to know that the crimes of Torture, Inhumane Acts and Cruel Treatment were about to be committed or had been committed by their subordinates, and they 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 crimes of Torture, Inhumane Acts and Cruel Treatment of Serb and Albanian civilians.
26. During the time period set forth above, KLA forces under the command and control of **Fatmir LIMAJ** and **Isak MUSLIU** held the detainees at the Lapusnik/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**, **Isak MUSLIU** and **Haradin BALA** 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.

27. By these acts and omissions, **Fatmir LIMAJ, Isak MUSLIU and Haradin BALA** participated in:

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

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

Count 6: 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, Isak MUSLIU and Haradin BALA**) and 7(3) (**Fatmir LIMAJ and Isak MUSLIU**) of the Statute of the Tribunal.

#### **COUNTS 7 to 8 (MURDER)**

28. From a date in or about June 1998 through to 26 July 1998, at or around the Lapusnik/Llapushnik Prison Camp, **Fatmir LIMAJ and Isak MUSLIU**, individually and in concert with KLA forces under their command and control, planned, instigated, ordered, committed, or otherwise aided and abetted the planning, preparation, or execution of the crime of Murder of Serb and Albanian civilians. In each of the instances set forth below, **Fatmir LIMAJ and Isak MUSLIU** knew or had reason to know that the crime of Murder was about to be committed or had been committed by their subordinates, and they failed to take the necessary and reasonable measures to prevent such acts or punish the perpetrators thereof. In certain instances specified in paragraphs 31 and 32 below, **Haradin BALA** committed, or otherwise aided and abetted the execution of, the crime of Murder of Serb and Albanian civilians.
29. On or about 12 June 1998, KLA forces under the command and control of **Fatmir LIMAJ and Isak MUSLIU** murdered Ajet GASHI, a detainee from the Lapusnik/Llapushnik Prison Camp. **Isak MUSLIU** participated in or aided and abetted the murder of Ajet GASHI.
30. On a date after 24 June 1998 but before 26 July 1998, KLA forces under the command and control of **Fatmir LIMAJ and Isak MUSLIU** murdered a number of Serb and non-Albanian detainees at the Lapusnik/Llapushnik Prison Camp whose names are set forth in Annex I to this indictment.
31. On a date in or about mid-July 1998, KLA forces under the command and control of **Fatmir LIMAJ and Isak MUSLIU** beat, tortured, and murdered four Serb and Albanian detainees at the Lapusnik/Llapushnik Prison Camp, whose names are set forth in Annex II to this indictment. **Isak MUSLIU and Haradin BALA** participated in or aided and abetted the murder of the four detainees.

32. On a date in or about June or July 1998, KLA forces under the command and control of **Fatmir LIMAJ** and **Isak MUSLIU** beat, tortured, and murdered Fehmi XHEMA, aka Fehmi Tafa, at the Lapusnik/Llapushnik Prison Camp. **Isak MUSLIU** and **Haradin BALA** participated in or aided and abetted the murder of Fehmi XHEMA, aka Fehmi Tafa.
33. By these acts and omissions, **Fatmir LIMAJ**, **Isak MUSLIU** and **Haradin BALA** participated in:

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

Count 8: 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**, **Isak MUSLIU** and **Haradin BALA**) and 7(3) (**Fatmir LIMAJ** and **Isak MUSLIU**) of the Statute of the Tribunal.

#### **COUNTS 9 to 10 (MURDER)**

34. On or about 26 July 1998, in or around the Berisa/Berisha mountains near the Lapusnik/Llapushnik Prison Camp, **Fatmir LIMAJ** and **Haradin BALA**, individually and in concert with KLA forces under the command and control of **Fatmir LIMAJ**, planned, instigated, ordered, or otherwise aided and abetted the planning, preparation, or execution of the crime of Murder of ten 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.
35. Shortly before 26 July 1998, Serb forces retook the area around the Lapusnik/Llapushnik Prison Camp. As a result, on 26 July 1998, the KLA abandoned the Lapusnik/Llapushnik Prison Camp and **Haradin BALA** and another guard marched approximately twenty-one detainees from the camp into the Berisa/Berisha mountains. On the way, they met up with **Fatmir LIMAJ** who gave orders to **Haradin BALA**.
36. 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.
37. By these acts and omissions, **Fatmir LIMAJ** and **Haradin BALA** participated in:

Count 9: 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 10: 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.

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Carla Del Ponte  
Prosecutor

Dated this 6<sup>th</sup> day of November 2003  
At The Hague  
The Netherlands

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### ANNEX I

Paragraph 30: Detainees murdered between 24 June 1998 and 26 July 1998 at the Lapusnik/  
Llapushnik Prison Camp

Milovan KRSTIC  
Miodrag KRSTIC  
Slobodan, aka Boban, MITROVIC  
Miroslav SULJNIC  
Zivorad KRSTIC  
Stamen GENOV  
Dordje CUK  
Sinisa BLAGOJEVIC

### ANNEX II

Paragraph 31: Detainees murdered in mid-July 1998 at the Lapusnik/Llapushnik Prison Camp

Jefta PETKOVIC  
Zvonko MARINKOVIC  
Agim ADEMI  
Vesel AHMETI

### ANNEX III

Paragraph 36: Detainees murdered on or about 26 July 1998 in or around the Berisa/Berisha  
mountains near the Lapusnik/Llapushnik Prison Camp

Emin EMINI  
Ibush HAMZA  
Hyzri HARJIZI  
Shaban HOTI

Hasan HOXHA  
Safet HYSENAJ  
Bashkim RASHITI  
Hetem REXHAJ  
Lutfi XHEMSHITI  
Shyqyri ZYMER