



Republic of Serbia
WAR CRIMES PROSECUTOR'S
OFFICE
Belgrade, 13 July 2005

URGENT DETENTION!

DISTRICT COURT IN BELGRADE
War Crimes Chamber

Pursuant to my authority under Articles 46§2(3), 265§1 and 266 of the Act on Criminal Procedure, I hereby raise the

INDICTMENT

Against

Sinan MORINA, born in village Opteruša on 26 September 1972, married, father of five, literate, completed 8-year elementary education, did not do military service, with residence in Germany, currently detained further to the Ruling Ki.B.1/07, rendered by the War Crimes Chamber investigative authority, the detention measure subsequently being extended until 28 July 2007.

CHARGES

At the time relevant to this indictment, the area of the Orahovac municipality (Kosovo and Metohija) was a site of noninternational armed conflict between the FRY military force consisting of the Yugoslav Army and Serbian Police units on one side, and members of the armed military organisation Kosovo Liberation Army (KLA) on the other.

In the period between 17 and 21 July 1998, as a KLA soldier, member of the unit commanded by Halit DULAKU, the KLA staff commander in charge of Opteruša, the accused, Sinan MORINA, acted in concert with other members of the same unit, against whom the case has been separated, namely with the following persons:

Halit DULAKU, Rahman KABASHI, Sokolj BYTIQI, Beqir BYTIQI, Kapllan MAZREKU, Reshat SPAHIU, Xhemail KRASNIQI, Beitullah DULAKU, Fitim MORINA, Xhevat KABASHI, Nezat KABASHI, Refki SPAHIU, Enver SPAHIU, Bashkim SPAHIU, Naim SPAHIU, Allbert SPAHIU, Avdul SPAHIU, Fatmir SPAHIU, Ejup KABASHI, Bekim KABASHI, Naim KABASHI, Sallih KABASHI, Fejzi KABASHI, Nazmi KABASHI, Dervish KABASHI, Sedat KABASHI, Fatmir DULAKU, Agim

BYTIQI, Alber DULAKU, Qazim KRASNIQI, Kasum KRASNIQI, Avni KRASNIQI and Rifat DULAKU.

Armed with personal infantry weapons, in a joint, simultaneous and premeditated action with the aforementioned members of his unit, each of whom was assigned to a particular task within the process of the crime commission, the accused, MORINA, wilfully participated in the commission of the criminal offence described in this indictment, wherein he engaged both as an individual and as a member of the group.

The aim of the action was to remove, forcefully and under arms threat, the Serbian population from the Orahovac municipality area, which was part of a broader common plan - the establishment of the KLA full control over the territory of Kosovo and Metohija and the general removal of the Serbian population thereof.

The accused, MORINA, engaged in a sustained armed assault on the villages of the Orahovac municipality, whereby a number of Serb civilians were killed, unlawfully detained, tortured and physically injured, while members of his group committed murders and rapes.

MORINA's criminal engagement resulted in a large-scale destruction of civilian property and religious objects, which was not motivated by military necessity, and in the dislocation of civilians from the area of the Orahovac municipality. Specifically,

1. In the night between 17 and 18 July 1998, within an armed action carried out in village Ofteruša and persisting until the morning hours, MORINA launched a gunfire attack on ten houses inhabited by Serb civilians. In the course of the next day, 18 July, MORINA ordered the residents, 17 persons altogether, to get out of the houses, whereupon, under arms threat, he forced them into the yard of the house owned by Mladen BOŽANIĆ; inside the yard, he severely beat Slavica BANZIĆ, and forcefully took 500 deutsche marks and a police vest from her; meanwhile, the aforementioned members of his unit besieged the victims and kept them confined inside the yard, beating and kicking them on the head and body, and hitting them with rifle butts and poles, whereafter they searched the victims and robbed them of their gold jewels, money and other valuable possessions.

Constantly keeping them at gunpoint, MORINA forcefully loaded the captives onto a tractor trailer and drove them in the direction of Suva Reka; the tractor stopped near the site known as Krvavci, where the captives were transferred to a truck and subsequently driven to village Pečani, in the area of Suva Reka. Upon their arrival on the spot, MORINA separated men from the rest of the captives - women, children and old persons, and forced the two groups into two separate rooms on the ground floor of a house, where they remained confined for the whole night.

On the following day, 29 July 1998, he loaded Dušanka BOŽANIĆ, Dobrila BOŽANIĆ, Dragica BOŽANIĆ, Slavka BURDŽIĆ, Stanojka BURDŽIĆ, Slavica BANZIĆ, Desanka BANZIĆ and Olga SIMIĆ onto a truck, transported them to village Zočište, and further to village Samodreža in the Suva Reka municipality. In Samodreža, he confined the victims inside the elementary school building, where they remained until 21 July, when the Red Cross mission transferred them to Priština, and subsequently to Serbia.

In the meantime, a group of unidentified members of MORINA's group kept kicking the male captives and hitting them with rifle butts and metal bars. In subsequence, they transported the victims to the site known as Volujak, where the brutalising continued. Ultimately, the group fired a number of gunshots into the victims' vitals, whereby they killed Božidar BOŽANIĆ, Novica BOŽANIĆ, Mladen BOŽANIĆ, Nemanja BOŽANIĆ, Spasoje BURDŽIĆ, Miodrag BURDŽIĆ, Spasoje BANZIĆ and Sreten SIMIĆ, and dumped their remains into the nearby Volujak cave.

2. In the course of and after the armed assault described in (1), acting upon the received orders and in concert with Ramadan KABASHI, Sedat KABASHI, Bashkim KABASHI, Feizo KABASHI, Xhevat KABASHI, Shaqyr BYTIQI, Batul DULAKU and Reshat SPAHIU, the accused, MORINA, fired the Serb houses in Opetruša, forced his way inside Sveti Spas (Saint Salvation) Orthodox Church, and later into Saint Nicolas' Church. In a simultaneous and joint action, MORINA's group demolished and destroyed all Orthodox symbols in the two churches, including crosses, icons, furniture and other property, while they damaged frescoes on the church walls, broke the entrance door on one of the churches, and smashed the windows and bells on both.

By his participation as a co-perpetrator in the described acts, Sinan MORINA committed the criminal offence recognised by Art. 142§1 in re Art. 22 (war crime against civilian population) of the Yugoslav Criminal Act.

Furthermore, Sinan MORINA is criminally responsible for serious breaches of international legal regulations governing the conduct of war, which are contained in the following acts and provisions:

- Geneva Convention IV on Protection of Civilians in Warfare (12 August 1949) - Article 3§1(1) in re Article 4 (1) and (2)*a,e,g*, and
- Annexed Protocol to the Geneva Conventions on Protection of Victims in Noninternational Armed Conflicts (Protocol II of 8 June 1977) - Articles 13, 16 and 17.

In view of the foregoing, I **PROPOSE**:

- A public trial to be scheduled and held before the War Crimes Chamber, whereto the following participants should be summoned:

- 1 War Crimes Prosecutor
- 2 The accused, Sinan MORINA, to be hauled from the Belgrade District Prison;
- 3 Injured witnesses
- 4 Postmortem forensic expert Dr Slaviša Dobričanin

- As a supplement to the evidentiary procedure, insight to be made into the files Ki-75/98 and Ki-60/99 of the Prizren District Court's investigative authority, wherefrom the following documents should be read out: the statement of suspect Safet KABASHI, taken by the specified authority on 31 August 1998; interrogation record for suspect Safet KABASHI, made on 15 September 1998; certificate of temporarily

seized objects No. 4594 of 29 August 1998, issued by the Serbian Ministry of the Interior - State Security Centre in Prizren.

- Insight to be made into the files K.No.62/98 of the Prizren District Court, and K.No.91/99 of the Požarevac District Court.

- The following documents to be read out: Record of the official visit to the spot Kri.72/06 of 13 October 2006, made by the Kuršumljia Municipality Court's investigative authority; Report on the delivery of postmortem remains found in the territory of Kosovo and Metohija; Report of the Prizren Police Directorate PU-No.245/06 of 17 October 2006; Report of the State Security Centre on page 220/3 of the file Ki.V.1/07; Identification certificate No.001218 of 2 October 2006, issued by the UNMIK Unit for Missing Persons; Death certificate for Miodrag BURDŽIĆ, dated 25 September 2006, issued by the Forensic Medical Institute in Kosovska Mitrovica; Report entitled *The Tragedy of Serbs from Villages Retimlje and Opteruša*, issued by the Missing Persons Committee, received by the War Crimes Prosecutor's Office on 4 October 2005 and included in the files of the War Crimes Chamber investigative authority, pages 250/3 - 260/3; Judgment K.No.45/2000, rendered by the Požarevac District Court in the case against Safet KABASHI, Sedat KABASHI and Kapllan MAZREKU, final on 4 April 2001, ...

- Detention for the accused, Sinan MORINA, **TO BE EXTENDED** pursuant to Art. 142§1(1) and §2(1,5) of the Act on Criminal Procedure.

Statement of Reasons

The existence of the criminal offence recognised by Art. 142§1 (war crime against civilian population) of the Yugoslav Criminal Act, and Sinan MORINA's criminal responsibility thereof, are established on the grounds of the following documents: investigation conducted by the investigative authority of the Belgrade District Court - War Crimes Chamber; files Ki.No.60/99 of the investigation conducted by the Prizren investigative judge; judgment K.No.45/2000, rendered by the Požarevac District Court in the case against Safet KABASHI, Sedat KABASHI and Kapllan MAZREKU, which became final on 4 April 2001; and contents of the proposed written documents contained in the files.

Corroborated by the files is the fact that the accused, Sinan MORINA, was a member of the unit within the KLA armed formation which covered the Orahovac municipality, i.e. village Opteruša. In that capacity, acting in concert with other members of his unit and further to the orders issued by his superior Halit DULAKU, MORINA participated in the attack on village Opteruša, specifically on the Serb civilians' family houses; upon the attack, MORINA also participated in the unlawful capturing, removal and maltreatment of the civilians, robbed one of the witnesses of her money and police vest, engaged in the separation of the male civilians from the children, women and old persons, whereupon he took part in the burning of Serbs' houses and Orthodox Churches in village Optreuša, all of which was done in the manner described in the enacting terms of this indictment.

The specified state of facts is grounded on the coinciding testimonies given by all of the victims. Their statements also coincide with the contents of the proposed written

evidence contained in the files, which sheds light on the activities and operations of the KLA members, with the accused, MORINA, also being one of them. Furthermore, the proposed evidence offers insight into the events which took place in Opetruša, in the night between 17 and 18 July, and on the day of 18 July 1998.

Interrogated within the pretrial proceedings, MORINA did not admit the commission of the criminal offence alleged against him. In his defence, MORINA said that on the critical occasion he was not in the territory of Kosovo and Metohija and that, on day of the KLA attack against the Serbs in Opetruša he was in Germany; in support of his allegations, MORINA submitted an uncertified copy of documents issued by the German authorities.

Such defence allegations on the part of the accused contradict the evidence presented, and the witness statements obtained in the course of the investigation.

Reports No. 2369-114/DB, which were subsequently obtained from the Belgrade Interpol Office, unambiguously prove that Sinan MORINA first entered the German territory on 24 September 1998, via the Frankfurt am Main airport, where he had arrived from Ljubljana; subsequently, his first contact with the German migration and refugee authority was on 27 September 1998, when he submitted an asylum request. These facts indicate that MORINA's alibi is deficient and based on false documents allegedly issued by the German authority.

All of the foregoing circumstances, the fact that the witnesses invariably offered clear, logical and convincing accounts of what they had experienced in village Opetruša, their statements essentially coinciding with each other and with all of the evidence presented throughout the investigation, as well as MORINA's failure to provide the court with valid proofs of his alleged alibi, lead to the conclusion that the defence of the accused, wherein he denies his role and participation in the commission of the specified criminal offence, is unfounded and calculated to the evasion of his criminal responsibility.

The final judgment K.No.58/99, rendered by the Požarevac District Court, supports the existence of the event which is also described in the enacting terms of this indictment, and which includes the following: armed attacks on civilian houses in Orahovac, the capturing of civilian persons and their forceful removal, along with the destruction and desecration of the Orthodox churches in Opetruša. All of the foregoing crimes were committed by the KLA unit whose commander was Halit DULAKU, whereas the herein accused individual was one of its members. Established by the same judgment is the fact that the KLA members also engaged in sexual assaults against B.D. The judgment qualified all of the aforementioned activities as the criminal offence recognised by Art. 125 (terrorism), and punishable under Art. 139§1 of the FRY Criminal Act; based on this qualification, the accused: Safet KABASHI, Sedat KABASHI and Kapllan MAZREKU, members of the KLA unit commanded by Halit DULAKU, were found guilty and punished.

The facts that the accused, MORINA, was a member of the specified KLA unit, that he was armed and wearing a uniform, and that he was present at the site of the event on the critical occasion, are established from the files Ki.No.75/98 and 60/99 of the Prizren investigative authority, while MORINA's individual engagement is

corroborated by the witness statements obtained in the course of these proceedings, and particularly by the statement obtained from witness ...

Arising from the quoted written reports and contents of the statements obtained from the proposed witnesses are the following facts: as of 1997, a state of armed conflict existed in the territory of Kosovo and Metohija; initially, the conflict involved newly formed guerrilla organisations and the Serbian police force; as of 1998, with the guerrilla organisations grown into the armed structure known as KLA, the armed conflict involved those newly established KLA formations and the FRY armed forces. With a military organisation, material resources and responsible commanders, KLA was able to conduct continuous and coordinated military operations, and to conquer and control parts of the Kosovo territory. This led to the establishment of operational zones, which were controlled by staff commanders. The area of the Orahovac municipality belonged to operational zone Paštrik-Drenica.

The continuing armed conflict between the KLA and FRY armed forces, which did not end in a peace treaty or in a peaceful settlement of the dispute, as well as the crimes committed in the Orahovac municipality between 17 and 21 July 1998, including those committed in village Opteruša, were motivated by the same reasons as those which had initially caused the conflict, its ultimate goal being the establishment of the KLA full control over the territory of Kosovo and Metohija, and the removal of the entire non-Albanian population thereof.

In the framework of a large-scale, synchronised and simultaneous KLA attack on the Orahovac area, which included villages Opteruša, Retimlje, Velika Hoča, Zočište and others, as well as town Orahovac itself, fifteen civilian houses were attacked in Orahovac in the night between 17 and 18 July 1998. The main goal of this attack was the removal of the Serbian population from the area and the creation of an ethnically clean territory that would be fully controlled and ruled by the KLA. By 21 July 1998, the entire area had been cleansed, with the Serbian population being either killed or forcefully removed from the area.

All of the victims of the crimes committed within the armed attack on village Opteruša were civilians, and all of them were Serbs. Their ethnic background was the reason for the KLA members to attack their family houses and to subsequently arrest, brutalise and dislocate them. This fact clearly leads to the conclusion that the victims of the crimes the accused is charged with got attacked, captured, detained, killed and dislocated mainly on the basis of their ethnic backgrounds, i.e. because of the fact that they were Serbs. As such, and to the extent to which they were not protected by any other Geneva Convention, they are to be regarded as »protected persons« under Geneva Convention IV and Annexed Protocol II to the Geneva Conventions, given the fact that the Kosovo Albanian authorities evidently considered all of the victims as the opposed party to the armed conflict and therefore a threat to their safety.

For the foregoing reasons, pursuant to Art. 4 of Geneva Convention IV, and pursuant to Art. 4§§1,2 of Protocol II, all of the victims specified in the enacting terms, who, being civilians and Serbs, got attacked, deprived of liberty and detained by members of the KLA as a party to the conflict, whereupon, in contravention of Art. 17 of the Protocol, they were forced to leave their homes and move to another area, had the status of protected persons; meanwhile, the destroyed and burnt-down Orthodox churches of Saint Salvation and Saint Nicolas, pursuant to Art. 16 of Protocol II, are

to be treated as houses of worship, the spiritual and cultural heritage of the Serbian people, and therefore liable to protection at all times.

Along with other KLA members, the accused, MORINA, deprived his victims of liberty and kept them detained without regular legal proceedings, although there were no grounds for a belief that their detention was necessary or justified by safety reasons. Furthermore, disrespecting the procedure guaranteed by Art.33 of the Convention, MORINA robbed the captives of their gold jewels, money and other valuable possessions.

The armed assault on the houses of Serb civilians, their detention and removal to another area, the triage of the victims, whereby the men got separated from women and subsequently killed, was exclusively aimed at a systematic attack against non-Albanian civilians in the whole of the Kosovo territory. Intent to that goal, the accused, MORINA, engaged in the described operations either alone or in concert with other KLA members, whereby he broke the above-specified provisions of Geneva Convention IV. In view of the fact that the charges against MORINA involve the crimes, acts and omissions that were committed in the course of an armed conflict, the accused, being a member of a party to the conflict, i.e. the KLA, was obliged to respect the Geneva Conventions and to abide by their provisions at all times.

The described acts of the accused and his treatment of the victims do not only constitute a grave breach of humanitarian law as recognised by Art. 147 of Geneva Convention IV; being also incriminated by Art. 142 (execution of a criminal offence) of the Yugoslav Criminal Act, these acts constitute forms of the specified criminal offence. Moreover, by acting as a co-perpetrator, i.e. in concert with other KLA members, and by performing his part in the crime execution, the accused, MORINA, acted in a premeditated manner, since he was aware of his act and willfully engaged in its commission, both as an individual and as a member of a group.

It is an indisputable fact that MORINA, who was under arms and wearing a uniform, was present at the crime scene, and that he was a member of the unit assigned to a concrete task, namely the attack on the civilian population and the removal of all Serbs from the area of village Opteruša. Likewise, it is an indisputable fact that his unit acted upon the orders received from their commander, and carried out the assignment, wherein MORINA actively participated by robbing his victims of their money and other possessions specified in the enacting terms of this indictment. With a rifle in his hands, MORINA encouraged his fellow-combatants to carry out the ordered task, thereby significantly contributing to its completion; in the aftermath, the Serb civilians got unlawfully deprived of liberty and transported to another location, where they were kept confined.

Along with other members of his unit, MORINA separated the male captives from others, and locked them into an isolated room. By doing so, MORINA was certainly aware of the destiny awaiting the male inhabitants of Opteruša, i.e. that all of them were going to be killed, which indeed happened a while later. By acting in the described manner, MORINA significantly contributed to the liquidation of eight men from Opteruša, whereof the immediate executors were still unidentified members of his unit.

Such acts on the part of the accused and other members of his group resulted in the permanent removal of the entire Serb population from their homes in Opteruša, and in the subsequent liquidation of its male inhabitants. Aware of the developments underway, MORINA directly and substantially contributed to their outcome.

In consideration of the foregoing, the established objective circumstances in conjunction with the facts and circumstances contained in the statements of the proposed witnesses, with MORINA's concrete and individual acts arising thereof, offer substantial grounds for the conclusion that the accused, Sinan MORINA, is responsible for the commission of the criminal offence recognised by Art. 142§1 (war crime against civilian population) of the Yugoslav Criminal Act.

Vladimir Vukčević
War Crimes Prosecutor