

The following pages about the Racak massacre are an extract from:

International Tribunal for the
Prosecution of Persons
Responsible for Serious Violations of
International Humanitarian Law
Committed in the Territory of the
Former Yugoslavia since 1991
(ICTY)

Case No. IT-05-87/1-T
Date: 23 February 2011
Original: English

Judgement of: 23 February 2011

PROSECUTOR
v.
VLASTIMIR DJORDJEVIC

Full text of the judgment is available at
http://www.icty.org/x/cases/djordjevic/tjug/en/110223_djordjevic_judgt_en.pdf

(5 MB, 986 pages)

1. Events in Račak/Raçak

(a) Findings

396. Extensive, and often conflicting, evidence about the events that occurred in Račak/Raçak on 15 January 1999 and the following days was presented in the trial by both parties. The Chamber has carefully considered and weighed this evidence to make the findings set out in the paragraphs below.

397. In the early morning of 15 January 1999, at about 0630-0700 hours, shooting was heard near the village of Košare/Koshare¹³⁵⁵, located some 10 minutes driving from Štimlje/Shtime.¹³⁵⁶ Traffic police had blocked the road from Uroševac/Ferizaj town to Štimlje/Shtime diverting traffic going to Štimlje/Shtime and Račak/Raçak. Račak/Raçak was an entirely Kosovo Albanian village located about a kilometre away from the Štimlje/Shtime police station.¹³⁵⁷ There were most unusual events at the police station in Štimlje/Shtime that morning. All active duty and reserve police had been called in.¹³⁵⁸ There was also one platoon of PJP members in green camouflage uniforms and about 10 to 12 SAJ members.¹³⁵⁹ They were under the command of Goran Radosavljević, aka Guri, an SAJ commander.¹³⁶⁰ Other evidence confirms that Goran Radosavljević, aka Guri, was assistant head for special police units at the MUP Staff.¹³⁶¹ Also unusually, the Chief of the SUP and the chief of the police department in Uroševac/Ferizaj were present at the Štimlje/Shtime police station.¹³⁶² It was said in the police station that there was an action underway in Račak/Raçak to arrest the persons responsible for the killing of a policeman who had died on 12 January 1999, two days after being shot on the road from Štimlje/Shtime to Uroševac/Ferizaj.¹³⁶³ On 8 January 1999 three other policemen had been killed in a KLA attack on a MUP patrol between Suva Reka/Suharekë and Štimlje/Shtime.¹³⁶⁴ From early in the morning on 15 January 1999 until 1500 or 1600 hours sporadic shooting could be heard in Štimlje/Shtime coming from the direction of Račak/Raçak.¹³⁶⁵

¹³⁵⁵ The village of Košare/Koshare located at the border between the municipalities of Uroševac/Ferizaj and Štimlje/Shtime should not be confused with the village of Košare/Koshare located in Đakovica/Gjakovë municipality. Events occurring in the latter village are discussed elsewhere in this Judgement.

¹³⁵⁶ K86, T 5123-5124.

¹³⁵⁷ K86, T 5127, 5147.

¹³⁵⁸ K86, T 5123-5124.

¹³⁵⁹ K86, T 5124-5125, 5129-5130, 5132, 5225-5227.

¹³⁶⁰ K86, T 5129-5130.

¹³⁶¹ Exhibit P57.

¹³⁶² K86, T 5125.

¹³⁶³ K86, T 5126, 5160-5164; Exhibits D138; D139.

¹³⁶⁴ Joseph Maisonneuve, Exhibit P852 (*Milošević* transcript), T 5777; Joseph Maisonneuve, Exhibit P851, para 53; John Crosland, T 9183; Richard Ciaglinski, T 5366; Velibor Veljković, T 7114-7115; 6D2, T 12267-12268; Exhibits D308, D162.

¹³⁶⁵ K86, T 5126, 5127.

398. Despite the denial of the Accused, in the Chamber's finding, at about 0830 or 0900 hours on 15 January the Accused Vlastimir Đorđević arrived at the Štimlje/Shtime police station. This was a remarkable occurrence. He stayed there over one hour, most of the time in an office with the Chief of SUP and the chief of the police department in Uroševac/Ferizaj. While Đorđević was there a person, who introduced himself as Nikola Šainović, in the Chamber's finding the Deputy Prime Minister, telephoned twice and spoke to Vlastimir Đorđević. The two telephone calls were some 30 minutes apart. Each call lasted for about two minutes.¹³⁶⁶

399. The Chief of SUP and the chief of the police department in Uroševac/Ferizaj had instructed the police in Štimlje/Shtime to direct KVM representatives to SUP Uroševac/Ferizaj, if they inquired about the events in Račak/Račak. The police in Štimlje/Shtime were not authorised to provide the KVM with information.¹³⁶⁷ The KVM was being kept out of the picture.

400. On 15 January 1999 the KVM started receiving reports from verifiers who were in the area, of a major operation taking place in Račak/Račak.¹³⁶⁸ General Drewienkiewicz asked Brigadier General Maisonneuve to take command of the KVM activities relating to Račak/Račak.¹³⁶⁹ Maisonneuve dispatched to Račak/Račak two additional KVM patrols who were able to observe the operation from the heights surrounding the village.¹³⁷⁰

401. From their position on the heights, on 15 January 1999 the KVM verifiers observed VJ Pragas and T-55 tanks on the hills overlooking Račak/Račak firing into the village and into the surrounding hills, thus preventing the civilians from leaving the village safely.¹³⁷¹ MUP armoured vehicles and infantry were seen entering the village and undertaking a house to house search.¹³⁷² During the operation there was no outgoing fire from the village¹³⁷³ although prior to the operation, there had been a KLA presence in Račak/Račak, including, it was thought, a KLA headquarters.¹³⁷⁴

402. The VJ and MUP, both of which had been located in the hills overlooking Račak/Račak for weeks prior to the incident¹³⁷⁵, coordinated their activities.¹³⁷⁶ It was a planned joint VJ and MUP

¹³⁶⁶ K86, T 5127-5129, 5131.

¹³⁶⁷ K86, T 5133.

¹³⁶⁸ Joseph Maisonneuve, T 5463-5464; Joseph Maisonneuve, Exhibit P851, para 34.

¹³⁶⁹ Joseph Maisonneuve, T 5464; Joseph Maisonneuve, Exhibit P852 (*Milošević* transcript), T 5778; Karol John Drewienkiewicz, Exhibit P996, para 138.

¹³⁷⁰ Joseph Maisonneuve, Exhibit P852 (*Milošević* transcript), T 5779; Joseph Maisonneuve, Exhibit P851, para 45; Exhibit P870.

¹³⁷¹ Joseph Maisonneuve, Exhibit P851, para 36; Karol John Drewienkiewicz, Exhibit P996, para 141; Exhibit P1250.

¹³⁷² Joseph Maisonneuve, Exhibit P852 (*Milošević* transcript), T 5781; Joseph Maisonneuve, Exhibit P851, para 45.

¹³⁷³ Joseph Maisonneuve, T 5466-5467; Joseph Maisonneuve, Exhibit P852 (*Milošević* transcript), T 5782, 5863.

¹³⁷⁴ K86, T 5165-5166.

¹³⁷⁵ Exhibit P1029, pp 9, 11, 15, 16.

¹³⁷⁶ Joseph Maisonneuve, Exhibit P851, para 36; Karol John Drewienkiewicz, Exhibit P996, para 141; Shaun Byrnes, T 8205-8206. On 16 January 1999 Joseph Maisonneuve met with the liaison officer of the VJ 243rd brigade who confirmed that while the MUP were the main force involved in the operation, the VJ had provided support, Joseph

operation. The VJ provided long-range fire support around the village for the operation carried out by the MUP.¹³⁷⁷ The heavy weaponry used in this operation was not ordinarily used in counter-insurgency operations, but in major combat engagements.¹³⁷⁸

403. After the end of the shooting the KVM verifiers brought some of the injured civilians from the village to the local hospital.¹³⁷⁹ Villagers informed the KVM that people had been killed and injured and that some were arrested.¹³⁸⁰ Police insisted on the KVM verifiers leaving the village.¹³⁸¹ They did, but Joseph Maisonneuve instructed the verifiers to return to the village on the following morning. Two more patrols from the KVM were also sent to the area.¹³⁸²

404. In the evening hours of 15 January 1999 General Drewienkiewicz called Colonel Kotur. He expressed concern about the events during the day and warned Colonel Kotur that firing of anti-aircraft weapons into a village in which there were women and children could not be accepted as a police operation. General Drewienkiewicz requested that this action be ceased.¹³⁸³

405. On 16 January the KVM began investigations in Račak/Raçak. In addition to the KVM patrols who had been in the village from 0700 hours, Joseph Maisonneuve, the Head of Regional Centre 1 arrived there at 0900 hours. He was informed by verifiers that there were over 25 bodies of civilians in the village, most of whom seemed to have been executed, and not to have died as a result of fighting. Maisonneuve observed the body of an elderly man who had been shot at close range. A number of media representatives had arrived in the village.¹³⁸⁴

406. At 1115 hours on 16 January General Drewienkiewicz and Colonel Ciaglinski of the KVM met VJ General Lončar to inquire about the events in Račak/Raçak.¹³⁸⁵ At this and subsequent meetings with VJ representatives, the KVM officials were informed that the events in Račak/Raçak had occurred as a result of a firefight between MUP and KLA; they were also told that there were MUP casualties.¹³⁸⁶ General Lončar denied that the VJ had been involved. It was General

Maisonneuve, Exhibit P852 (*Milošević* transcript), T 5786-5787; see also Joseph Maisonneuve, Exhibit P851, para 33; Exhibit P864. John Crosland believed that the operation in Račak/Raçak was a coordinated action between the MUP and the VJ because coordination between the various elements of the security forces was necessary for such action, John Crosland, T 9186-9187.

¹³⁷⁷ Joseph Maisonneuve, Exhibit P851, para 36; Joseph Maisonneuve, Exhibit P852 (*Milošević* transcript), T 5781; Karol John Drewienkiewicz, Exhibit P996, para 142.

¹³⁷⁸ Joseph Maisonneuve, Exhibit P852 (*Milošević* transcript), T 5782.

¹³⁷⁹ Joseph Maisonneuve, T 5467; Joseph Maisonneuve, Exhibit P851, para 34.

¹³⁸⁰ Karol John Drewienkiewicz, Exhibit P996, para 142.

¹³⁸¹ Joseph Maisonneuve, Exhibit P851, para 34.

¹³⁸² Exhibit P870.

¹³⁸³ Karol John Drewienkiewicz, Exhibit P996, para 221; Karol John Drewienkiewicz, T 6367-6268; Exhibit P1007.

¹³⁸⁴ Exhibit P870, p 1.

¹³⁸⁵ Karol John Drewienkiewicz, Exhibit P996, paras 144-145; Richard Ciaglinski, Exhibit P832, Statement of 21-23 March 2000, p 8. See also Exhibit P1026.

¹³⁸⁶ Richard Ciaglinski, Exhibit P832, Statement of 21-23 March 2000, p 8; Richard Ciaglinski, Exhibit P834 (*Milutinović* transcript), T 6845.

Drewienkiewicz's impression that General Lončar knew more about the events in Račak/Raçak than he indicated at the meeting.¹³⁸⁷ As it can be appreciated from what was happening on the ground as discussed in the Chamber's findings, Serbian denials of VJ involvement were false.

407. The Head of the KVM Mission, Ambassador Walker, the Deputy Head, General Drewienkiewicz and Michael Phillips, arrived in Račak/Raçak at 1330 hours on 16 January.¹³⁸⁸ As they were approaching the village they saw police and the press everywhere.¹³⁸⁹ On the hillside, VJ forces could be seen with heavy weapons, artillery and tanks.¹³⁹⁰ On arrival they were led to a farmhouse where they were shown the decapitated body of an elderly man.¹³⁹¹ The KVM representatives continued their inspection in the village. They noticed a newly dug trench that did not appear to have been previously occupied or fought from.¹³⁹² In a gully or a trail, they discovered over 20 dead bodies lying in a line.¹³⁹³ The bodies appeared to have been shot at close range in the head.¹³⁹⁴ 10 of the bodies appeared to have been mown down.¹³⁹⁵ The victims were all male, and were about 50-60 years old, some had traditional Albanian caps. They did not have uniforms.¹³⁹⁶ The bodies were covered in dew, which indicated that they were already there in the morning.¹³⁹⁷ A KVM representative videotaped the bodies.¹³⁹⁸ Further into the village KVM

¹³⁸⁷ Karol John Drewienkiewicz, Exhibit P996, para 145. Subsequently, the events in Račak/Raçak were discussed at a collegium of the General Staff of the VJ on 21 January 1999. (Exhibit P902, pp 7-13) General Dimitrijević raised the question whether the VJ was involved in the operation and if not why it was not reacting to statements of international organisations suggesting the opposite. He also pointed out that daily operation reports from the Priština Corps did not contain information about VJ involvement in Račak/Raçak (Exhibit P902, pp 7, 9; see also Branko Krga, T 10547-10548). In the Chamber's finding, the absence of information about VJ involvement in the operation in Račak/Raçak in official VJ reports and the fact that members of the Collegium of the Chief of the General Staff were not provided with such information indicates an attempt on behalf of members of the VJ leadership to conceal evidence of VJ involvement. At the meeting General Ojdanić admitted that "if this joint staff, command, or whatever decided that the operation in Račak village could not be carried out without the assistance of the Yugoslav Army, we know very well who must be asked for approval, if the FRY President orders, in spite of all the risk, that the Army be used, this decision must be carried out [...]". (Exhibit P902, p 11) In the Chamber's finding, the operation in Račak/Raçak was a joint MUP/VJ operation ordered by the Joint Command. See also *supra*, para 236 and, *infra*, para 2037.

¹³⁸⁸ Exhibit P870, p 1; Karol John Drewienkiewicz, Exhibit P996, para 147.

¹³⁸⁹ Karol John Drewienkiewicz, Exhibit P996, para 146; Michael Phillips, Exhibit P1303 (*Milutinović* transcript), T 11854.

¹³⁹⁰ Michael Phillips, T 8712; Michael Phillips, Exhibit P1303 (*Milutinović* transcript), T 11854.

¹³⁹¹ Karol John Drewienkiewicz, Exhibit P996, para 147.

¹³⁹² Karol John Drewienkiewicz, Exhibit P996, para 147, 148; Karol John Drewienkiewicz, Exhibit P997 (*Milutinović* transcript), T 7968. See also Joseph Maisonneuve, Exhibit P852 (*Milošević* transcript), T 5856.

¹³⁹³ Joseph Maisonneuve, Exhibit P852 (*Milošević* transcript), T 5795; Exhibit P870, p 1; Karol John Drewienkiewicz, Exhibit P996, para 147.

¹³⁹⁴ Joseph Maisonneuve, Exhibit P852 (*Milošević* transcript), T 5795, 5881; Exhibit P870, p 1; Karol John Drewienkiewicz, Exhibit P996, para 147.

¹³⁹⁵ Exhibit P870, p 1.

¹³⁹⁶ Joseph Maisonneuve, Exhibit P852 (*Milošević* transcript), T 5795, 5844; Karol John Drewienkiewicz, Exhibit P996, para 147.

¹³⁹⁷ Joseph Maisonneuve, Exhibit P852 (*Milošević* transcript), T 5796. A few days following the incident, Maisonneuve heard that verifiers had reported to KVM headquarters that during the operation in Račak/Raçak some 20 men had been separated from their wives and taken away, Joseph Maisonneuve, Exhibit P852 (*Milošević* transcript), T 5796.

¹³⁹⁸ Karol John Drewienkiewicz, Exhibit P996, para 148; Exhibit P1575.

verifiers observed four more bodies, including the bodies of an 18 year old woman and a 12 year old boy.¹³⁹⁹

408. The numerous media representatives present in the village pressed Ambassador Walker to make a statement on the spot which he did. He also stated that he would give a statement from Priština/Prishtinë the same evening.¹⁴⁰⁰ Prior to Ambassador Walker and General Drewienkiewicz leaving, villagers moved the bodies into the mosque. The US-KDOM representatives agreed to remain present in the village overnight.¹⁴⁰¹ By that time it had become clear that not less than 45 Kosovo Albanians had been killed during the operation in Račak/Raçak, 23 in close proximity to each other.¹⁴⁰² Subsequently, the KVM representative Joseph Maisonneuve, became aware that the Serbian forces had suffered one non-fatal injury in the operation.¹⁴⁰³

409. In the evening hours of 16 January Ambassador Walker gave a press conference in Priština/Prishtinë in which he explicitly condemned the FRY government for the events in Račak/Raçak. He called for the ICTY to be given visas so that a proper investigation could be carried out.¹⁴⁰⁴ As a result of this press conference, Ambassador Walker was declared *persona non grata* by the FRY government.¹⁴⁰⁵

410. In the evening of 16 January General Lončar informed General Drewienkiewicz that there had been an unsuccessful attempt by an investigating judge to carry out an on-site investigation in Račak/Raçak, as described in the following paragraphs, and said that he would arrange for this investigative team to enter the village if the KVM could facilitate this.¹⁴⁰⁶ On the following morning, 17 January, General Drewienkiewicz met with Investigative Judge Marinković and her team at the police station in Štimlje/Shtime to discuss how the KVM could help her and the team enter the village.¹⁴⁰⁷ The KLA presence in Račak/Raçak was overt.¹⁴⁰⁸ General Drewienkiewicz stated that the KVM could not guarantee her safety if the judge insisted on entering with a heavy

¹³⁹⁹ Exhibit P870, p 1.

¹⁴⁰⁰ Karol John Drewienkiewicz, Exhibit P996, para 150.

¹⁴⁰¹ Karol John Drewienkiewicz, Exhibit P996, para 151.

¹⁴⁰² Karol John Drewienkiewicz, Exhibit P996, para 152; Exhibit P1250.

¹⁴⁰³ Joseph Maisonneuve, Exhibit P852 (*Milošević* transcript), T 5803.

¹⁴⁰⁴ Karol John Drewienkiewicz, Exhibit P996, para 154.

¹⁴⁰⁵ Karol John Drewienkiewicz, Exhibit P996, para 154; Knut Vollebaek, Exhibit P1073, p 5; Knut Vollebaek, T 7214, 7254-7255; Knut Vollebaek, Exhibit P1072 (*Milošević* transcript), T 7724-7730.

¹⁴⁰⁶ Karol John Drewienkiewicz, Exhibit P996, para 156.

¹⁴⁰⁷ Karol John Drewienkiewicz, Exhibit P996, para 158; Karol John Drewienkiewicz, Exhibit P997 (*Milutinović* transcript), T 7971; Exhibit P871. See also Richard Ciaglinski, Exhibit P833 (*Milošević* transcript), T 3205-3206. See also Danica Marinković, T 12971-12972, 13076, testifying that on 17 January she and her team went to Štimlje/Shtime police station where she met General Drewienkiewicz of the KVM and told him that with proper security measures in place she could go to Račak/Raçak to conduct an on-site investigation.

¹⁴⁰⁸ Exhibit P871.

MUP presence.¹⁴⁰⁹ The judge was determined to enter the village with a heavy MUP escort and the KVM withdrew. The investigative team left for the village but returned after being fired upon; no one was injured.¹⁴¹⁰

411. While there is some variation in the evidence about attempts between 15 and 18 January to investigate events in Račak/Raçak, the Chamber records the evidence that on 15 January Investigative Judge Danica Marinković, with others, went to the Štimlje/Shtime police station where she was told by the Chief of SUP Uroševac/Ferizaj that in the early hours of 15 January there had been a clash between the police and terrorists in the village of Račak/Raçak, that the police had already secured the scene and that an on-site investigation could take place.¹⁴¹¹ Judge Marinković and her team arrived in Račak/Raçak at 1400 hours on 15 January, escorted by the police.¹⁴¹² They found weapons and military equipment bearing KLA insignia,¹⁴¹³ but were fired upon, although no one was injured, and at the suggestion of the police left the village.¹⁴¹⁴ On the following day, 16 January, at 1000 or 1030 hours Judge Marinković and her team set out again; they noticed that the police station in Štimlje/Shtime was deserted and continued to Račak/Raçak.¹⁴¹⁵ On the way fire was opened on them, although again no one was injured, so they returned to Štimlje/Shtime.¹⁴¹⁶ As discussed earlier the Judge and her team abandoned a further attempt to enter Račak/Raçak on 17 January.

412. On 18 January Investigative Judge Marinković with the deputy public prosecutor and SUP inspectors entered Račak/Raçak to conduct an on-site investigation.¹⁴¹⁷ Judge Marinković was instructed by police that there were bodies in the mosque. There she found 40 bodies, all but one male, arranged in a circular fashion.¹⁴¹⁸ The bodies she was shown had shoes which looked like military boots, some had dark grey, others navy blue, military trousers, and they had military belts on.¹⁴¹⁹ The director of the Forensic Institute in Priština/Priştinë Slaviša Dobričanin, who had joined Ms Marinković's investigative team, inspected each body visually and immediately stated

¹⁴⁰⁹ Karol John Drewienkiewicz, Exhibit P996, para 159; Karol John Drewienkiewicz, Exhibit P997 (*Milutinović* transcript), T 7792-7793; Exhibit P871. The KVM knew from their discussions with KLA members that a large number of MUP vehicles in the village could spark confrontation, Richard Ciaglinski, Exhibit P833 (*Milošević* transcript), T 3205-3206. See also Joseph Maisonneuve, Exhibit P852 (*Milošević* transcript), T 5800. See also Danica Marinković, T 12972, 13076.

¹⁴¹⁰ Karol John Drewienkiewicz, Exhibit P996, para 160; Karol John Drewienkiewicz, Exhibit P997 (*Milutinović* transcript), T 7792-7793; Exhibit D149, p 2; Richard Ciaglinski, Exhibit P833 (*Milošević* transcript), T 3205-3206. Danica Marinković, T 12973, 13075-13078.

¹⁴¹¹ Danica Marinković, T 12965-12966; 12969-12970; Radimir Mitić, T 12865-12866.

¹⁴¹² Danica Marinković, T 12967.

¹⁴¹³ Danica Marinković, T 12967; Exhibit D896.

¹⁴¹⁴ Danica Marinković, T 12967.

¹⁴¹⁵ Danica Marinković, T 12970, 13076.

¹⁴¹⁶ Danica Marinković, T 12970.

¹⁴¹⁷ Danica Marinković, T 12975-12976 ; K86, T 5211-5212; Exhibit D148.

¹⁴¹⁸ Danica Marinković, T 12976, 12112-12113; Exhibit D148.

¹⁴¹⁹ Danica Marinković, T 12976, 13114.

that there were no indications that the bodies had been massacred.¹⁴²⁰ When the videotape recorded by the KVM on 16 January 1999 depicting corpses shot in a gully was shown to her, Danica Marinković testified that the bodies she observed in Račak/Raçak were different from the bodies depicted in the video.¹⁴²¹ She testified that the bodies she was shown in the mosque did not have shots in the head,¹⁴²² and that amongst the 40 bodies she saw there were no corpses that had been decapitated, although one or two of the bodies had some damage to the head which appeared to have been caused by birds or other animals.¹⁴²³ The bodies were then placed in body bags, loaded into a refrigerated truck in the presence of the OSCE representatives and taken to the Forensic Institute in Priština/Prishtinë.¹⁴²⁴ Following this, Judge Marinković and her investigative team, accompanied by OSCE representatives whom they had encountered on their way to Račak/Raçak, went through the village looking for other bodies. They came across what was described as a KLA headquarters where they found weapons, uniforms and supplies. They saw trenches in the village.¹⁴²⁵ They looked for the gully depicted in the KVM recording but were unable to find it, nor were they able to find any other casualties or traces of a massacre or blood.¹⁴²⁶

413. Police transported the 40 bodies that had been shown to Judge Marinković from the mosque in Račak/Raçak to the forensic institute in Priština/Prishtinë.¹⁴²⁷ On 19 January autopsies of the 40 bodies transported from Račak/Raçak began.¹⁴²⁸ The bodies were identified by fingerprints. Paraffin glove tests were conducted according to which there were gunpowder traces on 37 of the bodies. Autopsies were conducted by FRY forensic officers and two from Belarus.¹⁴²⁹ It was concluded that the cause of death in all 40 cases was wounding by projectiles.¹⁴³⁰ Subsequently it was agreed that the OSCE could bring their own forensic team and about a week after the incident a team of forensic experts from Finland arrived in Kosovo.¹⁴³¹ They prepared an extensive forensic report but stressed that, because of the time that had passed and the state of the evidence, they had

¹⁴²⁰ Danica Marinković, T 12971, 12976, 13085.

¹⁴²¹ Danica Marinković, T 13083, 13090; Exhibit 1575; Exhibit D932.

¹⁴²² Danica Marinković, T 13079-13080.

¹⁴²³ Danica Marinković, T 12976, 13079-13080.

¹⁴²⁴ Danica Marinković, T 12976, 13114-13115.

¹⁴²⁵ Danica Marinković, T 12977-12978.

¹⁴²⁶ Danica Marinković, T 12978.

¹⁴²⁷ K86, T 5135.

¹⁴²⁸ Danica Marinković, T 13087.

¹⁴²⁹ Knut Vollebaek, Exhibit P1073, p 5; Knut Vollebaek, T 7214; Knut Vollebaek, Exhibit P1072 (*Milošević* transcript), T 7652.

¹⁴³⁰ Danica Marinković, T 12988-12989; Exhibit D899.

¹⁴³¹ Knut Vollebaek, Exhibit P1073, pp 5-6; Knut Vollebaek, T 7214-7215, 7256; Knut Vollebaek, Exhibit P1072 (*Milošević* transcript), T 7652 ; Danica Marinković, T 12981-12982; Exhibit D895.

encountered problems.¹⁴³² The 40 bodies were returned to the village and buried in one grave on a hill facing the mosque.¹⁴³³

414. Some of the matters discussed in the preceding paragraphs differ in material respects from what was seen by independent international observers in and around Račak/Račak on 15 January 1999 and the following days. The Chamber was impressed by the honesty and the detailed account given by these international observers in the present trial. Their account is supported by contemporaneous written records and by a video recording depicting the bodies they observed in Račak/Račak on 16 January which the Chamber accepts as authentic. The Chamber sees no reason to reject their evidence and to make contrary findings.

415. What was shown to Judge Marinković in Račak/Račak on 18 January 1999, does not accord with what was seen by international observers on 15 and 16 January 1999 in the village. Judge Marinković was not shown the body of a child or a decapitated body. Her description of the dress of the bodies does not accord with the dress of dead bodies visible in the video film or as described in the oral evidence. She was not shown bodies that had been shot in the head. She was not shown the gully depicted in the film, yet she was shown an apparent KLA headquarters, which the KVM failed to see. As the judge confirmed in her evidence, discussed in the paragraphs above, what she was shown presented a quite different picture from what was seen by the KVM observers on 15 and 16 January. In the circumstances the Chamber finds that on 18 January the judge was shown a staged scene, set up by police, designed to give a false impression of the true events. The Chamber is satisfied that at least some of the bodies observed by Judge Marinković on 18 January were not the bodies observed by the KVM representatives on 16 January as depicted in the video exhibit.

416. In the Chamber's finding, not less than 45 Kosovo Albanians were killed in Račak/Račak on 15 January 1999, including a woman and a child. At least one victim had been decapitated. Most of those killed were over 50 years of age. Many had been shot in the head apparently at close range. Those killed were wearing civilian clothes when killed.

417. On 20 or 21 January 1999 the Chairman of the OSCE, Knut Vollebaek met with the President of FRY, Slobodan Milošević to discuss the expulsion of Ambassador Walker.¹⁴³⁴ Milošević expressed the view that Ambassador Walker's report was a fabrication and that it was likely that the KLA had provoked the events at Račak/Račak.¹⁴³⁵ Knut Vollebaek managed to

¹⁴³² Knut Vollebaek, T 7215, 7258, 7267; Knut Vollebaek, Exhibit P1072 (*Milošević* transcript), T 7652, 7653.

¹⁴³³ K86, T 5189-5190.

¹⁴³⁴ Knut Vollebaek, T 7212, 7254-7255; Knut Vollebaek, Exhibit P1072 (*Milošević* transcript), T 7645, 7649; Knut Vollebaek, Exhibit P1073, p 5.

¹⁴³⁵ Knut Vollebaek, Exhibit P1073, p 5; Knut Vollebaek, Exhibit P1072 (*Milošević* transcript), T 7745.

secure Ambassador Walker's continued presence in Kosovo and his post as the Head of the KVM.¹⁴³⁶

418. The killings at Račak/Raçak provoked anger in Brussels and Washington as a clear violation of the October Agreements by the Serbian side and raised a serious concern that an outbreak of a widespread conflict was about to happen.¹⁴³⁷ It is also noted by the Chamber that shortly prior to the events Serbian security forces, including the police, had passed through a US-KDOM patrol near Račak/Raçak and had ignored it completely. This caused international observers to believe that what was taking place in the village was in many respects a watershed.¹⁴³⁸ In the Chamber's view, this was correct.

(b) Other evidence considered by the Chamber

419. An account of the events in Račak/Raçak, in material respects different from the findings made above was presented by Defence witnesses. The Chamber does not accept the reliability of aspects of this evidence, which in many respects is not truthful. It is nevertheless set out to indicate the nature of the Defence case concerning these events in Račak/Raçak.

420. According to Defence witnesses, in the evening of 14 January 1999, the Chief of SUP Uroševac/Ferizaj briefed the chief of the police department of SUP Uroševac/Ferizaj, Radomir Mitić, Goran Radosavljević aka Guri, Milan Lecić, a PJP commander and Colonel Jelić of the VJ that arrests would be carried out on 15 January 1999 and that the operation would be led by Goran Radosavljević.¹⁴³⁹ The plan had been worked out by the MUP Staff.¹⁴⁴⁰ The overall commander of the operation on 15 January was Goran Radosavljević¹⁴⁴¹, a PJP unit from SUP Uroševac/Ferizaj took part in the operation¹⁴⁴², but not the VJ even though they were in the area.¹⁴⁴³

421. There was evidence that Vlastimir Đorđević was in Priština/Prishtinë on 15 January with the Minister, to attend a meeting on the security situation in Kosovo. Following the meeting it is said that he saw Goran Radosavljević who informed him "in passing" that there had been an action against terrorists in Račak/Raçak and that there were terrorists killed.¹⁴⁴⁴ Đorđević conveyed this information to the Minister and other officials who at that time were having lunch.¹⁴⁴⁵ Đorđević did

¹⁴³⁶ Knut Vollebaek, T 7214; Knut Vollebaek, Exhibit P1072 (*Milošević* transcript), T 7651-7652.

¹⁴³⁷ Shaun Byrnes, T 8274-8275. *See also infra*, para 2016.

¹⁴³⁸ Shaun Byrnes, T 8201-8206.

¹⁴³⁹ Radomir Mitić, T 12676-12678, 12750, 12799-12800.

¹⁴⁴⁰ Radomir Mitić, T 12750.

¹⁴⁴¹ Radomir Mitić, T 12756.

¹⁴⁴² Radomir Mitić, T 12844-12845.

¹⁴⁴³ Radomir Mitić, T 12677-12678, 12747, 12748, 12755, 12760.

¹⁴⁴⁴ Vlastimir Đorđević, T 9666.

¹⁴⁴⁵ Vlastimir Đorđević, T 9666-9667.

not know anything about this action and did not visit Štimlje/Shtimle or Račak/Raçak on 15 January.¹⁴⁴⁶

422. There was also evidence that on 16 January Đorđević flew to Prizren for a series of pre-planned meetings, returned to Priština/Prishtinë, went to Peć/Pejë to attend political talks and meetings and again returned to Priština/Prishtinë.¹⁴⁴⁷ Đorđević then called Radislav Stalević, an SAJ commander in Priština/Prishtinë and told him that he wished to go to Mount Kopaonik for a skiing trip.¹⁴⁴⁸ Radislav Stalević personally drove Vlastimir Đorđević to Mount Kopaonik.¹⁴⁴⁹ It is his evidence that on 16 January Đorđević did not receive any information about events in Račak/Raçak because he left immediately for Mount Kopaonik.¹⁴⁵⁰ Vlastimir Đorđević said he spent 17 January skiing¹⁴⁵¹ with Radislav Stalević,¹⁴⁵² but around noon he received a phone call from the Minister, who asked him to return to Priština/Prishtinë. He did so, being picked up by a helicopter later that day.¹⁴⁵³

423. When he arrived at the MUP Staff in Priština/Prishtinë on 17 January, Đorđević was told that there had been attempts in Račak/Raçak to carry out on-site investigations on 16 and 17 January but these attempts were not successful due to ongoing terrorist activities. There is also evidence that the Head of the MUP Staff, Lukić, told Đorđević that on orders of the Minister, it was planned to return to Račak/Raçak and secure the location for an on-site investigation on 18 January.¹⁴⁵⁴ The chief of the crime police of SUP Uroševac/Ferizaj, Radomir Mitić also was informed by the Chief of the SUP that a de-blockade would be carried out with the participation of the PJP company of Uroševac/Ferizaj in order to enable an on-site investigation to take place on 18 January.¹⁴⁵⁵

424. On his own evidence, on 18 January at about 0900 or 1000 hours Đorđević went to the police station in Štimlje/Shtimë to see for himself what the situation was.¹⁴⁵⁶ At the police station he met the Chief of SUP Uroševac/Ferizaj and his assistants and Judge Marinković's investigation

¹⁴⁴⁶ Vlastimir Đorđević, T 9667-9668.

¹⁴⁴⁷ Vlastimir Đorđević, T 9669.

¹⁴⁴⁸ Radislav Stalević, T 13792, 13855.

¹⁴⁴⁹ Radislav Stalević, T 13792.

¹⁴⁵⁰ Vlastimir Đorđević, T 9670.

¹⁴⁵¹ Vlastimir Đorđević, T 9669-9670.

¹⁴⁵² Radislav Stalević, T 13792.

¹⁴⁵³ Vlastimir Đorđević, T 9670-9671, 9886; Radislav Stalević, T 13792.

¹⁴⁵⁴ Vlastimir Đorđević, T 9671.

¹⁴⁵⁵ Radomir Mitić, T 12688.

¹⁴⁵⁶ Vlastimir Đorđević, T 9672-9673, 9887.

team.¹⁴⁵⁷ He said he spent about three to four hours at the police station in Štimlje/Shtime following which he returned to the MUP Staff in Priština/Prishtinë.¹⁴⁵⁸

425. The account of Vlastimir Đorđević is unacceptable in many respects. It is unclear how Goran Radosavljević, would be able to inform “in passing” Vlastimir Đorđević at a meeting in Priština/Prishtinë attended by the Minister and other senior MUP officers, a few hours after the start of a major operation in Račak/Raçak of which he was the overall commander. Đorđević’s supposed reaction after hearing about this operation, which was to inform the Minister over lunch, is also hard to accept. The Chamber is likewise not persuaded that on 15 and 16 January Đorđević had a series of meetings in Prizren and Peć/Pejë. There was a large media presence in Račak/Raçak on 16 January. The events in the village received extensive media coverage and were the focus of international attention during these two days. It is highly unlikely that the person in charge of crime police and investigation would not act on this matter but instead would continue with pre-planned meetings the subject of which had not been specified. Further, the Chamber cannot accept Vlastimir Đorđević’s and Radislav Stalević’s account of a skiing trip on 16 and 17 January. It is incongruous that, in circumstances as those at the time Vlastimir Đorđević, who was repeatedly described as a professional and reliable police officer, would abandon his duties to go on a skiing trip. In the Chamber’s finding his presence at Štimlje/Shtime police station on at least 15 January 1999 confirms his awareness of the joint VJ and MUP operation in Račak/Raçak on 15 January and its importance, and reveals his ultimate responsibility for what occurred in Račak/Raçak, including the staged misrepresentation of bodies and other circumstances presented to Judge Marinković’s team and the international representatives and the media on 18 January 1999.

2. Events in Rogovo/Rogovë

426. On 29 January 1999 MUP forces engaged in an action against KLA members in the village of Rogovo/Rogovë, Đakovica/Gjakovë municipality. There was protracted fighting.¹⁴⁵⁹ 25 people of Albanian ethnicity were killed in a farmhouse in Rogovo/Rogovë, most of them, KLA members.¹⁴⁶⁰ General Drewienkiewicz went to the scene and upon arrival was directed to a farm compound with walls three to four metres high; the gate was closed. The General was not allowed to inspect the scene until an investigating judge from Đakovica/Gjakovë had finished an on-site investigation.¹⁴⁶¹ Later he entered the compound.

¹⁴⁵⁷ Vlastimir Đorđević, T 9673; Radomir Mitić, T 12690-12691, 12760; Danica Marinković, T 12975.

¹⁴⁵⁸ Vlastimir Đorđević, T 9673-9674, 10155.

¹⁴⁵⁹ Joseph Maisonneuve, Exhibit P853 (*Milutinović* transcript), T 11059, 11171.

¹⁴⁶⁰ Joseph Maisonneuve, T 5489; Joseph Maisonneuve, Exhibit P852 (*Milošević* transcript), T 5892, 5895; Joseph Maisonneuve, Exhibit P853 (*Milutinović* transcript), T 11059, 11170.

¹⁴⁶¹ Karol John Drewienkiewicz, Exhibit P996, paras 165, 167; Karol John Drewienkiewicz, T 6372.