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States and acting for and on behalf of the German Reich, a belligerent enemy nation, did plot, plan, and conspire with each other, with the German Reich, and with other enemies of the United States, to commit each and every one of the above-mentioned charges and specifications.

F. GRANVILLE MUNSON (Sgd.)
 Colonel, U. S. Army

* * * * *

Before me, the undersigned, authorized by law to administer oaths in cases of this character, personally appeared Colonel F. Granville Munson, U. S. Army, this 3rd day of July, 1942, and made oath that he is a person subject to military law, and that he personally signed the foregoing charges and specifications, and that he has investigated the matters set forth in said specifications, and that the same are true, to the best of his knowledge and belief.

MYRON C. CRAMER (Sgd.)
 Major General, U. S. Army,
 The Judge Advocate General.

* * * * *

Personal service of a true copy of the above charges and specifications was made by me, the undersigned, on the above-named Richard Quirin on this 3rd day of July, 1942.

M. R. GRIFFIN (Sgd.)
 Special Agent F.B.I., N.Y.C.

Subscribed and sworn to before me at New York, New York this third day of July, 1942.

(SEAL)

ROSE K. BOCH (Sgd.)
 Notary Public
 NOTARY PUBLIC, Queens County
 Queens Co. No. 204
 New York Co. No. 306
 Commission expires March 30, 1944

7-3-42

ATTACHMENT D

GO 52

GENERAL ORDERS
No. 52

WAR DEPARTMENT
WASHINGTON 25, D. C., 7 July 1945

Before a military commission which convened at Governors Island, New York, 6, 7, 8, 9, 10, 11, 12, 13, and 14 February 1945, pursuant to letter order Army Service Forces, Headquarters Second Service Command, Governors Island, New York 4, New York, 18 January 1945, and of which Colonel Clinton J. Harrold was president, and Major Robert Carey, Jr., Judge Advocate General's Department, trial judge advocate, was arraigned and tried—

William Curtis Colepaugh and Erich Gimpel.

CHARGE I: "Violation of the Law of War."

Specification 1.—"In that, during the month of November, 1944, the prisoners, *William Curtis Colepaugh and Erich Gimpel*, being enemies of the United States and acting for and on behalf of the German Reich, a belligerent enemy nation, secretly and covertly crossed and passed through, in civilian dress, contrary to the law of war, the military and naval lines and defenses of the United States, and went behind such lines and defenses in civilian dress within zones of military operations and elsewhere, for the purpose of committing espionage, sabotage and other hostile acts."

Specification 2.—"In that, during the months of November and December, 1944, the prisoners, *William Curtis Colepaugh and Erich Gimpel*, being enemies of the United States and acting for and on behalf of the German Reich, a belligerent enemy nation, appeared and remained in civilian dress, contrary to the law of war, behind the military and naval defenses and lines of the United States, within the zones of military operations and elsewhere, for the purpose of committing and attempting to commit espionage, sabotage and other hostile acts."

CHARGE II: "Violation of 82nd Article of War."

Specification.—"In that, during the months of November and December, 1944, the prisoners, *William Curtis Colepaugh and Erich Gimpel*, being enemies of the United States and acting for and on behalf of the German Reich, a belligerent enemy nation, were, in time of war, found lurking and acting as spies in or about the fortifications, posts and encampments of the armies of the United States, and elsewhere, and went about behind the lines and defenses of the United States clandestinely, in civilian clothes and under false names, for the purpose of obtaining and attempting to obtain intelligence and communicating said intelligence to the German Reich and to other enemies of the United States during the course of such activities and thereafter."

CHARGE III: "Conspiracy to Commit All of the Above Acts."

Specification.—"In that, during the year 1944, the prisoners, *William Curtis Colepaugh and Erich Gimpel*, being enemies of the United States and acting for and on behalf of the German Reich, a belligerent enemy nation, did plot, plan, and conspire with each other, with the German Reich, and with other enemies of the United States, to commit each and every one of the acts enumerated in the foregoing charges and specifications."

AGO 803B—July 657608—45

GO 52

2

PLEAS

To which CHARGES and *Specifications* each accused pleaded: "Not guilty."

FINDINGS

Of all CHARGES and *Specifications*: "Guilty."

SENTENCE

(As to each accused)

To be hanged by the neck until dead.

The sentences were adjudged on 14 February 1945.

The sentences having been approved by the convening authority and the record of trial forwarded for the action of the President, under Article of War 50½, the following are his orders thereon:

In the foregoing case of *William Curtis Colepaugh*, an American citizen, and *Erich Gimpel*, a German, the sentence as to each is confirmed, but the sentence as to accused *Colepaugh* is commuted to confinement at hard labor for the term of his natural life. As thus modified the sentence as to each accused will be carried into execution. The sentence as to accused *Gimpel* will be carried into execution under the direction of and at a time and place to be designated by the Commanding General, Second Service Command, Army Service Forces.

HARRY S. TRUMAN

THE WHITE HOUSE

May 15, 1945

Upon further consideration the President amended the foregoing orders as follows:

In the foregoing case of *Erich Gimpel* the sentence to death heretofore confirmed is hereby commuted to confinement at hard labor for the term of his natural life. As thus modified the sentence will be carried into execution.

HARRY S. TRUMAN

THE WHITE HOUSE

June 13, 1945

The United States Penitentiary, Leavenworth, Kansas, is designated as the place of confinement for each accused.

BY ORDER OF THE SECRETARY OF WAR:

OFFICIAL:

EDWARD F. WITSELL
Major General
Acting The Adjutant General

G. C. MARSHALL
Chief of Staff

AGO 803B

U. S. GOVERNMENT PRINTING OFFICE / 1945

ATTACHMENT E

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX

UNITED STATES OF AMERICA, and
GOVERNMENT OF THE VIRGIN ISLANDS,
Plaintiff,

v

Delroy Josiah,
Luis Lopez, Jr.,
Hernan Navarro, and
Juan Crispin,
Defendants.

Crim. No. 1999-0010
INDICTMENT
14 VIC 922(a)(2): Murder First Degree;
18 USC 2119: Carjacking;
18 USC 924(c): Use of Firearm
in Crime of Violence;
14 VIC 442(3): Burglary First Degree;
14 VIC 1862(2): Robbery First
Degree;
14 VIC 2253(a): Possession of a
firearm;
14 VIC 295(1) & (3): Assault First
Degree;
14 VIC 1341(a)(1) & (2): Mayhem;
14 VIC 1510(a): Threatening a
Witness;
14 VIC 2253(b): Possession of
Sawed-Off Shotgun

REC'D
ST. CROIX
JAN 6 1999
PROCESSED

The United States Grand Jury charges:

ALLEGATIONS COMMON TO ALL COUNTS

From on or about September 22, 1998 to on or about September 23, 1998, in St. Croix, District of the Virgin Islands, during a general nighttime curfew that had been imposed in response to widespread damage and a power outage caused by Hurricane Georges, the defendants Delroy Josiah, Luis Lopez, Jr., Hernan Navarro and Juan Crispin (hereinafter, "the Defendants"), and other individuals whose identities have not yet been determined by the Grand Jury, did willfully combine, conspire, confederate and agree with each other to engage in a series of home invasions, burglaries, robberies, assaults, carjackings and murder to enrich themselves by taking and carrying away the property of others. To that end they disguised themselves with, among other things, masks and gloves, armed

themselves with guns and other weapons and acted in other ways to keep secret their activities so as to avoid detection, capture and punishment.

ALLEGATIONS COMMON TO ALL EVENTS AT #388 ESTATE MT. PLEASANT

Each of the events in Counts 1 through 4 which follow are alleged to have been committed by the Defendants during the late night of September 22, 1998, on St Croix in the District of the Virgin Islands.

Count 1

The Defendants, while aiding and abetting one another and assisted by a confederate who was actually present, and with the intent to commit the offense of robbery therein, did break and enter the dwelling house of another located at 388 Estate Mt. Pleasant in which James Sorhaindo, a human being, was then and there present, while armed with a firearm, a dangerous weapon.

In violation of Title 14 Virgin Islands Code, Sections 442(1) and (3) and 11 and *Pinkerton v. United States*, 328 U.S. 640 (1946).

Count 2

The Defendants, while aiding and abetting one another and acting with the intent to permanently deprive, did unlawfully take personal property in the possession of James Sorhaindo from his person and immediate presence and against his will by means of force and fear, and did display, use and threaten the use of a dangerous weapon, that is, one or more firearms.

In violation of Title 14 Virgin Islands Code Sections 1862(2) and 11 and *Pinkerton v. United States*, 328 U.S. 640 (1946).

Count 3

The Defendants, while aiding and abetting one another and acting with the intent to permanently deprive, did unlawfully take personal property in the possession of Reynoldson Ferrol from his person and immediate presence and against his will by means of force and fear, and did display, use and threaten the use of a dangerous weapon, that is, one or more firearms.

In violation of Title 14 Virgin Islands Code Sections 1862(2) and 11 and *Pinkerton v. United States*, 328 U.S. 640 (1946).

Count 4

The Defendants, while aiding and abetting one another and while not authorized by law to do so, did have, possess, transport and carry openly or concealed upon their persons a firearm during the commission of the crimes of violence set out in Counts 1 through 3 above.

In violation of Title 14 Virgin Islands Code Sections 2253(a) and 11 and *Pinkerton v. United States*, 328 U.S. 640 (1946).

ALLEGATIONS COMMON TO ALL EVENTS AT #56 ENFIELD GREEN

Each of the events in Counts 5 through 10 which follow are alleged to have been committed by the Defendants during the early morning hours of September 23, 1998, on St Croix in the District of the Virgin Islands.

Count 5

The Defendants, while aiding and abetting one another and assisted by a confederate who was actually present, and with the intent to commit the offense of robbery therein, did break and enter the dwelling house of another located at #56 Enfield Green in which Jaclyn Tredway, a human being, was then and there present, while armed with a firearm, a dangerous weapon.

In violation of Title 14 Virgin Islands Code, Sections 442(1) and (3) and 11 and *Pinkerton v. United States*, 328 U.S. 640 (1946).

Count 6

The Defendants, while aiding and abetting one another and acting with the intent to permanently deprive, did unlawfully take personal property in the possession of Jaclyn Tredway from her person and immediate presence and against her will by means of force and fear, and did display, use and threaten the use of a dangerous weapon, that is, one or more firearms.

In violation of Title 14 Virgin Islands Code Sections 1862(2) and 11 and *Pinkerton v. United States*, 328 U.S. 640 (1946).

Count 7

The Defendants, while aiding and abetting one another and acting with the intent to permanently deprive, did unlawfully take personal property in the possession of Thomas Barrows from his person and immediate presence and against his will by means of force and fear, and did display, use and threaten the use of a dangerous weapon, that is, one or more firearms.

In violation of Title 14 Virgin Islands Code Sections 1862(2) and 11 and *Pinkerton v. United States*, 328 U.S. 640 (1946).

Count 8

The Defendants, while aiding and abetting one another and while not authorized by law to do so, did have, possess, transport and carry openly or concealed upon their persons a firearm during the commission of crimes of violence as set out in Counts 5 through 7 above.

In violation of Title 14, Virgin Islands Code Sections 2253(a) and 11 and *Pinkerton v. United States*, 328 U.S. 640 (1946).

Count 9

The Defendants, with intent to cause serious bodily harm, did unlawfully take and aid and abet the taking of a Dodge Ram motor vehicle that had been transported, shipped and received in interstate commerce, from the presence of Jaclyn Tredway by force and violence and by intimidation.

In violation of Title 18, United States Code, Sections 2119 and 2 and *Pinkerton v. United States*, 328 U.S. 640 (1946).

Count 10

The Defendants did use, carry, and aid the abet the use of a firearm during and in relation to the commission of Carjacking as described in Count 9 herein, a crime of violence for which each of the Defendants may be prosecuted in a Court of the United States.

In violation of Title 18, United States Code, Sections 924(c)(1) and 2 and *Pinkerton v. United States*, 328 U.S. 640 (1946).

ALLEGATIONS COMMON TO ALL EVENTS AT #66 ENFIELD GREEN

Each of the events in Counts 11 through 16 which follow are alleged to have been committed by the Defendants during the early morning hours of September 23, 1998, on St Croix in the District of the Virgin Islands.

Count 11

The Defendants, while aiding and abetting one another and assisted by a confederate who was actually present, and with the intent to commit the offense of robbery therein, did break and enter the dwelling house of another located at #66 Enfield Green in which Orlando Allende Orta, a human being, was then and there present, while armed with a firearm, a dangerous weapon.

In violation of Title 14 Virgin Islands Code, Sections 442(1) and (3) and 11 and *Pinkerton v. United States*, 328 U.S. 640 (1946).

Count 12

The Defendants, while aiding and abetting one another and acting with the intent to permanently deprive, did unlawfully take personal property in the possession of Orlando Allende Orta from his person and immediate presence and against his will by means of force and fear, and did display, use and threaten the use of a dangerous weapon, that is, one or more firearms.

In violation of Title 14 Virgin Islands Code Sections 1862(2) and 11 and *Pinkerton v. United States*, 328 U.S. 640 (1946).

Count 13

The Defendants, while aiding and abetting one another and acting with the intent to permanently deprive, did unlawfully take personal property in the possession of Concepcion Garcia from her person and immediate presence and against her will by means of force and fear, and did display, use and threaten the use of a dangerous weapon, that is, one or more firearms.

In violation of Title 14 Virgin Islands Code Sections 1862(2) and 11 and *Pinkerton v. United States*, 328 U.S. 640 (1946).

Count 14

The Defendants, while aiding and abetting one another and while not authorized by law to do so, did have, possess, transport and carry openly or concealed upon their persons a firearm during the commission of crimes of violence set out at Counts 11 through 13 above.

In violation of Title 14 Virgin Islands Code Sections 2253(a) and 11 and *Pinkerton v. United States*, 328 U.S. 640 (1946).

Count 15

The Defendants, with malice aforethought and while aiding and abetting one another, did unlawfully kill Orlando Allende Orta, a human being, in the perpetration and attempt to perpetrate the crimes of Burglary in the First Degree and Robbery in the First Degree set out in Counts 11 and 12, above.

In violation of Title 14 Virgin Islands Code Sections 922(a)(2) and 11 and *Pinkerton v. United States*, 328 U.S. 640 (1946).

Count 16

The Defendants, while aiding and abetting one another, did unlawfully assault Conception Garcia with the intent to commit murder and robbery.

In violation of Title 14 Virgin Islands Code Sections 295(1) &(3) and 11 and *Pinkerton v. United States*, 328 U.S. 640 (1946).

Count 17

The Defendants, while aiding and abetting one another, did willfully and with the intent to commit a felony, that is, Burglary in the First Degree and Robbery in the First Degree as set out in Counts 11 and 13 above, and did inflict injury upon Concepcion Garcia by shooting off portions of several of her fingers, thereby mutilating, seriously disfiguring and disabling her.

In violation of Title 14 Virgin Islands Code Sections 1341(a)(1) & (2) and 11 and *Pinkerton v. United States*, 328 U.S. 640 (1946).

OTHER ALLEGATIONS

Count 18

On or about September 26, 1998, in St Croix, District of the Virgin Islands,
the defendant

Delroy Josiah

while not authorized by law to do so, did knowingly have and possess a sawed-off
shotgun.

In violation of Title 14 Virgin Islands Code Sections 2253(b).

Count 19

On or about September 26, 1998, in St Croix, District of the Virgin Islands,
the defendant

Delroy Josiah

while not authorized by law to do so, did knowingly have and possess a firearm,
that is, a .45 caliber semi-automatic pistol.

In violation of Title 14 Virgin Islands Code Sections 2253(a).

Count 20

On or about September 28, 1998, in St Croix, District of the Virgin Islands, the Defendants did knowingly use force, threat and intimidation against James Sorhaindo, a potential witness in connection with judicial proceedings relating to the felonies set out in Counts 1 - 4, above, with the intent to influence or prevent any testimony he may have been called upon to provide.

In violation of Title 14 Virgin Islands Code Sections 1510(a) and 11 and *Pinkerton v. United States*, 328 U.S. 640 (1946).

Count 21

On or about September 28, 1998, in St Croix, District of the Virgin Islands, the Defendants did knowingly use force, threat and intimidation against Reynoldson Ferrol, a potential witness in connection with judicial proceedings relating to the felonies set out in Counts 1 - 4, above, with the intent to influence or prevent any testimony he may have been called upon to provide.

In violation of Title 14 Virgin Islands Code Sections 1510(a) and 11 and *Pinkerton v. United States*, 328 U.S. 640 (1946).

Count 22

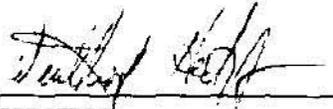
On or about October 20, 1998, in St Croix, District of the Virgin Islands, the defendant

Juan Crispin

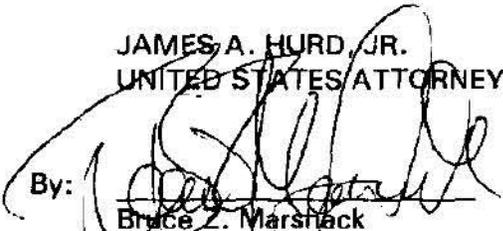
while not authorized by law to do so, did knowingly have and possess that is, a 9 mm. Star pistol.

In violation of Title 14 Virgin Islands Code Section 2253(a).

A TRUE BILL


Foreperson

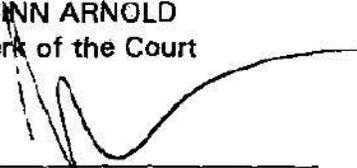
JAMES A. HURD, JR.
UNITED STATES ATTORNEY

By: 
Bruce Z. Marshack
Assistant U.S. Attorney

DISTRICT OF THE VIRGIN ISLANDS: *Jan 6*, 1999.

Returned into the District Court by Grand Jurors and filed.

ORINN ARNOLD
Clerk of the Court

By: 
~~Deputy Clerk~~ M/J

ATTACHMENT F

UNCLASSIFIED//FOR PUBLIC RELEASE

*Germany (Territory under Allied occupation,
" 1945- U.S. Zone) Military Tribunals.*

TRIALS
OF
WAR CRIMINALS
BEFORE THE
NUERNBERG MILITARY TRIBUNALS
UNDER
CONTROL COUNCIL LAW No. 10

NUERNBERG
OCTOBER 1946-APRIL 1949



VOLUME III

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1951

For sale by the Superintendent of Documents, U. S. Government Printing Office
Washington 25, D. C. - Price \$3.75 (Buckram)

907802°-50

UNCLASSIFIED//FOR PUBLIC RELEASE

"The Justice Case"

Military Tribunal III

Case 3

THE UNITED STATES OF AMERICA

—against—

JOSEF ALTSTOETTER, WILHELM VON AMMON, PAUL BARNICKEL,
HERMANN CUHORST, KARL ENGERT, GUENTHER JOEL, HERBERT
KLEMM, ERNST LAUTZ, WOLFGANG METTGENBERG, GUENTHER
NEBELUNG, RUDOLF OESCHEY, HANS PETERSEN, OSWALD ROT-
HAUG, CURT ROTHENBERGER, FRANZ SCHLEGELBERGER, and CARL
WESTPHAL, *Defendants*

907802-51-3

I. INDICTMENT

The United States of America, by the undersigned Telford Taylor, Chief of Counsel for War Crimes, duly appointed to represent said Government in the prosecution of war criminals, charges that the defendants herein participated in a common design or conspiracy to commit and did commit war crimes and crimes against humanity, as defined in Control Council Law No. 10, duly enacted by the Allied Control Council on 20 December 1945. These crimes included murders, brutalities, cruelties, tortures, atrocities, plunder of private property, and other inhumane acts, as set forth in counts one, two, and three of this indictment. Certain defendants are further charged with membership in criminal organizations, as set forth in count four of this indictment.

The persons accused as guilty of these crimes and accordingly named as defendants in this case are:

JOSEF ALTSTOETTER—Chief (Ministerialdirektor) of the Civil Law and Procedure Division (Abteilung VI) of the Reich Ministry of Justice; and Oberfuehrer in the SS.

WILHELM VON AMMON—Ministerial Counsellor (Ministerialrat) of the Criminal Legislation and Administration Division (Abteilung IV) of the Reich Ministry of Justice and coordinator of proceedings against foreigners for offenses against Reich occupational forces abroad.

PAUL BARNICKEL—Senior Public Prosecutor (Reichsanwalt) of the People's Court (Volksgerichtshof); Sturmfuehrer in the SA.

HERMANN CUHORST—Chief Justice (Senatspraesident) of the Special Court (Sondergericht) in Stuttgart; Chief Justice of the First Criminal Senate of the District Court (Landgericht) in Stuttgart; member of the Leadership Corps of the Nazi Party at Gau executive level; sponsoring member (Foerderndes Mitglied) of the SS.

KARL ENGERT—Chief (Ministerialdirektor) of the Penal Administration Division (Abteilung V) and of the secret Prison Inmate Transfer Division (Abteilung XV) of the Reich Ministry of Justice; Oberfuehrer in the SS; Vice President of the People's Court (Volksgerichtshof); Ortsgruppenleiter in the NSDAP Leadership Corps.

GUENTHER JOEL—Legal Adviser (Referent) to the Reich Minister of Justice concerning criminal prosecutions; Chief Public

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Prosecutor (Generalstaatsanwalt) of Westphalia at Hamm; Obersturmbannfuhrer in the SS; Untersturmbannfuhrer [sic] in the SD.

HERBERT KLEMM—State Secretary (Staatssekretaer)* of the Reich Ministry of Justice; Director (Ministerialdirektor) of the Legal Education and Training Division (Abteilung II) in the Ministry of Justice; Deputy Director of the National Socialist Lawyers League (NS Rechtswahrerbund); Obergruppenfuhrer in the SA.

ERNST LAUTZ—Chief Public Prosecutor (Oberreichsanwalt) of the People's Court.

WOLFGANG METTGENBERG—Representative of the Chief (Ministerialdirigent) of the Criminal Legislation and Administration Division (Abteilung IV) of the Reich Ministry of Justice, particularly supervising criminal offenses against German occupational forces in occupied territories.

GUENTHER NEBELUNG—Chief Justice of the Fourth Senate of the People's Court; Sturmfuhrer in the SA; Ortsgruppenleiter in the NSDAP Leadership Corps.

RUDOLF OESCHEY—Judge (Landgerichtsrat) of the Special Court in Nuernberg and successor to the defendant Rothaug as Chief Justice (Landgerichtsdirektor) of the same court; member of the Leadership Corps of the Nazi Party at Gau executive level (Gauhauptstellenleiter); an executive (Kommissarischer Leiter) of the National Socialist Lawyers League.

HANS PETERSEN—Lay Judge of the First Senate of the People's Court; Lay Judge of the Special Senate (Besonderer Senat) of the People's Court; Obergruppenfuhrer in the SA.

OSWALD ROTHHAUG—Senior Public Prosecutor (Reichsanwalt) of the People's Court; formerly Chief Justice of the Special Court in Nuernberg; member of the Leadership Corps of the Nazi Party at Gau executive level.

CURT ROTHENBERGER—State Secretary (Staatssekretaer) of the Reich Ministry of Justice; deputy president of the Academy of German Law (Akademie fuer deutsches Recht); Gaufuhrer of the National Socialist Lawyers League.

FRANZ SCHLEGELBERGER—State Secretary; Acting Reich Minister of Justice.

CARL WESTPHAL—Ministerial Counsellor (Ministerialrat) of the Criminal Legislation and Administration Division (Abteilung

* A "Staatssekretaer" is approximately the equivalent of an under secretary in one of the executive departments of the United States Government. During the trial "Staatssekretaer" was translated synonymously as State Secretary or Under Secretary.

IV) of the Reich Ministry of Justice, and officially responsible for questions of criminal procedure and penal execution within the Reich; Ministry coordinator for nullity pleas against adjudicated sentences.

COUNT ONE—THE COMMON DESIGN AND CONSPIRACY

1. Between January 1933 and April 1945 all of the defendants herein, acting pursuant to a common design, unlawfully, willfully, and knowingly did conspire and agree together and with each other and with divers other persons, to commit war crimes and crimes against humanity, as defined in Control Council Law No. 10, Article II.

2. Throughout the period covered by this indictment all of the defendants herein, acting in concert with each other and with others, unlawfully, willfully, and knowingly were principals in, accessories to, ordered, abetted, took a consenting part in, and were connected with plans and enterprises involving, the commission of war crimes and crimes against humanity.

3. All of the defendants herein, acting in concert with each other and with others, unlawfully, willfully, and knowingly participated as leaders, organizers, instigators, and accomplices in the formulation and execution of the said common design, conspiracy, plans, and enterprises to commit, and which involved the commission of, war crimes and crimes against humanity, and accordingly are individually responsible for their own acts and for all acts performed by any person or persons in execution of the said common design, conspiracy, plans, and enterprises.

4. The said common design, conspiracy, plans, and enterprises embraced the commission of war crimes and crimes against humanity, as set forth in counts two and three of this indictment, in that the defendants unlawfully, willfully, and knowingly encouraged, aided, abetted, and participated in the commission of atrocities and offenses against persons and property, including plunder of private property, murder, extermination, enslavement, deportation, unlawful imprisonment, torture, persecutions on political, racial, and religious grounds, and ill-treatment of, and other inhumane acts against, thousands of persons, including German civilians, nationals of other countries, and prisoners of war.

5. It was a part of the said common design, conspiracy, plans, and enterprises to enact, issue, enforce, and give effect to certain purported statutes, decrees, and orders, which were criminal both in inception and execution, and to work with the Gestapo, SS, SD, SIPO, and RSHA for criminal purposes, in the course of which

the defendants, by distortion and denial of judicial and penal process, committed the murders, brutalities, cruelties, tortures, atrocities, and other inhumane acts, more fully described in counts two and three of this indictment.

6. The said common design, conspiracy, plans, and enterprises embraced the assumption by the Reich Ministry of Justice of total control of the administration of justice, including preparation of legislation concerning all branches of law, and control of the courts and prisons. The supreme administration of justice in all German states was transferred to the Reich Ministry of Justice in 1934. Thereupon, certain extraordinary courts of a predominantly political nature, with wide and arbitrary criminal jurisdiction, were superimposed upon the existing ordinary court system. The People's Court (Volksgerichtshof) became the court of original and final jurisdiction in cases of "high treason" and "treason." This court itself had jurisdiction over the investigation and prosecution of all cases before it, and there was no appeal from its decision. The court's territorial jurisdiction was extended not only to all annexed countries of the Reich but also to the "Protectorate" (Bohemia and Moravia) in 1939. Beginning in 1933, Special Courts (Sondergerichte) also were superimposed upon the ordinary court system under the Reich Ministry of Justice. These Special Courts were of a character which had been outlawed until the NSDAP seizure of power. Jurisdiction of these Special Courts extended to all "political" cases, as well as to all acts deemed inimical to either the Party, the government, or continued prosecution of the war. At least one Special Court was attached to every court of appeal (Oberlandesgericht); public prosecutors could arbitrarily refer thereto any case from the local courts (Amtsgerichte) or from the criminal division of the district courts (Landgerichte). Despite guaranties in the Weimar Constitution and the German Judicature Act, that no one may be deprived of his competent judge, and prohibitions against irregular tribunals, these courts were imposed upon Germany, as well as upon the "Protectorate" and the occupied countries.

7. The said common design, conspiracy, plans, and enterprises embraced the use of the judicial process as a powerful weapon for the persecution and extermination of all opponents of the Nazi regime regardless of nationality and for the persecution and extermination of "races." The special political tribunals mentioned above visited cruel punishment and death upon political opponents and members of certain "racial" and national groups. The People's Court was presided over by a minority of trusted Nazi lawyers, and a majority of equally trusted laymen appointed by Hitler from the Elite Guard and Party hierarchy. The People's Court in col-

laboration with the Gestapo became a terror court, notorious for the severity of punishment, secrecy of proceedings, and denial to the accused of all semblance of judicial process. Punishment was meted out by Special Courts to victims under a law which condemned all who offended the "healthy sentiment of the people." Independence of the judiciary was destroyed. Judges were removed from the bench for political and "racial" reasons. Periodic "letters" were sent by the Ministry of Justice to all Reich judges and public prosecutors, instructing them as to the results they must accomplish. Both the bench and bar were continually spied upon by the Gestapo and SD, and were directed to keep disposition of their cases politically acceptable. Judges, prosecutors and, in many cases, defense counsel were reduced in effect to an administrative arm of the Nazi Party.

COUNT TWO—WAR CRIMES

8. Between September 1939 and April 1945 all of the defendants herein unlawfully, willfully, and knowingly committed war crimes, as defined by Control Council Law No. 10, in that they were principals in, accessories to, ordered, abetted, took a consenting part in, and were connected with plans and enterprises involving the commission of atrocities and offenses against persons and property, including, but not limited to, plunder of private property, murder, torture, and illegal imprisonment of, and brutalities, atrocities, and other inhumane acts against thousands of persons. These crimes included, but were not limited to, the facts set out in paragraphs 9 to 19, inclusive, of this indictment, and were committed against civilians of occupied territories and members of the armed forces of nations then at war with the German Reich and who were in the custody of the German Reich in the exercise of belligerent control.

9. Extraordinary irregular courts, superimposed upon the regular court system, were used by all of the defendants for the purpose of and in fact creating a reign of terror to suppress political opposition to the Nazi regime. This was accomplished principally through the People's Court (Volksgerichtshof) and various Special Courts (Sondergerichte), which subjected civilians of the occupied countries to criminal abuse of judicial and penal process including repeated trials on the same charges, criminal abuse of discretion, unwarranted imposition of the death penalty, prearrangement of sentences between judges and prosecutors, discriminatory trial processes, and other criminal practices, all of which resulted in murders, cruelties, tortures, atrocities, plunder of private property, and other inhumane acts.

10. Special Courts subjected Jews of all nationalities, Poles, Ukrainians, Russians, and other nationals of the Occupied Eastern Territories, indiscriminately classed as "gypsies", to discriminatory and special penal laws and trials, and denied them all semblance of judicial process. These persons who had been arbitrarily designated "asocial" by conspiracy and agreement between the Ministry of Justice and the SS were turned over by the Ministry of Justice, both during and after service of prison sentences, to the SS to be worked to death. Many such persons were given a summary travesty of trial before extraordinary courts, and after serving the sentences imposed upon them, were turned over to the Gestapo for "protective custody" in concentration camps. Jews discharged from prison were turned over to the Gestapo for final detention in Auschwitz, Lublin, and other concentration camps. The above-described proceedings resulted in the murder, torture, and ill-treatment of thousands of such persons. The defendants von Ammon, Engert, Klemm, Schlegelberger, Mettgenberg, Rothenberger, and Westphal are charged with special responsibility for and participation in these crimes.

11. The German criminal laws, through a series of expansions and perversions by the Ministry of Justice, finally embraced passive defeatism, petty misdemeanors and trivial private utterances as treasonable for the purpose of exterminating Jews or other nationals of the occupied countries. Indictments, trials and convictions were transparent devices for a system of murderous extermination, and death became the routine penalty. Jurisdiction of the German criminal code was extended to the entire world, to cover acts of non-Germans as well as Germans living outside the Reich. Non-German nationals were convicted of and executed for "high treason" allegedly committed against the Reich. The above-described proceedings resulted in the murder, torture, unlawful imprisonment, and ill-treatment of thousands of persons. The defendants Barnickel, Cuhorst, Klemm, Lautz, Mettgenberg, Nebelung, Oeschey, Petersen, Rothaug, Rothenberger, Schlegelberger, and Westphal are charged with special responsibility for and participation in these crimes.

12. The Justice Ministry aided and implemented the unlawful annexation and occupation of Czechoslovakia, Poland, and France. Special Courts were created to facilitate the extermination of Poles and Jews and the suppression of political opposition generally by the employment of summary procedures and the enforcement of Draconic penal laws. Sentences were limited to death or transfer to the SS for extermination. The People's Court and Special Courts were projected into these countries, irregular prejudicial regulations and procedures were invoked without no-

tice (even in violation of the Reich Criminal Code as unlawfully extended to other occupied territories), sentences were prearranged, and trial and execution followed service of the indictment within a few hours. The above-described proceedings resulted in the murder, ill-treatment, and unlawful imprisonment of thousands of persons. The defendants Klemm, Lautz, Mettgenberg, Schlegelberger, and Westphal are charged with special responsibility for and participation in these crimes.

13. The Ministry of Justice participated with the OKW and the Gestapo in the execution of Hitler's decree of "Night and Fog" (Nacht und Nebel) whereby civilians of occupied territories who had been accused of crimes of resistance against occupying forces were spirited away for secret trial by certain Special Courts of the Justice Ministry within the Reich, in the course of which the victims' whereabouts, trial, and subsequent disposition were kept completely secret, thus serving the dual purpose of terrorizing the victims' relatives and associates and barring recourse to any evidence, witnesses, or counsel for defense. The accused was not informed of the disposition of his case, and in almost every instance those who were acquitted or who had served their sentences were handed over by the Justice Ministry to the Gestapo for "protective custody" for the duration of the war. In the course of the above-described proceedings, thousands of persons were murdered, tortured, ill-treated, and illegally imprisoned. The defendants Altstoetter, von Ammon, Engert, Joel, Klemm, Mettgenberg, and Schlegelberger are charged with special responsibility for and participation in these crimes.

14. Hundreds of non-German nationals imprisoned in penal institutions operated by the Reich Ministry of Justice were unlawfully executed and murdered. Death sentences were executed in the absence of the necessary official orders, and while clemency pleas were pending. Many who were not sentenced to death were executed. In the face of Allied military advances so-called "inferior" or "asocial" prison inmates were, by Ministry order, executed regardless of sentences under which they served. In many instances these penal institutions were operated in a manner indistinguishable from concentration camps. The defendants Engert, Joel, Klemm, Lautz, Mettgenberg, Rothenberger, and Westphal are charged with special responsibility for and participation in these crimes.

15. The Ministry of Justice participated in the Nazi program of racial purity pursuant to which sterilization and castration laws were perverted for the extermination of Jews, "asocials", and certain nationals of the occupied territories. In the course

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of the program thousands of Jews were sterilized. Insane, aged, and sick nationals of occupied territories, the so-called "useless eaters," were systematically murdered. In the course of the above-described proceedings thousands of persons were murdered and ill-treated. The defendants Lautz, Schlegelberger, and Westphal are charged with special responsibility for and participation in these crimes.

16. The Ministry of Justice granted immunity to and amnesty following prosecutions and convictions of Nazi Party members for major crimes committed against civilians of occupied territories. Pardons were granted to members of the Party who had been sentenced for proved offenses. On the other hand, discriminatory measures against Jews, Poles, "gypsies," and other designated "asocials" resulted in harsh penal measures and death sentences, deprivation of rights to file private suits and rights of appeal, denial of right to receive amnesty and to file clemency pleas, denial of right of counsel, imposition of special criminal laws permitting the death penalty for all crimes and misdemeanors, and finally, in the transfer to the Gestapo for "special treatment" of all cases in which Jews were involved. The defendants von Ammon, Joel, Klemm, Rothenberger, and Schlegelberger are charged with special responsibility for and participation in these crimes.

17. By decrees signed by the Reich Minister of Justice and others, the citizenship of all Jews in Bohemia and Moravia was forfeited upon their change of residence by deportation or otherwise; and upon their loss of citizenship their properties were automatically confiscated by the Reich. There were discriminatory changes in the family and inheritance laws by which Jewish property was forfeited at death to the Reich with no compensation to the Jewish heirs. The defendants Altstoetter and Schlegelberger are charged with special responsibility for and participation in these crimes.

18. The Ministry of Justice through suspension and quashing of criminal process, participated in Hitler's program of inciting the German civilian population to murder Allied airmen forced down within the Reich. The defendants Klemm and Lautz are charged with special responsibility for and participation in these crimes.

19. The said war crimes constitute violations of international conventions, particularly of Articles 4-7, 23, 43, 45, 46, and 50 of the Hague Regulations, 1907, and of articles 2, 3, and 4 of the Prisoner of War Convention (Geneva, 1929), the laws and customs of war, the general principles of criminal law as derived from the criminal laws of all civilized nations, the internal penal

laws of the countries in which such crimes were committed, and of Article II of Control Council Law No. 10.

COUNT THREE—CRIMES AGAINST HUMANITY

20. Between September 1939 and April 1945 all of the defendants herein unlawfully, willfully, and knowingly committed crimes against humanity as defined by Control Council Law No. 10, in that they were principals in, accessories to, ordered, abetted, took a consenting part in, and were connected with plans and enterprises involving the commission of atrocities and offenses, including but not limited to murder, extermination, enslavement, deportation, illegal imprisonment, torture, persecution on political, racial and religious grounds, and ill-treatment of and other inhumane acts against German civilians and nationals of occupied countries.

21. Extraordinary irregular courts were used by all of the defendants in creating a reign of terror to suppress political opposition to the German Reich, in the course of which German civilians and nationals of occupied countries were subjected to criminal abuses of judicial and penal process, resulting in murders, brutalities, cruelties, tortures, atrocities, plunder of private property, and other inhumane acts. These crimes are further particularized in paragraph 9 of this indictment, which is incorporated herein by reference.

22. Special Courts subjected certain German civilians, and nationals of occupied countries to discriminatory and special penal laws and trials, and denied them all semblance of judicial process. Convicted German civilians and nationals of other countries who were deemed to be political prisoners and criminals designated as "asocial," were turned over to the Reich Security Main Office (RSHA) for extermination in concentration camps. These crimes are further particularized in paragraph 10 of this indictment, which is incorporated herein by reference. The defendants von Ammon, Engert, Joel, Klemm, Lautz, Mettgenberg, and Rothenberger are charged with special responsibility for and participation in these crimes.

23. The German criminal laws, through a series of additions, expansions, and perversions by the defendants became a powerful weapon for the subjugation of the German people and for the extermination of certain nationals of the occupied countries. This program resulted in the murder, torture, illegal imprisonment, and ill-treatment of thousands of Germans and nationals of occu-

pied countries. These crimes are further particularized in paragraph 11 of this indictment, which is incorporated herein by reference. The defendants Barnickel, Cuhorst, Klemm, Lautz, Mettgenberg, Nebelung, Oeschey, Petersen, Rothaug, Rothenberger, Schlegelberger, and Westphal are charged with special responsibility for and participation in these crimes.

24. The Ministry of Justice, through the People's Court and certain Special Courts, aided and implemented the unlawful annexation and occupation of Czechoslovakia, Poland, and France. These crimes are further particularized in paragraph 12 of this indictment, which is incorporated herein by reference. The defendants Klemm, Lautz, Mettgenberg, Schlegelberger, and Westphal are charged with special responsibility for and participation in these crimes.

25. The Ministry of Justice participated in the decree of "Night and Fog" whereby certain persons who committed offenses against the Reich or the German forces in occupied territories were taken secretly by the Gestapo to Germany and handed over to the Special Courts for trial and punishment. This program resulted in the murder, torture, illegal imprisonment, and ill-treatment of thousands of persons. These crimes are further particularized in paragraph 13 of this indictment, which is incorporated herein by reference. The defendants Altstoetter, von Ammon, Engert, Joel, Klemm, Mettgenberg, and Schlegelberger are charged with special responsibility for and participation in these crimes.

26. In penal institutions operated by the Reich Ministry of Justice, hundreds of German civilians and nationals of other countries were subjected to murders, brutalities, cruelties, tortures, atrocities, and other inhumane acts. The particulars concerning these crimes are set forth in paragraph 14 of this indictment. The defendants Engert, Joel, Klemm, Lautz, Mettgenberg, Rothenberger, and Westphal are charged with special responsibility for and participation in these crimes.

27. Special health courts (Erbgesundheitsgerichte) perverted eugenic and sterilization laws or policies regarding German civilians and nationals of other countries which resulted in the systematic murder and ill-treatment of thousands of persons. Thousands of German civilians and nationals of other countries committed to institutions for the insane, were systematically murdered. These crimes are further particularized in paragraph 15 of count two of this indictment, which is incorporated herein by reference. The defendants Lautz, Schlegelberger, and Westphal are charged with special responsibility for and participation in these crimes.

28. The Ministry of Justice granted immunity to and amnesty following prosecutions and convictions of Party members for major crimes committed against civilians of occupied territories. Pardons were granted to members of the Party who had been sentenced for proved offenses. On the other hand, discriminatory judicial proceedings were imposed against so-called "asocial" German nationals and civilians of the occupied countries. These crimes are further particularized in paragraph 16 of count two of this indictment and are incorporated herein by reference. The defendants von Ammon, Joel, Klemm, Mettgenberg, Rothenberger, and Schlegelberger are charged with special responsibility for and participation in these crimes.

29. Discriminatory changes made in the German family and inheritance laws for the sole purpose of confiscating Jewish properties, were enforced by the Justice Ministry. All Jewish properties were forfeited at death to the Reich. Jews and Poles, both in Germany and in the occupied countries, were deprived of their citizenship, their property was seized and confiscated, and they were deprived of means of earning a livelihood, by the State, by Party organizations, and by individual members of the Party. These crimes are further particularized in paragraph 17 of this indictment, which is incorporated herein by reference. The defendants Altstoetter and Schlegelberger are charged with special responsibility for and participation in these crimes.

30. The Ministry of Justice through suspension and quashing of criminal process, participated in Hitler's program of inciting the German civilian population to murder Allied airmen forced down within the Reich. This program resulted in the murder, torture, and ill-treatment of many persons. These crimes are further particularized in paragraph 18 of this indictment, which is incorporated herein by reference. The defendants Klemm and Lautz are charged with special responsibility for and participation in these crimes.

31. The said crimes against humanity constitute violations of international conventions, including article 46 of the Hague Regulations, 1907, the laws and customs of war, the general principles of criminal law as derived from the criminal laws of all civilized nations, the internal penal laws of the countries in which such crimes were committed, and of article II of Control Council Law No. 10.

COUNT FOUR MEMBERSHIP IN CRIMINAL ORGANIZATIONS

32. The defendants Altstoetter, Cuhorst, Engert, and Joel are guilty of membership in an organization declared to be criminal

by the International Military Tribunal in Case 1, in that each of the said defendants was a member of DIE SCHUTZSTAFFELN DER NATIONAL SOZIALISTISCHEN DEUTSCHEN ARBEITERPARTEI (commonly known as the "SS") after 1 September 1939.

33. The defendants Cuhorst, Oeschey, Nebelung, and Rothaug are guilty of membership in an organization declared to be criminal by the International Military Tribunal in Case 1, in that Cuhorst, Oeschey, and Rothaug were members of the Leadership Corps of the Nazi Party at Gau level after 1 September 1939, and in that Nebelung was an Ortsgruppenleiter of the Leadership Corps of the Nazi Party after 1 September 1939.

34. The defendant Joel is guilty of membership in an organization declared to be criminal by the International Military Tribunal in Case 1, in that the said defendant was a member of DER SICHERHEITSDIENST DES REICHSFUEHRER SS (commonly known as the "SD") after 1 September 1939.

Such memberships are in violation of paragraph 1 (d), article II of Control Council Law No. 10.

Wherefore, this indictment is filed with the Secretary General of the Military Tribunals and the charges herein made against the above-named defendants are hereby presented to the Military Tribunals.

Acting on Behalf of the United States of America

TELFORD TAYLOR

Brigadier General, U. S. Army

Chief of Counsel for War Crimes

Nuernberg, 4 January 1947

ATTACHMENT G

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*Germany, (Territory under Allied
occupation, 1945 -
U.S. Zone) military
Tribunals)*

TRIALS
OF
WAR CRIMINALS
BEFORE THE
NUERNBERG MILITARY TRIBUNALS
UNDER
CONTROL COUNCIL LAW No. 10



VOLUME XV

NUERNBERG
OCTOBER 1946-APRIL 1949

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Tribunal memorandum explaining the reasons for the dismissal, are reproduced in section VIII, volume XIII, this series.

2. ORDER OF THE TRIBUNAL IN THE JUSTICE CASE, 11 JULY 1947, CONCERNING THE DEFENSE MOTION AGAINST COUNT ONE OF THE INDICTMENT*

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NUERNBERG,
GERMANY
AT A SESSION OF MILITARY TRIBUNAL III
HELD 11 JULY 1947, IN OPEN COURT

United States of America) ORDER
<i>Plaintiff,</i>	
<i>vs.</i>) Re: Defendants' Motions against
Josef Altstoetter, <i>et al.</i> ,	
<i>Defendants</i>	

Count one of the indictment in this case charges that the defendants, acting pursuant to a common design, unlawfully, willfully, and knowingly did conspire and agree together to commit war crimes and crimes against humanity as defined in Control Council Law No. 10, Article II. It is charged that the alleged crime was committed between January 1933 and April 1945.

It is the ruling of this Tribunal that neither the Charter of the International Military Tribunal nor Control Council Law No. 10 has defined conspiracy to commit a war crime or crimes against humanity as a separate substantive crime. Therefore, this Tribunal has no jurisdiction to try any defendant upon a charge of conspiracy considered as a separate substantive offense. Count one of the indictment, in addition to the separate charge of conspiracy, also alleges unlawful participation in the formulation and execution of plans to commit war crimes and crimes against humanity which actually involve the commission of such crimes. We, therefore, cannot properly strike the whole of count one from the indictment. But, insofar as count one charges the commission of the alleged crime of conspiracy as a separate substantive offense, distinct from any war crime or crime against humanity, the Tribunal will disregard the charge.

This ruling must not be construed as limiting the force or effect of Article II, paragraph 2 of Control Council Law No. 10, or as denying to either prosecution or defense the right to offer in evidence any facts or circumstances occurring either before or after

*U.S. *vs.* Josef Altstoetter, *et al.*, Case 3, Official Record, volume 26, page 115.

September 1939, if such facts or circumstances tend to prove or disprove the commission by any defendant of war crimes or crimes against humanity as defined in Control Council Law No. 10.

[Signed] JAMES T. BRAND
Presiding Judge Military Tribunal III

3. ORDER OF THE TRIBUNAL IN THE POHL CASE, 18 JULY 1947, CONCERNING THE DEFENSE MOTION AGAINST PARAGRAPH ONE OF COUNT ONE OF THE INDICTMENT*

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NUERNBERG,
GERMANY
AT A SESSION OF MILITARY TRIBUNAL II
HELD 18 JULY 1947, IN CHAMBERS

United States of America }
vs. } ORDER
Oswald Pohl, et al., } CASE 4
Defendants }

Upon hearing and considering the motion of the several defendants to quash and strike from the indictment paragraph 1 of count one thereof upon the ground that the Tribunal has no jurisdiction to consider or determine the guilt or innocence of the defendants thereunder, it is ordered as follows:

Paragraph 1 of count one of the indictment in this case charges that the defendants, acting pursuant to a common design, unlawfully, willfully and knowingly did conspire and agree together to commit war crimes and crimes against humanity as defined in Control Council Law No. 10, Article II. It is charged that the alleged crime was committed between January 1933 and April 1945.

It is the ruling of this Tribunal that neither the Charter of the International Military Tribunal nor Control Council Law No. 10 has defined conspiracy to commit a war crime or crime against humanity as a separate substantive crime; therefore, this Tribunal has no jurisdiction to try any defendant upon a charge of such conspiracy considered as a separate substantive offense. *Paragraph 1 of count one will accordingly be quashed and stricken from the indictment.*

This ruling must not be construed as limiting the force or effect of Article II, paragraph 2, of Control Council Law No. 10, or as denying to either prosecution or defense the right to offer

*U.S. vs. Oswald Pohl, et al., Case 4, Official Record, volume 27, page 95.

ATTACHMENT H

IT-05-87-PT p.6404 AT
D6404-D6337
filed on: 21/06/06

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

Case No. IT-05-87-PT

THE PROSECUTOR

AGAINST

**MILAN MILUTINOVIĆ
NIKOLA ŠAINOVIĆ
DRAGOLJUB OJDANIĆ
NEBOJŠA PAVKOVIĆ
VLADIMIR LAZAREVIĆ
[REDACTED]
SRETEN LUKIĆ**

(REDACTED) THIRD AMENDED JOINDER 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 ("Statute of the Tribunal"), charges:

**MILAN MILUTINOVIĆ
NIKOLA ŠAINOVIĆ
DRAGOLJUB OJDANIĆ
NEBOJŠA PAVKOVIĆ
VLADIMIR LAZAREVIĆ
[REDACTED]
SRETEN LUKIĆ**

with **CRIMES AGAINST HUMANITY** and **VIOLATIONS OF THE LAWS OR CUSTOMS OF WAR** as set forth herein.

THE ACCUSED

1. **MILAN MILUTINOVIĆ** was born on 19 December 1942 in Belgrade, Serbia. **MILAN MILUTINOVIĆ** received a degree in law from Belgrade University. Throughout his political career, **MILAN MILUTINOVIĆ** held numerous high level governmental posts in Serbia and the Federal Republic of Yugoslavia ("FRY") including that of the FRY Ambassador to Greece and the Minister of Foreign Affairs of the FRY. **MILAN MILUTINOVIĆ** was President of Serbia from 21 December 1997 until 29 December 2002.

2. **NIKOLA ŠAINOVIĆ** was born on 7 December 1948 in Bor, Serbia. **NIKOLA ŠAINOVIĆ** was active in the Socialist Party of Serbia ("SPS"), and held several positions within the governments of Serbia and the FRY, including Prime Minister of Serbia and Deputy Prime Minister of the FRY. **NIKOLA ŠAINOVIĆ**

served as Deputy Prime Minister of the FRY from February 1994 until on or about 4 November 2000, when a new Federal Government was formed.

3. **DRAGOLJUB OJDANIĆ** was born on 1 June 1941 in the village of Ravni, near Užice in Serbia. In 1992, **DRAGOLJUB OJDANIĆ**, as Commander of the Užice Corps of the Army of the FRY ("VJ"), was involved in military actions in eastern Bosnia during the war in the Republic of Bosnia and Herzegovina ("Bosnia and Herzegovina"). In 1996, **DRAGOLJUB OJDANIĆ** became Deputy Chief of the General Staff of the VJ. **DRAGOLJUB OJDANIĆ** was appointed on 24 November 1998 as the Chief of the General Staff of the VJ. He was named Federal Minister of Defence on 15 February 2000 and served in this position until 3 November 2000. He was retired from military service by Presidential decree on 30 December 2000.

4. **NEBOJŠA PAVKOVIĆ** was born on 10 April 1946 in the village of Senjski Rudnik, Serbia. **NEBOJŠA PAVKOVIĆ** held numerous positions in the Yugoslav National Army ("JNA"). In 1994, **NEBOJŠA PAVKOVIĆ** was assigned to the Priština Corps of the Armed Forces of the VJ in Priština, Kosovo where he held various staff positions in the command staff until he assumed command of the Corps on 9 January 1998. **NEBOJŠA PAVKOVIĆ** was promoted to the rank of Lieutenant General on 21 July 1998. On 25 December 1998, **NEBOJŠA PAVKOVIĆ** was appointed by Presidential Decree as Commander of the Third Army and remained in this position until early 2000. On 31 March 1999, he was promoted to the rank of Colonel General. **NEBOJŠA PAVKOVIĆ** was commended for his role during the state of war in 1999 by being awarded the Order of Freedom by President Milošević on 16 June 1999. In February 2000, **NEBOJŠA PAVKOVIĆ** was appointed Chief of the General Staff of the VJ. His service in the VJ and position as Chief of the General Staff was terminated by a Presidential Decree on 24 June 2002.

5. **VLADIMIR LAZAREVIĆ** was born in the town of Grnčar in Babušnica municipality, Serbia on 23 March 1949. In 1998, **VLADIMIR LAZAREVIĆ** became the Chief of Staff of the Priština Corps and, on 25 December 1998, was appointed Commander of the Priština Corps by Presidential Decree. For his role during the state of war, **VLADIMIR LAZAREVIĆ** received two official commendations and was promoted by Presidential Decree to Lieutenant General in June 1999. On 28 December 1999 **VLADIMIR LAZAREVIĆ** was appointed Chief of Staff of the Third Army and then Commander of the Third Army on 13 March 2000. **VLADIMIR LAZAREVIĆ** was promoted to the rank of Colonel General on 30 December 2000. In early 2002, **VLADIMIR LAZAREVIĆ** was appointed to the VJ General Staff as Assistant for Ground Forces. In August 2003, **VLADIMIR LAZAREVIĆ** was dismissed from the Army of Serbia and Montenegro.

6. **[REDACTED]**.

7. **SRETEN LUKIĆ** was born on 28 March 1955 in Višegrad municipality, in Bosnia and Herzegovina. **SRETEN LUKIĆ** began his career in Internal Affairs in 1974 and held various positions including that of Assistant Chief of Police Duties at the Secretariat for Internal Affairs in Belgrade which he took up in January 1992. In May 1998, **SRETEN LUKIĆ** was appointed Head of the Serbian Ministry of Internal Affairs Staff for Kosovo & Metohija ("MUP Staff") with the rank of Major General. The MUP Staff gained an expanded mandate on 16 June 1998 with **SRETEN LUKIĆ** remaining as its Head. On 12 May 1999, **SRETEN LUKIĆ** was promoted by Decree of the President of the Republic of Serbia from Major General to Lieutenant General.

After June 1999, **SRETEN LUKIĆ** was the Assistant Chief of the RJB and the Chief of Border Administration of the Border Police in the MUP in Belgrade. On 31 January 2001, **SRETEN LUKIĆ** was appointed Assistant Minister and Chief of the RJB. While in this position, on 28 May 2001 he was promoted to Colonel-General by Presidential Decree of **MILAN MILUTINOVIĆ**.

POSITION OF THE ACCUSED

8. During 1998 and at all times relevant to this indictment, **MILAN MILUTINOVIĆ** held the post of President of Serbia, a post to which he was elected on 21 December 1997. As President of Serbia:

- i. **MILAN MILUTINOVIĆ** was the head of State. He represented Serbia and conducted its relations with foreign states and international organisations.
- ii. **MILAN MILUTINOVIĆ** was a member of the Supreme Defence Council ("SDC") of the FRY and participated in decisions regarding the use of the VJ. He organised preparations for the defence of Serbia. Under the FRY Law on Defence, **MILAN MILUTINOVIĆ**, as a member of the SDC, also exercised command authority over MUP units subordinated to the VJ during a state of imminent threat of war or a state of war.
- iii. **MILAN MILUTINOVIĆ**, in conjunction with the Republic of Serbia Assembly, had the authority to request reports both from the Government of Serbia, concerning matters under its jurisdiction, and from the MUP, concerning its activities and the security situation in Serbia.
- iv. **MILAN MILUTINOVIĆ** had the authority to dissolve the Republic of Serbia Assembly, and with it the Government, "subject to the proposal of the Government on justified grounds," although this power applied only in peacetime.
- v. **MILAN MILUTINOVIĆ**, during a declared state of war or state of imminent threat of war, could enact measures normally under the competence of the Republic of Serbia Assembly, including the passage of laws; these measures could include the reorganisation of the Government and its ministries, as well as the restriction of certain rights and freedoms.

9. Starting in approximately February 1994 and at all times relevant to this indictment, **NIKOLA ŠAINOVIĆ** held the post of Deputy Prime Minister of the FRY. As Deputy Prime Minister of the FRY, **NIKOLA ŠAINOVIĆ** was a member of the Government of the FRY, which, among other duties and responsibilities, formulated domestic and foreign policy, enforced federal law, directed and coordinated the work of federal ministries, and organised defence preparations.

10. During 1998 and lasting throughout the period of the indictment, **NIKOLA ŠAINOVIĆ** was Slobodan Milošević's representative for Kosovo. In this capacity:

- i. **NIKOLA ŠAINOVIĆ** was Head of the Joint Command.
- ii. A number of diplomats and other international officials who needed to speak with a government official regarding events in Kosovo were directed to **NIKOLA ŠAINOVIĆ**.

- iii. **NIKOLA ŠAINOVIĆ** took an active role in negotiations establishing the Organisation for Security and Co-operation in Europe ("OSCE") verification mission for Kosovo and he participated in numerous other meetings regarding the Kosovo crisis.
- iv. At all times relevant to this indictment, **NIKOLA ŠAINOVIĆ** acted as the liaison between Slobodan Milošević and various Kosovo Albanian leaders.

11. Between June 1996 and 24 November 1998, **DRAGOLJUB OJDANIĆ** held the position of Deputy Chief of the General Staff of the VJ, immediately subordinate to the Chief of the General Staff. On 24 November 1998 he was appointed by Slobodan Milošević to replace General Momčilo Perišić as Chief of the General Staff of the VJ. He remained in that position throughout the period of this indictment. As Chief of the General Staff of the VJ :

- i. **DRAGOLJUB OJDANIĆ** commanded, ordered, instructed, regulated and otherwise directed the VJ, pursuant to acts issued by the President of the FRY and as required to command the VJ.
- ii. **DRAGOLJUB OJDANIĆ** determined the organisation, plan of development and formation of commands, units and institutions of the VJ, in conformity with the nature and needs of the VJ and pursuant to acts rendered by the President of the FRY.
- iii. **DRAGOLJUB OJDANIĆ** determined the plan for recruiting and filling vacancies within the VJ and the distribution of recruits therein; issued regulations concerning training of the VJ; determined the educational plan and advanced training of professional and reserve military officers; and performed other tasks stipulated by law.
- iv. **DRAGOLJUB OJDANIĆ** - or other officers empowered by him - assigned commissioned officers, non-commissioned officers and soldiers, and promoted non-commissioned officers, reserve officers, and officers up to the rank of colonel.
- v. **DRAGOLJUB OJDANIĆ** carried out preparations for the conscription of citizens and mobilisation of the VJ; co-operated with the MUP and the Ministry of Defence of the FRY in mobilising organs and units of the MUP; monitored and proposed measures to correct problems encountered during, and informed the Government of the FRY and the Supreme Defence Council about, the implementation of the mobilisation.
- vi. **DRAGOLJUB OJDANIĆ**, under the FRY Law on Defense, exercised command authority over MUP units as well as over military-territorial units, civil-defence units and other armed groups subordinated to the VJ during a state of imminent threat of war or a state of war. A declaration of imminent threat of war was proclaimed on 23 March 1999, and a state of war on 24 March 1999.
- vii. **DRAGOLJUB OJDANIĆ** nominated the president, judges, prosecutors, and their respective deputies and secretaries, to serve on military disciplinary courts.

12. Between 9 January 1998 and 25 December 1998, **NEBOJŠA PAVKOVIĆ** held the position of Commander of the Priština Corps of the Third Army. On 25 December 1998, he was appointed by Presidential Decree as Commander of the Third Army. He took up his duties as Commander of the Third Army on 13 January 1999 and he continued to hold this post throughout the period of this indictment. As the Commander of the Third Army:

- i. **NEBOJŠA PAVKOVIĆ** commanded all units of the VJ Third Army and units attached to it in the VJ Third Army's area of responsibility. He bore full responsibility for operations conducted by units of the VJ Third Army, units attached to the Third Army, and for the work of the Third Army Command Staff. **NEBOJŠA PAVKOVIĆ** exercised his authority as VJ Third Army Commander in relation to events in Kosovo from January 1999 to June 1999, inclusive.
- ii. **NEBOJŠA PAVKOVIĆ** exercised command authority or control over MUP units subordinated to, or operating in co-operation or co-ordination with, the VJ Third Army as well as over military-territorial units, civil defence units and other armed groups, under the FRY Law on Defense, and through joint command and coordination structures and mechanisms.

13. Between 15 January 1998 and December 1998, **VLADIMIR LAZAREVIĆ** held the post of Chief of Staff of the Priština Corps, immediately subordinate to the Corps Commander. He was appointed Commander of the Priština Corps of the VJ Third Army in December 1998. He assumed command no later than 6 January 1999 and continued to hold this post throughout the period of this indictment. As Corps Commander:

- i. **VLADIMIR LAZAREVIĆ** commanded all units of the Priština Corps and units attached to it in the Corps' area of responsibility. He bore full responsibility for operations conducted by units of the VJ Priština Corps, units attached to the Priština Corps, and for the work of the Priština Corps Command Staff.
- ii. **VLADIMIR LAZAREVIĆ** exercised command authority or control over MUP units subordinated to, or operating in co-operation or co-ordination with, the Priština Corps of the VJ Third Army as well as over military-territorial units, civil defence units under the FRY Law on Defense, and through joint command and coordination structures and mechanisms.

14. Since at least 4 June 1997 and at all times relevant to this indictment, Vlastimir Đorđević was the Assistant Minister of the MUP and Chief of the RJB. As Assistant Minister of the MUP and Chief of the RJB:

- i. Vlastimir Đorđević led the RJB under the direction of the Minister of the Interior, Vlastimir Đorđević. He was responsible for all units and personnel of the RJB in Serbia, including Kosovo, between 1 January and 20 June 1999.

15. From May 1998 and lasting throughout the period of this indictment, **SRETEN LUKIĆ** was the Head of the MUP Staff. As Head of the MUP Staff:

- i. **SRETEN LUKIĆ** planned, organised, guided, co-ordinated and controlled the work of the MUP in Kosovo.
- ii. **SRETEN LUKIĆ** was obligated to protect human lives and the safety of persons and possessions; to prevent and detect criminal acts and to arrest their perpetrators; and to maintain law and order.
- iii. **SRETEN LUKIĆ** had command of the MUP operations in Kosovo. As a superior officer of the MUP, **SRETEN LUKIĆ** was responsible for MUP units in Kosovo between 1 January and 20 June 1999.

INDIVIDUAL CRIMINAL RESPONSIBILITY

16. Each of the accused is individually responsible for the crimes alleged against him in this indictment under Articles 3, 5 and 7 of the Statute of the Tribunal.

17. The accused planned, instigated, ordered, committed, or otherwise aided and abetted in the planning, preparation, or execution of these crimes. For the modes of liability of planning, instigating or ordering the crimes charged, the accused acted with the awareness of the substantial likelihood that the crimes would be committed in the execution of the plan, order or instigation. For the mode of liability of aiding and abetting, the accused acted with the knowledge that the acts performed would assist in the commission of the crimes.

18. By using the word "committed" in this indictment, the Prosecutor does not intend to suggest that any of the accused physically perpetrated any of the crimes charged, personally. "Committing" in this indictment, when used in relation to the accused, refers to participation in a joint criminal enterprise as a co-perpetrator, either directly or indirectly.

19. The purpose of this joint criminal enterprise was, *inter alia*, the modification of the ethnic balance in Kosovo in order to ensure continued Serbian control over the province. This purpose was to be achieved by criminal means consisting of a widespread or systematic campaign of terror and violence that included deportations, murders, forcible transfers and persecutions directed at the Kosovo Albanian population during the Indictment period. To fulfil this purpose, each of the accused, acting individually and/or in concert with each other and others, contributed to the joint criminal enterprise using the *de jure* and *de facto* powers available to him.

20. This joint criminal enterprise came into existence no later than October 1998 and continued throughout the time period when the crimes alleged in Counts 1 to 5 of this indictment occurred: beginning on or about 1 January 1999 and continuing until 20 June 1999. A number of individuals participated in this joint criminal enterprise during the entire duration of its existence, or, alternatively, at different times during the duration of its existence, including **MILAN MILUTINOVIĆ**, **NIKOLA ŠAINOVIĆ**, **DRAGOLJUB OJDANIĆ**, **NEBOJŠA PAVKOVIĆ**, **VLADIMIR LAZAREVIĆ**, Vlastimir Đorđević, **SRETEN LUKIĆ**, Slobodan Milošević and Vljeko Stojiljković. Others members included Radimir Marković, Obrad Stevanović, Dragan Ilić and unidentified persons who were members of command and coordinating bodies and members of the forces of the FRY and Serbia who shared the intent to effect the purpose of the joint criminal enterprise. In addition, and/or in the alternative, **MILAN MILUTINOVIĆ**, **NIKOLA ŠAINOVIĆ**, **DRAGOLJUB OJDANIĆ**, **NEBOJŠA PAVKOVIĆ**, **VLADIMIR**

LAZAREVIĆ, Vlastimir Đorđević, **SRETEN LUKIĆ**, Slobodan Milošević, Vljako Stojiljković, Radomir Marković, Obrad Stevanović, and Dragan Ilić implemented the objectives of the joint criminal enterprise through members of the forces of the FRY and Serbia, whom they controlled, to carry out the crimes charged in this indictment. The phrase "forces of the FRY and Serbia" in this indictment encompasses the following forces and units: VJ, including the Third Army, in particular the Priština Corps of the Third Army, and other units temporarily or permanently deployed to Kosovo or otherwise participating in the conflict; MUP, including Special Police Units ("PJP"), the Special Anti-terrorist Unit ("SAJ"), police reservists, MUP secretariat ("SUP") personnel, the Special Operations Unit ("JSO") and State Security ("RDB") operatives; the Priština Military District and military-territorial units within it; Civil Defence units; Civil Protection units; civilian groups armed by the VJ and/or the MUP and formed into village defence units acting under the control and authority of the VJ and/or the MUP, and volunteers incorporated into units of the VJ and/or the MUP. At least one VJ and at least one MUP unit participated in each of the crimes enumerated in Counts 1 to 5 of this Indictment.

21. The crimes enumerated in Counts 1 to 5 of this Indictment were within the object of the joint criminal enterprise and the accused shared the intent with the other co-perpetrators that these crimes be perpetrated. Alternatively, the crimes enumerated in Counts 3 to 5 were natural and foreseeable consequences of the joint criminal enterprise and the accused were aware that such crimes were the possible consequence of the execution of that enterprise. Despite their awareness of the foreseeable consequences, **MILAN MILUTINOVIĆ**, **NIKOLA ŠAINOVIĆ**, **DRAGOLJUB OJDANIĆ**, **NEBOJŠA PAVKOVIĆ**, **VLADIMIR LAZAREVIĆ**, Vlastimir Đorđević and **SRETEN LUKIĆ**, decided to participate in the joint criminal enterprise. Each of the accused and other participants in the joint criminal enterprise further shared the intent and state of mind required for the commission of each of the crimes charged in counts 1 to 5. On this basis, under Article 7(1) of the Statute, each of the accused bears individual criminal responsibility for the crimes alleged in Counts 1 to 5.

22. **MILAN MILUTINOVIĆ**, **NIKOLA ŠAINOVIĆ**, **DRAGOLJUB OJDANIĆ**, **NEBOJŠA PAVKOVIĆ**, **VLADIMIR LAZAREVIĆ**, Vlastimir Đorđević and **SRETEN LUKIĆ**, while holding positions of superior authority, are also individually criminally responsible for the acts or omissions of their subordinates, pursuant to Article 7(3) of the Statute of the Tribunal for the crimes alleged in Counts 1 to 5 of this indictment. A superior is responsible for the criminal acts of his subordinates if he knew or had reason to know that his subordinates were about to commit such acts or had done so, and the superior failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators.

OVERVIEW OF THE JOINT CRIMINAL ENTERPRISE

23. At all relevant times there existed a functioning chain of command that ensured that command and control ran from the highest levels in Belgrade to the forces of the FRY and Serbia in the field. The sophistication of the command and control structures in place ensured that there was a constant monitoring of the situation on the ground, with prompt responsiveness and continuous contact between superior commanders at the highest level and their subordinates. According to the Constitution and relevant laws and regulations of the FRY the highest authority responsible for strategic matters relating to the defence of the FRY was the SDC which during the indictment period was composed of, *inter alia*, Slobodan Milošević,