Soldiers and civil power: supporting or substituting civil authorities in peace operation during the 1990s
Brocades Zaalberg, T.
PEACEKEEPERS IN PURSUIT OF JUSTICE

Protecting and Prosecuting Serbs in Orahovac

The multi-ethnic ideal propagated by NATO and the UN for the Balkans was sorely tested in Kosovo. From protecting the Albanian majority, KFOR’s priorities changed 180 degrees after most of the Albanian population refused to conform to western expectations of noble victimhood, forgiving and forgetting. A Dutch corporal in Orahovac ambitiously defined his unit’s mission as “seeing to it that the different ethnic groups live together in harmony.” For the moment, however, the prime concern was to avoid Kosovo being emptied of all minorities in the summer of 1999. This scenario, which became more likely with every act of ethnic violence, would represent an outright political failure of KFOR and UNMIK. Protecting the Serbs and other minorities therefore became the military force’s primary mission. But the accountability for war crimes was regarded one of the key contributing factors to long-term interethnic reconciliation in Kosovo. Apprehending suspected war criminals was a civilian responsibility, but as with almost every element of civil implementation, the military would play a substantial role, especially in the early phase of the operation in Kosovo. During the first months of the operation Task Force Orahovac became more actively involved in the matter of crimes committed during the war than any other contingent. The Dutch took their public security role beyond that of static guards of Serb areas or even beyond that of beat cops, by actively contributing to the investigation of war crimes and the arrest of lower-level war crimes suspects. Different interpretations of the poorly defined mandate for the arrests would result in controversy over this particular military role.

The Russians

In many respects Orahovac resembled a microcosm of Kosovo’s problems and KFOR’s challenges in 1999, with its proportional Serb minority, the rapid emergence of an ethnically segregated enclave and the dilemma of the Serbs as both victims and perpetrators. However, there was one unique factor, the impending takeover by Russian forces in the municipality, which we have to elaborate on before addressing the protection of the Serbs and military role in the pursuit of war criminals. The Russian deployment was, after all, the dominant theme throughout the presence of the first Dutch artillery battalion and permeated every other elements of its mission. While the battalion’s attention should have been fully directed at consolidating KFOR and UNMIK control over local society, the crisis and the resulting media attention continued to drain energy from the commander and his men.
However hard KFOR and the emerging branches of UNMIK would try, Orahovac would not return to anything resembling normalcy as long as the Albanian population was preoccupied with the Russians coming to take control of their municipality and city. The Albanian population was vehemently opposed to their presence in the area and could not address any subject without bringing up "the Russians", who they perceived as allies of the Serbs on the basis of their historic, ethnic and religious ties. They also claimed that Russian fighters had been involved in war crimes in the war of 1998 and 1999. These rumours were partly based in fact, but the Albanians were clearly not ready to distinguish between these mercenaries and regular Russian troops. The Dutch tried to convince the local population of the neutrality of the Russian troops, but to no avail. The Albanians had not forgotten that the Russians had recently supported the Yugoslav government in the Security Council, successfully blocking a war resolution against Belgrade, thereby forcing NATO to start what many considered an "illegal" air-campaign. The Serbs minority, on their part, had not forgotten that the Dutch had actively participated in a war waged against them. Although the Dutch government liked to present itself and its troops in the mantle of the neutral even-handed peacekeepers, this would prove hard to maintain on the ground in Kosovo.

At the international summit in Helsinki held between 16 and 18 June, U.S. Secretary of Defence William Cohen and his Russian colleague Igor Sergejev had agreed on the details of Russian participation in KFOR. To avoid the emergence of a Serb enclave under Russian protection near the Serbian border, it was agreed that the Russian troops would disperse over more centrally located regions in three out of the five existing multinational brigades. Two Russian battalions were scheduled to deploy in the German zone. The controversy over their deployment in Orahovac was primarily the result of the use of outdated maps in Helsinki. This had led the Russian negotiators to believe their area of responsibility would include not just Malisevo but also Orahovac which, with its substantial Serb minority, was an important prize for the Russians, who liked to see themselves as the protectors of the Slavs. However, the municipal boundaries had been redrawn ten years earlier and Orahovac and Malisevo had become a separate administrative entities. Nevertheless, the Russians were within their rights claiming Orahovac and the Allies knew it.

As the Albanian population of Orahovac became aware of the agreement reached in Helsinki, it staged daily demonstrations in the city and even marched to entrance of the Task Force's main compound in the nearby vineyards. Here they started applauding the Dutch troops while waving red flags with the Albanian double-headed eagle. When General Wesley Clark came to inspect the situation in July he was given twenty thousand signatures collected against the arrival of Russian troops by the "Coordinating Committee of the Protests", led by former Albanian mayor and director of the local wine factory, Agim Hasku. The smouldering crisis came to a full confrontation in the course of August, as the replacement of Dutch troops by a Russian unit was imminent. On 23 August, the population moved tractors, trucks and other vehicles onto all roads into town. At the main roadblock, about fifty protesters who had spent the night behind barbed wire barricades, held banners in Albanian and English saying
“NATO yes, Russians no,” “We don’t like Russians” and “Russians are criminals.” That morning a Russian armoured vehicle that was supposed to bring the first Russian quartermasters to the Dutch compound was stopped North of the city. The ranks of the protesters rapidly swelled and the population gave every indication of staying for the long haul. “Why doesn’t the world understand that we don’t want Russians here”, a local inhabitant asked the press. He appreciated the political importance of Russian participation in KFOR, but wondered why they were not sent to a place like Gnjilane, in the U.S. sector, claiming “only three people died there during the war.” For three months the population of the small provincial town in Kosovo held up and eventually stopped the replacement of Dutch and German troops with Russian soldiers.

If the will had been there and—Van Loon later argued—if the deployment had proceeded earlier, more gradually and without making too much fuss, the Russians could have settled down just as easily as they had done in neighbouring Malisevo in late July. Even though serious fighting had occurred in this city during the war, the Russians deployed there mid-July after initial protests from the local population and some obstinacy of the UÇK. Together with Dutch and German troops they had started joint patrols and ran joint checkpoints. The problem in Orahovac was not only a well organised and motivated population, but also the rather undiplomatic moves of the Russians, NATO officials and the Dutch Government. The tactless posture of the Russians was certainly unhelpful in solving the crisis. Russian armoured vehicles often appeared in the city unannounced, causing much unrest amongst the population. Meanwhile the ever increasing number of Russian generals involved in negotia-
tions seemed determined to treat the local Albanian representatives in an icy and haughty manner, refusing the coffee offered to them and hardly looking the Albanians in the eye.\textsuperscript{6}

The Dutch government was certainly not amused by the whole episode. During his visit to Kosovo the Dutch Minister of Foreign Affairs, Jozias van Aartsen, turned control over Orahovac into a matter of national prestige—as the Russian had already done—by telling Jackson that “the Netherlands may not become the NATO’s doormat”, and rather undiplomatically ruled out any form of shared Dutch-Russian responsibility.\textsuperscript{7} The Dutch government and its armed forces, both still in the process of overcoming their trauma over Srebenica, were very content with their operation in Kosovo. Its large contribution of over two thousand military personnel was highly publicized and the riskiest part of the operation seemed to be over. The Dutch Ministers of Defence and Foreign Affairs did not want their party spoiled by the Russians.

Most of all, however, NATO lacked the will to accommodate the Russians in Orahovac. This tendency was apparent from the soldiers on the ground to the highest NATO circles in Brussels. The Dutch battalion was not at all eager to leave the municipality and its population, with whom they had come to identify to a certain extent.\textsuperscript{8} The primary drive to stay was the hard work they had put into stabilizing Orahovac. The constant awareness that a transfer out of the region was imminent had a demoralizing effect on the troops, but the Albanian population must have felt strengthened in their persistence by the Dutch displays of commitment to the area. Although an unintended side-effect, the threat of the Russian deployment even forged a more intimate relationship between the Albanian population of Orahovac and the Task Force. This tie was very constructive when it came to cooperation in other fields—such as diminishing both the military and political role of the UÇK—but it had the reverse side effect of creating further suspicion towards Dutch KFOR within the Serb community. Although a substantial part of the Serb community in Orahovac was convinced that they were better off under the Dutch, who were more likely to control the Albanian population and the UÇK and who had better access to reconstruction funds than the Russians, the majority seems to have followed its instincts and preferred a Russian presence.

The Dutch were genuine in their intent to leave the area to the Russians and preparations for redeployment to Suva Reka were underway, but they were never in a hurry to leave Orahovac. Higher echelons within NATO hierarchy also lacked a sense of urgency to let the Russians take over the disputed zone. In July, General Clark had reassured Niek Biegen, the Dutch ambassador to NATO, that he clearly preferred a Dutch presence in Orahovac to Russian control, which was expected to have a destabilizing effect on the region and possibly on Kosovo as a whole.\textsuperscript{9} The Supreme Commander’s political advisor, Michael Durkee, even told the Dutch Ambassador that the Dutch should not be “so damn cooperative.” Instead, he advised the Dutch to stall and to coordinate this dilatory effort with the Germans, whose NATO ambassador Joachim Bitterlich appeared most willing to cooperate in delaying the Russian deployment.\textsuperscript{10} Although General Jackson is unlikely to have been eager to please the Russians after the stunt they pulled deploying at Pristina airport ahead of his British paratroopers in

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June, the General was probably more genuine in his acceptance of a Russian takeover than Brussels. After all, having the population of a provincial town effectively blocking freedom of movement of a particular KFOR contingent was a blatant case of non-compliance and obstruction of KFOR in performing its mission. He also wanted to solve the crisis swiftly, for as long as the Albanians were allowed to block Russian movement, he could not act against the Serb blockades in Mitrovica.11

NATO's top officials, however, chose to be largely passive throughout the crisis in Orahovac. Although the contested troop deployment resulted from an international political agreement at the highest political level, Jackson as well as Clark and Solana left the matter to be solved by the Dutch and German local commanders, hoping the dust would eventually settle.12 The Dutch felt there were initially several misunderstandings about the nature of the protests. NATO leaders believed that the protesters would eventually compromise, because they underestimated the despair and therefore strong-headedness of the Albanian population and its leaders. Van Loon even claimed that since the protest-leaders made a vow to the population to prevent the Russians from coming, they would rather die than lose their honour.13 Many within NATO and at KFOR headquarters initially believed that the blockades were orchestrated by the UÇK. This was another major source of frustration for the Dutch commander. He knew he was dealing with a truly popular movement organised by civilian community leaders such as the highly respected Agim Hasku, who had no direct ties to the UÇK. Although the UÇK leader Hashim Thaci tried to capitalize on the defiance of the population toward the unpopular Russians for its propaganda value, and showed up several times with the press in his wake, Ismet Tara knew his direct involvement as the local UÇK military commander was
likely to have an unfavourable effect on the protesters’ efforts. The protests were backed, but certainly not organized or coordinated by the local UÇK. Tara limited his support to the provision of some food and tents. The self-styled UÇK mayor Agim Thaqi also failed to seize upon the success of the popular protests. Hasku recalled the Dutch commander recommending to him that more emphasis on the council’s independence from the UÇK would work in its advantage. Javier Solana, who visited Orahovac in early September, also advised him to stress their independence and suggested changing the name of the organisation from “Coordinating Council of the Protests” to “Organizational Council of the Protests.” The Spaniard impressed Hasku as supportive of his cause. The former mayor even recalled the Secretary General telling him “you are on the right course, go on this way”, when they were alone in a room. It is not quite clear how his lack of knowledge of English allowed him to understand Solana.  

To break the deadlock over the Russian deployment in late August, General Mike Jackson came up with a plan that would allow the Russians to formally control the Orahovac municipality—as agreed in Helsinki—but that would leave de facto control of the city to a unit of fifty UN civilian police officers. This proposal touched upon the very essence of the need for military predominance in exercising interim authority in a post-conflict society. After all, if soldiers could be relieved by a civil police force at such an early stage, the question could be raised whether soldiers were needed to perform the job in the first place. Although leaving the city to the Russians merely on paper was an attractive option, the proposal seemed totally unrealistic to Van Loon, who set out to scuttle the plan. He was worried that the Force Commander did not appreciate the effort that had gone into controlling the extremely tense situation in Orahovac. He appeared even somewhat agitated by the underestimation of what it had taken his men to keep the municipality from sliding into anarchy and keeping Albanians and Serb from slitting each other throats. Thanks to the very visible and overall highly respected military presence in the town and its surroundings, regular crime and extortion in the area was largely under control by late summer. On top of that Van Loon and his staff devoted substantial time and energy to administrative and humanitarian responsibilities in the absence of sufficient UNMIK personnel and funds, as will be further explored in the next two chapters. Most of all, however, he wondered how fifty civilian police officers could replace the 180 heavily armed soldiers that were still needed to protect four thousand Serbs and Roma in Orahovac and Velika Hoca around the clock while performing their other duties.  

There were other challenges that the commander feared the UN police officers—with unpopular Russian troops as their primary back-up—would not be able to handle. To keep the situation in check there was a continued need for “escalation dominance.” Anyone who stepped out of line, whether it was the Albanians or the Serbs, should know that he would be met with overwhelming force. The commander was clearly referring to the potential threat to peace still posed by UÇK. After all, as the deadline for complete demilitarisation was coming nearer, the former guerrillas became increasingly recalcitrant as they were thwarted in their attempt to assume a position of power in Kosovo, either as a military organisation, police or in the administration. Escalation dominance was also necessary in dealing with the Serbs. At this
point the Serbs may have been perceived primarily as victims, but they were still heavily armed while the presence in the two Serb enclaves of a substantial number of war crimes suspects, some of them ostensibly members of the special police (MUP), further fuelled the potentially explosive situation in the municipality. Their assumed presence within the Serb community, it was feared, would trigger revenge attacks from the UÇK or vengeful Albanian civilians. It also provided Albanian leaders with an argument for refusing any rapprochement towards the Serbs. Meanwhile their presence complicated the negotiations concerning the Russian deployment in the area. The Albanians feared that alleged war criminals would go unpunished and that evidence of war crimes committed by Serbs would disappear once their Russian “allies” took over Orahovac.

Van Loon and his German commander Sauer eventually convinced Jackson to drop the plan to have the UN civilian police force take control of the city. Although both ethnic groups were better off with the status quo, this left the problem of the blockades unresolved. No serious alternative solution came forward in the turbulent last months of 1999. Reinhardt would blame Jackson for failing to deal with the blockades when he took over in October, but soon found the problem to be tougher than he had expected. The blockade crisis was eventually solved primarily because the Russians lost interest. The local generals had long since lost enthusiasm to assume control over the recalcitrant Albanians and Moscow became preoccupied with the second Chetchen war. Meanwhile the Albanians in Orahovac lifted the blockade in November after they received some assurances from KFOR that the Russians would not deploy “without a proper dialogue.” The threat of the withdrawal of international aid organisations and the desire to get the people off the very cold mountain side had helped persuade the protesters, but in the end they won because after November it was very unlikely that the Russians would ever come.16

The Beleaguered Serbs
The Dutch commander’s primary argument for obstructing Jackson’s plan to have civilian police officers assume control of Orahovac was their presumed inability to adequately protect the Serb minority. Although the Dutch were clearly driven by a desire to stay in charge of what they had come to consider “their” town, there was a genuine concern for the safety of the Serbs. Throughout Kosovo, providing security for the Serbs was KFOR’s biggest challenge and arguably its biggest failure. NATO had vowed to protect all ethnic groups in Kosovo, but despite an overwhelming international military presence in Kosovo, it could not stop civil war from raging on by other means. Although the level of violence would steadily drop, the ethnic conflict continued in the following years. Since NATO’s strategic goal in the Balkans was not to allow warring parties to redraw the region’s borders along ethnic lines by force, this meant that after its tactical victory—protecting the Albanian population from being crushed by Milošević—the Alliance could still be heading for a strategic defeat. The Serb leader could after all rightfully claim that NATO was not living up to its promise to protect all ethnic groups and
The Dutch commander of Task Force Orahovac, Lieutenant Colonel Anton van Loon, in discussion with residents of the “Serb quarter”, 18 June 1999. Fearing reprisals by the Albanian majority in Kosovo, many Serbs were anxious to leave the province.

to demand the return of his own forces since NATO was not complying with the United Nations resolution.

Like most sizable military interventions in the 1990s, both the military and civilian components fell victim to the law of unintended consequences. Officially replacing Serb with international rule, but failing to effectively establish interim authority in the short term allowed the former victims to become perpetrators, and the dominant elite to become victims. The fact that NATO’s appearance on the ground turned the tables on the Serb minority had of course not come as a bolt from the blue, but both the magnitude of the Serb exodus and the scope of the ethnic violence surprised senior KFOR and civilian officials. “We knew the hatreds ran deep”, the UNHCR wrote, “but we did not believe that the refugees and the victims UNHCR had helped in exile would soon become the oppressors, employing many of the same disgusting tactics that had once been directed at them.”17 Both KFOR officers and their civilian counterparts in UNMIK appeared to act on the basis of faulty assumptions about how ethnic Albanians and Serbs would behave after the end of the war. Like so many assumptions prior to entry, these were often based on a misreading of the applicability of the experiences of military officers and civilian officials in post-war Bosnia, where many of them had served. Bosnia had seen relatively little inter-ethnic violence after NATO entered. However, the Dayton peace agreement came after a long and bloody war and the territorial settlement reflected the results of three years of ethnic cleansing. Different ethnic populations were largely living
in separate zones and the war had left them exhausted. Although the Bosnians were no enthusiasts for reconciliation, at least they were eager for an end to the violence. In Kosovo, apart from the predominantly Serb area north of Mitrovica, the Serbs were vulnerable, initially living scattered over the province in close proximity to, or amongst the Albanian majority. Unlike Bosnia, the different ethnic groups—least of all the Albanians and Serbs—had few memories of peaceful co-existence in a multi-ethnic society and did not speak the same tongue. Although it has been successfully argued that ethnic violence in the Balkans, like elsewhere, was more often the result of a crude struggle for power and contemporary politics than of “ancient hatreds”, Albanians and Serbs had not lived together peacefully in Kosovo for decades and the majority’s experience was one of repression and discrimination, that had existed well before the large scale violence and hostility of the previous two years.

The number of Serbs leaving Kosovo was the most tangible indicator of KFOR’s success or failure. Estimating the remaining Serbs therefore became an important tool in the propaganda battle, or “the numbers game”, raging between NATO and Belgrade. NATO seemed to be losing the battle when a UNHCR spokesperson claimed that no more than 30,000 Serbs were left in Kosovo and that they were “mostly old, poor or weak men and woman.” This figure became widely used both the Serb and western media. With nearly 35,000 NATO troops on the ground it was particularly embarrassing since it allowed the Yugoslav government to claim that there was at least one soldier for every remaining Serb in Kosovo. This left no other explanation than that the Alliance was tacitly supporting ethnic cleansing. KFOR countered with its own more accurate estimate of 97,000 remaining Serbs, an estimate later confirmed by the UNHCR, but the Alliance had to acknowledge that over 100,000 persons had already left for Serbia and Montenegro. Other figures used by Kouchner and Jackson in their joint media briefings to contradict claims that they were failing to perform their assigned task showed a dramatic drop in murder rates. The number of murders was now below the statistical level of that in Washington and the South African capital Pretoria, and similar to that of Moscow. These statements were echoed in the media, but it took little time for the pessimists to point out that the declining crime rates were primarily the result of a dramatic drop in potential targets for ethnic crime, most notably Serbs and Roma. Serbs, by now only constituting six percent of the population, were twenty times more likely to become victims of a murder attempt than an Albanian.

Orahovac was one of those enclaves were Serbs lived dangerously close to their hostile Albanian neighbours. Although the city’s different ethnic groups had lived more integrated lives than in most other parts of the province, the war had left little tolerance between them. Soon after KFOR’s entry the Serbs were faced with the question of whether to stay or leave the Serb quarter and Velika Hoca, were they had concentrated in the second half of June. The houses left behind by those who lived outside these areas were almost instantly looted and burned despite the Task Force’s early efforts to put an end to this.

It will come as no surprise that convincing the Serbs to stay in Kosovo—a task of strategic importance to NATO—was a difficult and unrewarding job. This effort was complicated
by a steady stream of misinformation about the living conditions of the remaining Serbs in the city and Velika Hoca. Although their precarious situation hardly needed exaggeration, hyperbolic claims of mass-starvation, massive abductions by the UÇK, demonstrations, denial of medical treatment and the lack of water, electricity and garbage disposal services, kept appearing in the press. Most frustrating for the Task Force was that KFOR headquarters and UNMIK in Pristina often took these rumours seriously. Although the food and general supply situation for the Serbs was at times somewhat worse, Albanians in Orahovac were often suffering from the same shortages while KFOR and various civilian organisations were clearly trying their very best to relieve the situation. The Serbian humanitarian committee in Orahovac, in charge of coordinating all humanitarian efforts and requests for evacuations and escorts was reported to have told the Dutch there was overall enough food, and confirmed their suspicion that a few radical Serbs gave false statements to enhance chances for UNHCR evacuation. The committee also considered the humanitarian convoys from Belgrade no longer welcome since their personnel was creating unrest amongst the resident Serbs.

Although many of the grievances were spontaneously aired by the local population, some of the rumours were clearly being instigated from Belgrade in an attempt to incriminate NATO. The Dutch had a lucky break in their effort to counter the orchestrated stream of disinformation when in July an Italian electronic warfare unit tipped them off to the presence in Orahovac and Velika Hoca of two radio transmitters spreading propaganda messages. After several days of investigations a German infantry platoon—better trained for this sort of mission—raided the first house in the upper part of the city. Backed up by Dutch gunners, they arrested six persons, who turned out to be MUP officers. The radio station was in fact a small operational headquarters and was apparently still receiving instructions from Belgrade. Several arms, a computer, files and the transmitter were confiscated and the special police officers were expelled to Serbia for non-compliance. Three days later a similar move was made on a house in Velika Hoca in a nighttime raid. In their enthusiasm German engineers placed a somewhat oversized explosive charge to blast the door, enabling the troops at the main base five kilometres away to hear the raid taking place. Obviously, such actions left an unfavorable impression on the general Serb population. A similar facility was discovered, but this time the operators had already left. While the Albanians were very pleased to see the remains of control from Belgrade removed by KFOR, these actions caused much anxiety amongst the Serbs.

Radical Serb elements continued to orchestrate a slanderous campaign, even after the radio transmitter was taken off the air. Orahovac, Pristina and Mitrovica were the last three regions where the MUP was still suspected of being active. Most of the complaints, however, were spontaneously reported by the local population that simply wanted draw to attention to their perilous position. Within the Serb community it was mostly the displaced persons who made their case for rapid evacuation to Serbia by painting an ever-gloomier picture about the humanitarian and security situation in the upper part of Orahovac. The most serious of all charges concerned murder, abductions and disappearances at the hand of Albanians in general
and the UÇK in particular. This threat was very real and traumatic for the Serbs, as kidnapping and murder were taking place all over Kosovo. However, inter-ethnic crime did not take place at the rate claimed by many Serbs. During the lawless first week following KFOR’s entry there were four verified cases of kidnapping and murder in Orahovac. A “drive-by shooting” by Albanians at a bar left one elderly man dead and two wounded in August. The angry Serb population became very aggressive when a Dutch officer came to pay his respect the next day. There was also an example of a Serb shooting another Serb and a Serb shooting two Albanians. The constant stream of reports on abductions and the claim that KFOR was doing nothing about them continued throughout the first months, but was contradicted by the UNHCR, whose local officer claimed that “the fact that so few security incidents have happened” in Orahovac was proof of their “military professionalism.” Also her boss, Deputy Special Representative for Humanitarian Affairs Dennis McNamara, found all the international organisations he encountered during a visit very positive about the Task Force’s protection role. Dozens of times the troops pulled out to check Serbs claims of Serb men being held in buildings around the city, but after June, when one person abducted by the UÇK was recovered by German troops in the village of Mala Krusa, none of the claims could be confirmed.

The problem was that the Serbs gave KFOR criminal investigators little to go on in these cases, while their claims were often strongly exaggerated. Claims made to the press about missing husbands and sons were often presented as recent incidents, while they had most often occurred in the previous year. “This was the main problem we faced”, Van Loon recalled, “there was always a nucleus of truth in their stories, but they had a strong tendency to exaggerate. If one person had been killed they had to make it ten, otherwise they feared they might not be taken seriously.”

Although the claims of Serb transgressions that were filed by the Albanians were also often hard to verify and at times implausible, the trust they displayed in KFOR allowed Dutch and German MPs to conduct serious investigations into their allegations. An attempt was made to create a mechanism for the Serbs to officially file their complaints with KFOR at a desk in the Serb quarter, but so soon after the NATO bombardments and occupation that upset their lives so dramatically, there was a lack of trust in KFOR. “We were after all still the enemy,” Van Loon acknowledged. He therefore asked Astrid van Genderen Stort, a Dutch UNHCR field officer responsible for the area, to open a bureau for Serb complaints and collect testimonies. She also had to acknowledge, however, that the Serbs presented little verifiable or concrete evidence and little was to come out of the initiative until the following year, when Serb trust in KFOR and UNMIK was growing locally.

Dutch operations were complicated by the problem of being viewed as partisan by the Serbs. “The sooner the Dutch leave Orahovac, the better. They’re worse than the Germans,” said Mirjana. “The soldiers are not so bad,” another woman from Orahovac argued, “but the officers are terrible.” In both Orahovac and Velika Hoca Serbs offered the troops coffee and despite some outbursts of animosity after incidents the soldiers were mostly engaging in friendly conversation with the population. The officers, however, were often seen as taking
unpopular measures and were continuously countering or nuancing the claims made by Serbs to the world press. Dobrilà Vitosevic, who later worked for the OSCE, remembered many friendly Dutch soldiers. She found them mostly sympathetic, often very young and nervous at times when patrolling the narrow streets of the Serb quarter at night. Three months into the operation she perceived the Dutch as overall more neutral.³⁰ But it was the arrest of alleged war criminals that left the most negative impression of the Dutch amongst the Serbs.³¹

An icon of the stream of negative publicity against KFOR in Orahovac in those early months was Milka, an elderly woman notorious for her wild claims to the press corps. As cameras flocked to the Serbs quarter of Orahovac during the visit of UN Special Representative De Mello late June, she told the assembled journalists that her husband had been kidnapped by the UÇK from her house the previous night. When the Dutch commander, already familiar with her wild allegations, heard her make these claims he demanded to be immediately shown the room from which her husband had been taken. Milka was suddenly less eager and was only willing to do so after the Dutch officer repeatedly insisted they get to the bottom of this. Upon entering the alleged crime scene, cameras present, the room turned out to be full of spider-webs and covered in a thick layer of dust, with no footprints or other sign of recent activity for months. Several weeks thereafter, a CNN reporter approached Van Loon to show video footage of a Serb man who was allegedly maltreated by local Albanians. “This man had definitely had one hell of a beating”, the commander recalled, “no doubt about it.” The American reporter then asked for a direct reaction from Van Loon, confronted him with his claim to be doing all he could to protect the Serbs. She left the video tape running in the background and on the screen appeared Milka, claiming that this was her husband. The previous day, however, Milka had claimed to another journalist that her husband had been murdered. Confronted with the miraculous resurrection of Milka’s spouse, CNN destroyed the tape.

A very real problem was the lack of freedom of movement for Serbs. Although they were protected rather than interned by NATO forces, there was no denying that they were living in a ghetto. The Serb press particularly liked to draw a parallel between the Serb quarter in Orahovac and the “Warsaw Ghetto.” The Yugoslav government website called it “the first ghetto since the Second World War.”³² The Serbs had apparently learned, most likely from the well-know pictures of Bosnian Muslim “concentration camp” victims in Tnopolje in 1992, that evoking memories of the Second World War was still a very effective way of making one’s case vis-à-vis the Western powers. The media quickly picked up the historically charged term, which was also used for other Serb enclaves such as Kosovo Polje.³³ Even Van Loon openly used the term ghetto, but he argued there simply was no other way of guarding the vulnerable minorities. Serbian media subsequently gave a spin to this remark, making it sound as if “the ghetto” was created by KFOR and considered “a good thing” by the Dutch commander.³⁴

The problem of the protection of Serb and other minorities was similar elsewhere in Kosovo. “We tried everything we could to avert revenge attacks, but we just did not always succeed,” Van Loon acknowledged.³⁵ As long as they stayed inside the cordon provided by
KFOR, the soldiers could protect them reasonably well, but once they left the secluded zones, they immediately became targets. This became dramatically clear when fourteen Serb farmers were brutally murdered as they tried to work their field in Kosovo Polje in the central British zone of Kosovo. For the British it was particularly painful that this atrocity took place in their sector, as they were generally lauded for the close protection they provided to the Serbs and other minorities. Unlike some other contingents they seemed to let the mission—the creation of a secure environment—prevail over force protection measures. The departing Force Commander Mike Jackson felt his troops had reached the limit of what they could do. Upon his return to Britain in November 1999 the General was satisfied with many of the aspects of the mission his force had accomplished under extremely harsh circumstances, but public security remained the most worrying task. “As I left, it was the only thing I felt we had not yet got to full grips with”, the General admitted, but he did not regard this the result of a lack of effort on the part of his troops. He used the example of British soldiers living in Serb apartments where they were isolated to underline that he felt that KFOR had reached the limits of what a military force could do, since soldiers could not change “attitudes, cultures and people’s perceptions.”

In Orahovac, a substantial part of the Serb population was eager to leave, but Serbs could not possibly march to the Serbian or Montenegrin border safely. A group of four men who tried to run the gauntlet went missing on their way to Montenegro in the Italian KFOR zone near Pec. Escorted convoys therefore had to be organised. In this process, neither KFOR nor the UNHCR, in charge of the evacuation of refugees and displaced persons, could do much right in the eyes of the Serbs. “We don’t escort individual Serbs out of Kosovo,” Major Roy Abels told the press. “We don’t want to be seen deporting Serbs. They must leave on a flagged UN convoy.” In Orahovac, Van Genderen Stort was faced with a daunting task of managing the UN refugee agency’s evacuation list. Belgrade accused the agency of helping to “ethNICALLY cleanse” Kosovo of Serbs, while Albanians were suspicious that she was helping alleged Serb war criminals to escape. Although the vast majority of those Serbs who had been involved in war crimes had left Kosovo prior to KFOR’s entry, a number of suspects remained at large in the province. And while the Serbs complained about lack of sufficient protection and a lack of freedom of movement, the Albanians blamed KFOR for not doing enough to bring these Serb war criminals to justice. These two problems, the protection of Serbs and the Albanians preoccupation with the criminals amongst them, were closely entwined and formed the trickiest part of an already delicate balancing act performed by NATO troops in Orahovac.

War Crimes and Arrests

The legacy of war crimes in Kosovo was a highly politicised issue in the direct aftermath of the war. The Dutch military found themselves smack in the middle of the controversy over the role that NATO soldiers were to perform in the pursuit of justice. Their intense involvement in the investigations of the atrocities and in the more divisive role in the apprehension of indicted war criminals resulted from the convergence of incentives on the political-strategic level and
on the tactical level. The subsequent controversy over this military task was the result of a serious underestimation of the implications of the unprecedented public security mandate bestowed on a military force.

On the political-strategic level the first motive for the relatively active policy in pursuit of war crimes suspect was the view—generally accepted in western policy circles by 1999—that without justice chances of reconciliation and peace between the formerly warring parties and ethnic groups were slim in a post-war society. Intervening forces had been hesitant in bringing the perpetrators to trial in places such as Cambodia, Somalia and Bosnia. NATO forces in Bosnia, mainly as a result of fear of “mission creep”, the loss of neutrality, escalation and reprisals against troops, had only slowly and grudgingly accepted its role in the arrests of suspected war criminals. Many would claim this was one of the key factors contributing to the faltering long term peace process in Bosnia.

In Kosovo, there was a second force at work on the political level. NATO’s credibility in the aftermath of the war drove western powers to become more eager in the pursuit of justice than before. The bombing campaign had been—and continued to be—the subject of heated debate amongst diplomats, politicians, international lawyers and academics, with some claiming it was illegal because it was not explicitly authorized by the UN Security Council and others arguing that it was legal under the evolving body of international humanitarian law. Western governments backing the intervention and other adherents of the latter view were eager to show the world that Serb atrocities in the previous two years at least legitimised NATO’s “humanitarian intervention” in Kosovo. Moreover, late May 1999 the International Tribunal for the Former Yugoslavia had indicted Slobodan Milosevic and four other Yugoslav top government officials for war crimes committed in Kosovo. The timing of the indictment—at the height of the ever more controversial bombing campaign—was clearly no coincidence, particularly since it preceded his indictment for war crimes committed years earlier in Croatia and Bosnia.

On the tactical level soldiers were not particularly interested in justifying the bombing campaign. It was the way the region’s recent history affected their daily work that drove the Dutch to become heavily involved in the issue of war crimes. The municipality over which the Dutch-led Task Force exercised temporary authority had been particularly hard-hit by the Milosevic regime in its indiscriminate effort to eradicate the UÇK in the previous two years. It was also amongst the first to be ethnically cleansed after NATO had started the bombing campaign late March. Serb security forces had left the municipality with one of the highest concentrations of war crime sites in Kosovo, which were primarily located in the triangle between Orahovac, Zrze and Mala Krusa. Although the “intense emotional anger” that one UNHCR worker found in Orahovac was perhaps even stronger than elsewhere, this still did not make Orahovac unique. What created this specific problem in Orahovac was the unforeseen consequence of the rapid advance—ahead of the officially agreed schedule in the Military Technical Agreement—by Dutch and German troops on the area on 14 June and the subsequent withdrawal of the Serb security forces. This caught many Serbs who had considered escaping the
area by surprise, including some of the small minority of those directly involved in some of the atrocities, who were now locked up in the upper part of town and in Velika Hoca.\textsuperscript{42}

The very first day the Dutch entered the area they were confronted with the legacy of war crimes. The local UÇK commander agreed not to interfere with the withdrawing Serb troops and special police, but on the condition that as soon as Serbs had left the area, the Dutch commander would visit Velika Krusa, a request to which Van Loon agreed. After the uninterrupted withdrawal of the Serb forces he and his intelligence officer, Captain Chris Brouns, followed Ismet Tara to the village ten kilometres south of Orahovac, where they approached a little barn adjoining a house. As they closed in on the building an unbearable smell of rotting flesh made it almost impossible for them to breath. What they subsequently witnessed there undoubtedly influenced their future actions. Upon entering the barn, they had to be careful not to step on decaying half-burned corpses that filled the hallway. “On your birthday,” one of the officers wrote to his wife, “instead of decently calling you, I visited my first mass-grave. By now, I seem to have grown accustomed to such scenes, but the first forty-five burned corpses is something I will never forget.”\textsuperscript{43} Velika Krusa’s crime site was the first to be uncovered in Kosovo after the war and together with the killings in nearby Bela Crkva, the atrocity was amongst the six incidents listed in the ICTY’s initial indictment of Milosevic.

Three weeks later Chief Superintendent John Bunn of New Scotland Yard, the British detective the ICTY put in charge of uncovering and investigating the first graves at Bela Crkva, summed up his findings at the crime in a matter-of-fact way. “There were sixty bodies, all shot,” he whispered to a reporter as they stood quietly to the rear of an emotional reburial ceremony. “There were seven children under twelve, including a four-year-old. There were three women, one over sixty. They were killed in individual little groups along the river. It was all quite deliberate.” Four others were killed elsewhere.\textsuperscript{44} More crime sites were soon uncovered in the area, amongst them the burial site of the more than one hundred men summarily executed in Pusto Selo. In April, this site had become widely noted in the Western press after NATO had released imagery taken by an aerial reconnaissance flight of two long parallel lines, each made up of several dozen mounds of dirt. This evidence had become disputed after the Dutch daily newspaper \textit{Algemeen Dagblad} and \textit{Agence France Presse} ran a story casting doubt on NATO claims of a gravesite.\textsuperscript{45} The Alliance turned out to be right this time.

Although KFOR was obliged to fully cooperate with the tribunal, the two ICTY teams were pleasantly surprised by the generosity of the Task Force and the nearby Dutch engineer battalion.\textsuperscript{46} “We could not have operated effectively without the assistance of others, particularly the Dutch army”, Bunn wrote to Van Loon after finishing his assignment. The support provided to the forensic teams ranged from around the clock protection of mass graves, demining and extensive logistical help. In a letter to General Jackson, the ICTY chief of investigations in The Hague John Ralston thanked the battalion for doing “virtually everything we have asked of them in a prompt and efficient manner.”\textsuperscript{47} The support to the investigations went far beyond what was expected and included investigations by Dutch and German MPs of
The International Criminal Tribunal for the Former Yugoslavia (ICTY) was in charge of uncovering and investigating mass graves harbouring victims of the civil war that raged in Kosovo between 1997 and 1999. The municipality Orahovac had one of the highest concentrations of mass graves.

crime sites with less than five victims, which were outside the scope of the ICTY’s responsibility at that point.

This brings us to the second reason for the Task Force’s intense involvement—or in this case entanglement—in the war crimes issue. The Dutch partly brought the intensity of its involvement in the pursuit of war criminals upon itself by their pro-active stance taken directly after entry. The “complaints bureau”, the initiative that gave the local population the opportunity to air their grievances at the makeshift KFOR police station, was initially aimed at relieving some of the emotional pressure in Orahovac. However, it soon posed the commander with a dilemma. While lecturing young cadets at the Royal Military Academy in Breda two years later he confronted them with—what was to him—a rhetorical question: “do I really want to know all this, for if I know, I will have to do something.” Clearly, the initiative entailed the danger of raising the expectations amongst the Albanian population that KFOR would take the next step and start arresting. In the early weeks the commander repeatedly informed the Dutch Ministry of Defence that KFOR would have to move on war crimes suspects at some point and these intentions even made the headlines of a local newspaper in The Hague.

As the battalion’s staff officers grew increasingly confident of the reliability of the criminal investigations conducted by the MPs and intelligence section, they became eager to move on the suspects, or at least to not let them escape to safety on UN flagged convoys under
KFOR protection. The pieces of the puzzle started to fall in place as a substantial number of the witness accounts were corroborated by documentary evidence. Early in July, the UÇK handed over to the Task Force’s intelligence section the remains of a MUP archive it had seized from the police station after the Serb withdrawal. This archive included personal files with pictures of all adult inhabitants of Orahovac and names of units, their commanders and the areas for which they had been responsible. In nearby factories, lists of reserve-police and their working schedules were found while pictures of paramilitary units and lists of weapons distributed to army reservists were discovered in houses in which they were billeted during the war. The Task Force’s steadily expanding intelligence database included over two thousand names of Serbs war crimes suspects, their families, witnesses, as well as information on UÇK members and their political affiliations.

Van Loon’s confidence in his men’s investigations showed when, during the second inter-ethnic encounter in Orahovac, an UÇK representative started questioning the records of the Serb delegates in the past massacres. The commander boldly intervened claiming, in the words of the UNMIK representative present, “he had made enough investigations and had so-journed sufficiently long in the area to know who was a war criminal and who was not.” By temporarily taking the chair of the judge the commander may have stepped out of line, but his defence of the Serb delegates appeared effective in silencing the representative whose sole aim was to obstruct inter-ethnic rapprochement. ICTY investigators acknowledged the quality of the Dutch military investigations, calling it “solid investigative information” and the “very professional reports” were transferred and used by the International Tribunal in The Hague.

The third and, from the local commander’s local perspective, decisive motive for actively seeking out suspects was its pivotal role in the accomplishment of the primary mission. Bringing perpetrators to justice and thereby preventing the UÇK from undermining KFOR’s temporary monopoly on the use of force touched upon the very heart of “creating a secure environment.” Paradoxically, the most unpopular measure amongst Serbs—singling out war crimes suspects from their midst—was the most important measure to protect the Serb community that was harbouring them. The presence of these suspects was one of the key contributing factors to the radicalisation of the Albanian population and therefore one of the prime motives for violence Kosovo-wide. Obviously, this argument would fail to appease the Serbs, as they were often in denial of much of the atrocities that had taken place during the war, but especially now that the UÇK was in the process of loosening its grip over Kosovar society, the former guerrillas were feared to move on Serbs and Roma individuals they suspected in order to assert their authority. The UÇK was angry for being controlled, disarmed and curtailed in their actions, while they felt that Serb war criminals were let off the hook and in control of large stashes of arms. Taking a proactive stance by arresting thus became a way of telling Ismet Tara and his men to back off, to refrain from taking the law in their own hands and to leave the issue to KFOR and UNMIK to solve. In addition to asserting KFOR’s authority and maintaining credibility toward the UÇK, the Dutch deputy brigade commander in Prizren, Colonel van den Aker, argued to the Dutch Chief of the Defence Staff that arrests
were likely to eventually contribute to an amelioration of inter-ethnic relations, since most suspects were influential men in Serb society.57

Although the Task Force was ready to take the next step and arrest when the opportunity arose, Bernard Kouchner and KFOR headquarters initiated the first action.58 Both UNMIK and KFOR were eager to show the world—and the UÇK—that their policy towards war criminals would be different from that in Bosnia. There were two legal obstacles, which both organisations temporarily ignored. KFOR's mandate did not allow troops to actively seek out war crimes suspects. The Rules of Engagement allowed KFOR to arrest ICTY indictees only when encountered in the course of “normal activities” and nobody but Milosevic and his top officials had been indicted for crimes committed in Kosovo.59 However, there was a precedent that made it very likely that no more than a few eyebrows would be raised over such creative interpretation of the rules, as had been reported in the Washington Post. Acting without an official indictment or warrant, British troops had arrested the first war crimes suspect in late June in the village of Slovinje near Pristina. To the delight of local Albanians they actively sought out Serb militiaman Dragisa Peica and held him under provisions of British military law. The British acted on three witness accounts from the returning local Albanian population, who accused him of involvement in the murder of 43 village residents two months earlier.60 Although this was clearly not the preferred method, a lynching party was likely to have been averted, and the protests of a few local Serbs were unlikely to be heard amidst the avalanche of news coming out of Kosovo.

Despite the absence of any formal indictments and a clear policy for search and arrest operations UNMIK and KFOR decided to push ahead in Orahovac, where the best opportunity for arrests presented itself. In the course of July, both headquarters had become aware of the Task Force’s elaborate criminal investigations into the actions and in some cases whereabouts of possible war criminals.61 Moreover, the German brigade headquarters had proven its willingness to engage in arrest by giving an overall broad interpretation to the public security mandate. Orahovac therefore seemed the right place to start. With the expected arrival of the Russians in Orahovac in the second half of July both KFOR and UNMIK in Pristina were becoming restless.62 Substantial support from the local unit was necessary to execute such actions successfully and apparently, KFOR expected no such cooperation from the Russians. Primarily from evidence gathered by the Dutch investigations, KFOR and UNMIK legal staff drew up a list of sixteen suspects. The majority of them were from Velika Hoca, a traditional stronghold of radical Serbs which, as well as producing some of the worst offenders, had also been a prime target of UÇK attacks and atrocities during the war.63

On 25 July KFOR headquarters ordered the German brigade commander to arrest these sixteen Serb suspects within a week.64 Although he was offered British Special Air Service (SAS) and U.S. Special Forces to perform the job, it would prove totally unrealistic to capture this many persons in so little time. In Bosnia, months of preparation usually preceded any such operation. In Kosovo, Van Loon came to understand why NATO had such difficulty arresting persons such as Karadzic and Mladic as long as they were moving around in their
own community. Of the majority of the sixteen persons, he reported back that—if they were
indeed still in the area—they had simply not yet been traced. The Dutch themselves were
particularly keen on one man on whose actions their MPs had collected horrendous witness
accounts. However, even though his wife was still living at home in Velika Hoca and while he
was expected to be moving around the area, the Task Force never tracked him down. Finding
such a person would have taken several months of intense observations and search operations
and once found, the Dutch expected him to put up a fight, if given the chance.

Over the next few weeks KFOR gradually scaled down its ambitions from its original
list of sixteen persons. In that process, the targets were selected on the bases of the feasibility
of their arrest—the certainty of their whereabouts and risk involved—rather than the severity
of the charges against them. The commander of the unit of German Special Forces, the Kom-
mando Spezialkräfte (KSK), who the German brigade commander had flown in for the mis-
mission, made the final selection of three persons. Weeks of intense preparations and observa-
tion in the area preceded what became known as “Operation K-3.” The German commandos
inconspicuously joined the regular KFOR patrols to perform reconnaissance in the area and to
assess the risks involved. The Dutch Minister of Defence agreed to the mission, but made it
very clear that its own Special Forces in Kosovo, the Korps Commando Troepen (KCT), were
not to be used for this or any other arrests and were to stick to their original assignment that—
undoubtedly much to the commandos’ frustration—was strictly limited to force protection and
reconnaissance. The actual operation was swift and highly successful. The three men
brought in were the former mayor Andjelko Kolasinac, the doctor Vakoslav Simic and the lo-
cal bar owner Stanko Levic. They were rapidly handed over to UNMIK police and transferred
to Prizren, where a hearing was held that same day at the newly created district court. Al-
though it had been KFOR investigations and KFOR forces performing the action, UNMIK—
with KFOR’s silent approval—tried to make the operation sound like a UN show in their joint
press statement.

The Albanian population was delighted, while the Serbs were angry. Representatives
of both groups offered sharply contrasting accounts of what occurred that morning. From
hearsay, a resident of the Serb quarter recalled a dangerous and violent operation, that in-
volved shooting, while little children were in the streets. An Albanian interpreter present at the
scene was most of all impressed by the swiftness and professionalism of the operation, which
according to him, involved little or no violence. Serb frustration over the arrests was under-
standable. To the extent that the Serbs were willing to acknowledge the crimes committed the
previous years—and as far as they aware of what had taken place—they argued that the real
criminals had already fled from amongst their midst prior to the arrival of KFOR. Their an-
ger was fuelled by the apparent lack of willingness on the part of KFOR and UNMIK to arrest
UÇK leaders involved in war crimes committed against them during the civil war. In Ora-
hovac alone, they claimed, some forty cases of missing Serbs since the war started a year ear-
lier. Although the new ICTY prosecutor, Carla del Ponte, proclaimed that her office would in-
vestigate civilian and military leaders of “whichever party to the conflict” suspected of com-
405
mitting crimes during the conflict, KFOR was letting UÇK leaders hold on to influential positions in the newly formed TMK, at least for the moment. KFOR and the UN police would arrest several former UÇK members on charges of war crimes after December 2001, but in 1999 the prosecution of NATO’s erstwhile allies, whose cooperation was indispensable at this point, was low on the list of priorities of the Western powers.

The impact of the arrests on the Serbs became apparent in the days that followed. Having wielded its authority and feeling strong and confident, the Task Force exploited the shock-effect in an attempt to seize their substantial arsenal of small arms. Troops on patrol put up posters calling upon the Serb population to turn in their weapons voluntarily on the next Saturday in the little square of the Serb quarter. The threat of house-to-house searches and the possibility of arrest for illegal possession of arms after the deadline made the result nothing less than spectacular. That Saturday, people were standing in line until midnight for their turn, handing in hundreds of weapons. They came to the collection point even with wheelbarrows loaded with guns and ammunition. Most of the weapons were high-quality Kalashnikovs, but the Serbs also handed in machine guns and a vast amount of ammunition. The most interesting catch of the total of 461 arms handed in was ten sniper-rifles—the exact number the battalion’s intelligence section expected to be in Serb hands. From the archives they had seized the Dutch had a pretty good idea of the number of weapons in Serb hands. The action was repeated in Velika Hoca and resulted in 96 similar weapons. Although a substantial number for a village of approximately one thousand people, this was unlikely to have been anything near their total arsenal. The Serbs of Orahovac and Velika Hoca had been sitting on enough small arms to equip an army battalion or almost enough to arm all men of military age. The weapons seizure was an important step in curtailing the UÇK by preventing Ismet Tara from using their presence as an argument for obstinacy.

After the action on 20 August KFOR stopped search and arrest operations in the area. Apparently reminded of the complexities of such operations, KFOR headquarters refrained from pushing for the arrest of the “list of sixteen.” There also seemed to be less hurry since the blockades were effectively keeping the Russians out of the area. Instead, the Dutch were left to pursue their own policy of arrest, which relied on the opportunities provided by the encirclement of the two Serb enclaves by hostile Albanians. War crimes suspects were amongst those most desperate to leave the enclaves and avoid prosecution by seeking sanctuary in Serbia proper. However, since the Albanians were on the prowl they were left with no other option than to join the UNHCR-organised convoys, or stay. The escort provided by KFOR to these convoys allowed the soldiers to screen the evacuation list, thereby enabling them to close the net around the city and Velika Hoca. This method was far less risky, but required patience and a certain freedom of action, since the Dutch and Germans had to act swiftly as opportunities for arrest arose during the screening at a roadblock. Another possibility for arrest was for KFOR troops to spot a suspect when on a regular patrol.

By acting on opportunities for arrest as they presented themselves in the field, Task Force Orahovac chose not merely to wait for the UNMIK prosecutor to formally seek KFOR
assistance on a case-to-case basis. Although acting on formal indictments by the prosecutor was the preferred and often followed procedure, his office was not sufficiently organized during those first months, and continued to function poorly for some time. KFOR was at this point UNMIK’s primary source of information, since the military was the only institution capable of conducting criminal investigations. In seizing the initiative, the peacekeepers entered uncharted legal waters, but Van Loon was confident he had sufficient KFOR and UNMIK backing for this policy. He was supported by his German brigade commander and was working under the Dutch translation of the German public security directive that clearly allowed arrest in cases of suspicion of genocide, murder, manslaughter, rape, deportation as well as common crime, even in the absence of a court order. Moreover, in late June he had reached an understanding with the first UN Special Representative, Vieira Sergio de Mello, his German legal advisor Hansjörg Strohmeyer, and the local ICTY representative, all of whom had become aware of the potentially explosive situation during their visit to Orahovac. Under this agreement with UNMIK the Task Force was allowed to initiate arrests on the basis of its own investigations and intelligence while handling cases according to Dutch and German legal practice. Local KFOR troops would only arrest while performing their normal duties and not actively seek out suspects in their homes. At the earliest possible time detainees were to be transferred to UNMIK, whose prosecutor was to review those not yet indicted within 24 hours. In all cases the arrests performed by KFOR were confirmed by formal indictments. Meanwhile the ICTY and UNMIK agreed in July on a basic distribution of labour for Kosovo as a whole. The prosecution of “smaller fish”, the local henchmen, was left to local UN-organised courts, enabling the court in The Hague to aim for the “big fish”, the political leaders and military commanders who were believed to have ordered these crimes. The ICTY would review its own role in the prosecution of the smaller cases at a later stage.

UNMIK’s fear of suspects escaping prosecution clearly surpassed that of delegating its powers of arrest to KFOR troops, who could be making procedural mistakes. Having soldiers progress from catching offenders in the act to arrest and detention on the basis of investigations of crimes committed several months earlier was like entering a legal minefield, but without this policy based on criminal investigations performed by the military, most suspects would have easily slipped through the judicial net, which was still under construction and far from complete.

It was not long before the fourth Serb war crimes suspect from Orahovac, Nenad Matic, was arrested by the Task Force. In early September, shortly after the UNMIK court issued his arrest warrant, Matic was found trying to leave the enclave on a medical convoy of 130 persons. Four other Serb men had been denied access to this convoy on the grounds of ongoing investigations against them. Matic’s arrest caused relatively little excitement amongst the Serbs. The controversy would only start in late September as another four suspects on a UNHCR convoy were arrested during a thoroughly prepared operation at a KFOR checkpoint, which had been strengthened for the occasion by two armoured vehicles and German MPs. The Dutch suspected all four of participation in mass-kilings, but UNMIK had
issued an arrest warrant for only one of the four, Danilo Misic. The others three, his brother Radosav Misic, Cedomir Jovanovic and Novica Krstic, were indicted after their transfer to UNMIK. These arrests caused quite some anxiety amongst the Serbs and some short-lived hostility, which was felt by the officers who went to the Serb quarter to explain the action, but no physical violence ensued. The Dutch noticed how “the people stopped greeting us and stopped talking German.” Foot patrols were initially suspended in the Serb area, but resumed the next day when the situation appeared relatively calm.80

KFOR still had the primary responsibility for policing and performing the arrests and the action was led by a Dutch officer. However, the Dutch Ministry of Defence chose to emphasize the role of the UN police in the arrest.81 The next suspect, Arsenije Vitoshevic, was arrested on 7 October. He was arrested during a “routine patrol”, but his arrest warrant, issued by UNMIK several days earlier, is likely to have made his neighbourhood a popular destination for KFOR patrols.82 Later that month, four Serb men reported themselves to KFOR after having been denied access to a planned UNHCR-convoy on the basis of ongoing investigations. After a conference with the UN prosecutor in Prizren, two of the men were cleared of charges. The other two, Nenad Misic and Miograd Gjinovic, turned out to be indicted and were subsequently arrested by Dutch and German MPs in the presence of UNMIK police. The international police were preparing to take over the lead in public security and already contributed to investigations, but had no official jurisdiction at this point.83

The relative ease with which these suspects were arrested and the fairly limited hostility encountered from the Serb population—after the initial shock and indignation—begs the question as to why the Dutch Minister of Defence, Frank de Grave, and his chief military advisor the Chief of the Defence Staff (CDS) Lieutenant Admiral Luuk Kroon, were eager to restrain their troops in the pursuit of what appeared to be a successful policy. None of the actions involved any shooting and no serious resistance was encountered during any of the actions. Moreover, the German brigade commander, UNMIK, UNHCR, OSCE and visiting representatives from the Dutch Ministry of Foreign Affairs had all expressed their support for the active policy of local Dutch troops. The Dutch Ministers of Defence and Foreign Affairs had also pledged in parliament “to interpret the mandate to support ICTY in the broadest possible way.”84 Quite remarkably, attention from the Dutch media for the actions was almost nil, which meant that no thorny questions were being put forward in parliament.85

However, similar to his colleagues in most troop contributing nations, the Dutch Minister of Defence turned out to be no enthusiast regarding peacekeepers sticking out their necks further than he considered necessary. The Dutch-led Task Force was clearly more active than others in the pursuit of war criminals, arresting in a mere four months eleven from a total of approximately forty suspects apprehended by KFOR and UNMIK police between June 1999 and August 2000.86 At the Ministry of Defence there initially had been little awareness of the implications of the policing authority it had allowed its troops to assume in Kosovo. Alarm bells only started to go off at the Chief of Defence Staff’s operational centre, the Defensie Crisis Beheersings Centrum (DCBC) after the arrest of the four Serbs late September triggered
criticism in Serb circles. Van Loon was called upon to explain his policy and procedures for arrest and detention. His elaboration on the joint local ICTY, UNMIK and KFOR policy was apparently news at the home front. He emphasised the civil-military coordinated effort, the absence of violence or any serious risk to his troops, and the essential role played by these arrests in keeping the Albanians from taking the law in their own hands. However, his arguments failed to soothe his national taskmasters. Rudely awakened to the implications of the broad interpretation given to the mandate by its troops in the field, the Dutch Ministry of Defence stepped on the brakes. In early October it instructed its troops to act only on specific requests for support by UNMIK, which first had to be forwarded to the Chief of the Defence Staff in writing—preferably but not necessarily prior to action. Despite worries over the lack of policing skills amongst regular troops, the instructions emphasized again that the Dutch MPs in Orahovac were not to assist in any arrests since they were a national asset and officially not part of KFOR.

Although no arrests followed after 8 October, serious trouble started when on 21 October the UNHCR complained to KFOR headquarters that by the continued screening of convoys for war crimes suspects the peacekeepers were hampering the flow of Serb refugees from Orahovac, who “could regard it as de facto detention.” To Van Loon this critique came as a bolt from the blue since cooperation with the local UNHCR branch had been good. Moreover, only one month earlier the Chief of UNHCR in Kosovo, Deputy Special Representative Dennis McNamara, had visited Orahovac and emphasized the importance of the early arrest of war crimes suspects in decreasing ethnic tension. He specifically allowed evacuation only after “prior clearance by ICTY and resident KFOR contingent” and to that end he called for the evacuation of those Serbs eager to leave to be phased over a number of weeks. In refuting the UNHCR’s critique the Task Force commander was strongly backed by the new German commander Brigadier Sauer, who dismissed the charges that KFOR was restricting freedom of movement and engaged in “collective punishment.” Sauer explained to the Force Commander Klaus Reinhartd: “I don’t like to explain why a suspected war criminal with the assistance of KFOR was able to leave Kosovo and avoid trial. Therefore I encourage further all soldiers under my command to continue to detain suspected war criminals.” Reinhartd was generally supportive of an active policy of arrest, later claiming, “these war criminals by their very existence make us toothless tigers. Everybody sees them there, still running around and showing that you are weak.” Also his predecessor General Jackson, dwelling on his Bosnia experience, was clear about the need for the military to apprehend war criminals. “They are a force for bad, as long as they remain at large, even if they’re no longer in any official appointment. Their influence is like that of Rasputin: it pervades, it sits there in the back.”

In The Hague such consideration—however crucial to the long-term success of the mission in Kosovo—seem to have lost out to concerns over the risks and political implications of an active arrest policy. Dutch troops had received negative attention, more of which followed shortly when a UNHCR convoy escorted by Dutch and German KFOR troops was attacked on its way to Montenegro by an angry Albanian mob in the streets of Pec. Moreover,
anxiety in The Hague over the unresolved blockade crisis persisted. As soon as “police primacy” was transferred to UN Police on paper on 27 October 1999, the Dutch Ministry of Defence sought to strip its forces of any remaining law and order responsibilities. Although KFOR was no longer finally responsible for police matters in the Prizren region, the transfer of police primacy did not limit KFOR’s right to enforce criminal codes, conducting investigations and making arrests. It merely transferred the lead to UN police and was interpreted as such by the Germans in Prizren and the British, who had transferred police primacy in Pristina two months earlier. Both contingents were still heavily involved in policing and would continue to do so for the time to come. Giving the lead to UNMIK should have been sufficient guarantee to put an end to what The Hague feared most, the Task Force’s “own policy of arrest.” The commander had already acquiesced to acting only on official UNMIK arrest warrants. After all, from November his intelligence officer and the Dutch and German MPs were cooperating closely with UN Police in Orahovac and sharing the criminal investigations and intelligence database. The fear of suspects slipping through the mazes was therefore substantially reduced. The Task Force wanted to keep the possibility of instantly acting on the opportunity to arrest while executing their regular task or react immediately on a call for support from UNMIK, which required freedom from prior clearance of individual cases with The Hague.

On 12 November, the Ministry of Defence instructed Van Loon to stop arresting any further war crimes suspects, even if UNMIK requested support for the apprehension of indictees. This would lead to a rather awkward situation. Under their KFOR mandate and the German public security directive Dutch troops would be allowed to arrest a common murderer, or to assist UN police in the arrest of persons involved in an ordinary bar-fight, as had happened in the Serb quarter the previous day, yet national directives would prevent them from arresting or even assist in the arrest of someone involved in multiple murders of innocent civilians. Van Loon protested, regarding it as unjustifiable to sit back and do nothing. He was supported by the new Dutch Deputy Brigade Commander Colonel P.K. Smit and after a conference with NATO headquarters, the national directive was quickly modified. It now allowed support to arrests by UNMIK, but on the sole condition that the local prosecutor submit a written request for support prior to action, to be reviewed and approved by the Chief of the Defence Staff in The Hague. Apart from assuming a rather inappropriate legal role, he thus continued to involve himself in micromanagement of the worst kind that would be unworkable for an officer on the ground in charge of a checkpoint or foot-patrol directly confronted with a suspect or with an immediate request for support from UN police.

Although founded in a healthy democratic aversion to military involvement in law enforcement, the prime argument used by the Chief of Defence Staff for restraining Dutch troops was risk aversion. Apart from worries about the lack of the necessary skills amongst soldiers and fear of violent reprisals by the Serbs, there was an understandable fear of procedural mistakes and resulting legal complications. Apparently, there was a lack of confidence in the judgements of the German and Dutch commanders on the ground, who regarded these risks as
at best small, and at worst acceptable for the accomplishment of the mission, which did allow a continued role in law enforcement until the civilian police were fully up to the job. In retrospect Van Loon argued that arrests were the best force protection measure:

If the Albanians would have taken revenge and started shooting each other with Kalashnikovs—and I am one hundred percent sure that this would have happened if we would have sat back and done nothing—me and my men would have been caught in the middle, which would have inevitably resulted in dead and wounded soldiers.100

A wide gap thus existed between the commander on the ground and The Hague in their appreciation of the operational risks and the scope of the actual mission. However, further friction was averted when it became clear that the North Atlantic Council in Brussels was preparing new guidelines for KFOR’s role in the arrest of war crime suspects. The confusion over the powers of arrest was after all the result of projecting soldiers into a law and order vacuum with an unclear mandate, consisting of a hodgepodge of Rules of Engagement, orders and national instructions that—all combined—left much room for interpretation.

There were three related causes for the ineptitude of KFOR’s mandate for arrests. First, although there had been no fundamental argument over KFOR’s involvement as there had been in Bosnia, the persistent tendency of troop contributors to curtail the role of the military was a recipe for an unclear policy. Dutch political and military leaders were certainly not alone in their fear of getting soldiers in over their heads, and followed a policy on war criminals in Kosovo that seemed in line with that adopted by the Americans. NATO’s political and military leaders may have been eager to show the world the mass graves over which it had said to have gone to war, and keen on seeing to it that those responsible faced trial, but this did not imply that they liked to put their own troops and possibly their own careers on the line. This tendency was least strong with the British and the Germans, who had proved willing to arrest in Bosnia and who had been amongst the staunchest supporters of the war on Milosevic. It was strongest amongst the French and the Italians, who had been inactive in Bosnia and who were hesitant in the arrest of common criminals in Kosovo. When Javier Solana proposed by mid-June to stretch the Rules of Engagement on arrest of suspected war criminals, the French and Italians were joined by the Greeks in their attempt to block a broader mandate for KFOR. The Italian ambassador to NATO made it clear that Italian troops were far too busy to support the ICTY in the pursuit of war criminals. The Greeks strongly opposed any form of “search and arrest” operations, while the French went as far as opposing a strong liaison between KFOR and the ICTY in Kosovo. Support from the Canadian, Norwegian, Danish and Dutch ambassadors to a broader mandate envisaged by the Secretary General had resulted in a well-intentioned but murky compromise late June, calling for a strong liaison between KFOR and the ICTY and instructing KFOR to take “a pro-active stand within means and capabilities.”101 This meant that KFOR was stuck with the original Rules of Engagement that only allowed the arrest of persons who were indicted by the ICTY or UNMIK encountered by KFOR.
troops “while performing their assigned task.” This rule had been directly copied from SFOR Rules of Engagement.

Second, as so often in Kosovo, there was a downside to the assumed applicability of the experiences in Bosnia. In Bosnia the ICTY and the military had gradually grown accustomed to each other’s missions and to working together, which did much for NATO’s acceptance of a role in the pursuit of post-war justice. Yet, despite the different situation and mission in Kosovo, the narrowly defined role played by SFOR prevailed in the perception of the peacekeepers role in both Brussels and national capitals such as The Hague. To complicate matters, the execution of this role in Bosnia was actually inconsistent with SFOR Rules of Engagement. Although arresting “in the course of their normal military operations” was the rule, SFOR troops did nothing of the sort. Instead, it had become common practise in Bosnia that, after a formal ICTY indictment—usually of a “big fish”—and a request for support to NATO, SFOR would mount a secret search and arrest operation. After months of preparation Special Forces were flown in from outside SFOR, who would deliver a detainee directly to an ICTY-team in the area. For a local contingent there was no other role than securing the outer ring of such an operation. The Dutch Government wholeheartedly supported this type of operation, as it was initiated by a fully operational international tribunal, ordered by NATO and performed by specialists, and therefore entailed no direct responsibility or little political risk.

The third source of confusion over KFOR’s mandate was that in Bosnia this type of arrest operation was perceived as and performed as an operation on the margin of the mission—like all other SFOR-responsibilities outside the direct military scope. Also in Kosovo, arrests by KFOR or support to arrest by UN police continued to be regarded by political and military leaders above the operational level as a role outside the ongoing military mission to provide a secure environment. This followed from the lingering notion that peacekeepers were only there to provide an umbrella of safety by separating and restraining the warring parties, without having to go into the messy business of exercising civil authority themselves. However, as the arrests in Orahovac proved, KFOR’s mission, that of UN Police and the just emerging and barely functional UNMIK judiciary were fully integrated in the chaotic post-war situation. An UNMIK warrant by a district court—mostly against lower-level war crimes suspects—was issued on the bases of investigations by a KFOR battalion and sometimes acted upon by the unit as the opportunity arose within a matter of days, either with or without the local UN Police. Even though KFOR legal guidelines on arrest and the German Brigade public security directive made apprehending on the basis of suspicion of war crimes an integral part of the policing authority bestowed in KFOR brigades and battalions, there was a prevailing tendency to view KFOR’s large role in Kosovo’s interregnum as an aberration, which had to be corrected and forgotten as soon as possible. This partially explains how, after a new mandate on arrest was formulated by the North Atlantic Council on November 17, the Dutch DCBC seemed in denial of the preceding episode, claiming in an internal report that “as of now, assisting UNMIK in the arrest of persons is also part of KFOR’s mission.” It may come as no surprise that the Dutch planned to unilaterally change its translation of the broad German directive on arrest
and detention, thereby steering a different course from the Germans under which their troops were operating.

The new NATO directive turned out to be no great improvement. It rightfully put the prime responsibility for arrest with UNMIK, now that there was a semblance of a UN police and judiciary, but it failed to provide KFOR with the necessary flexibility on the tactical level to successfully and swiftly support the police. Instead, it created additional procedures that sought to limit rather than streamline KFOR support to UNMIK. Before any action by KFOR the North Atlantic Council required UN Police to formally show its incapability to handle an arrest alone. An UNMIK request, preferably written, was to precede any KFOR action and KFOR troops were only allowed to support and not to take over the arrest. As if there were not sufficient obstacles to operational freedom in this policy, the Dutch Chief of the Defence Staff incorporated in his national adaptation of the directive the prerogative to review and accept or decline a compulsory written request for support beforehand. He further tried to limit involvement of Dutch troops by adding the contradictory demand that after his approval, Dutch troops were only to arrest when confronted with an indictee during the execution of their “assigned tasks.” In practice this meant that, if the new procedures were strictly followed, a Dutch military role in an arrest was only possible if troops happened to be patrolling or manning a checkpoint with UN Police when they accidentally ran into a war criminal after UNMIK had reported itself to be incapable of handling the arrest itself to Brussels, and only after the Dutch Chief of Defence staff had agreed upon the Task Force’s support role. The same procedure was to be applied to other serious crimes, unless the Dutch caught an offender in the act.

The rules hardly lived up to the reality on the ground, but the Dutch artillery battalion approached the end of its tour and the matter was left to rest. The second combined Dutch-German Task Force in Orahovac took over in early December and continued to arrest both regular crime suspects and alleged war criminals, although not as frequently as Van Loon’s men. In late December, Dutch soldiers arrested Sava Matic on charges of abduction and intimidation. In January 2000 during a routine identity check just outside Velika Hoca two Serbs were arrested by Dutch KFOR—again not in a support role—on UNMIK charges relating to crimes committed during the civil war. Flexible interpretation of the rules allowed successful cooperation between UN Police and KFOR to continue in the field. UNMIK and KFOR presented this as a UN Police action, although it had in fact been Dutch KFOR troops performing the arrest. This was part of their concerted effort to play down KFOR’s role and highlight that of the UN Police, a tendency that had already become apparent during the arrest of 20 August.

The largest part of the pursuit of post-war justice took place far outside the scope of KFOR mandate and capabilities. Before the post-war justice system was able to function properly, the complete security triad of local police, an independent local judiciary and a penitentiary system had to be resurrected. Given the magnitude and complexity of this task, it is not surprising that this effort by UNMIK was hardly a success-story in the short term. The

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prosecution of war criminals, which was regarded as so vital for long-term hopes of reconciliation, suffered dearly. Out of the approximately forty Serbs accused of war crimes in custody in Kosovo as of August 2000, the local judiciary had indicted twenty-two people for war crimes and nine for genocide by December that year. There is no exact number available as some detainees were released and a large number escaped from custody.\footnote{By 2003, after three and a half years of international administration, only a handful of suspects had been prosecuted for war crimes against Kosovo Albanians. The subsequent failure of UN Police and KFOR to arrest and the local UNMIK-organised local courts to prosecute Albanians for war crimes committed was equally damaging to the process of reconciliation. It took until August 2003 for international judges of the Kosovo judiciary to finally step in and sentence Albanians convicted of war crimes against non-Albanians.}{108}

Unfortunately, the faltering penal system has made it impossible to test if the majority of the investigations made by Dutch KFOR in those first months were sufficiently solid to hold in a courtroom. Only two of the eleven detainees, Andjelko Kolasinac and Cedomir Jovanovic, ever faced trial. All the others escaped from custody during the infamous jailbreak from the Mitrovica prison in September 2000, a blunder for which UNMIK was not easily forgiven amongst Albanians in Orahovac. Also the first detainee charged with war crimes, who had been arrested by British troops, escaped from the medical ward of that same detention facility a month earlier. The cases that did face the court were certainly not all textbook examples of fair trials. Sava Matic’s case was an example of the often sloppy and biased trials by the local UNMIK-appointed prosecutor and judges. The Dutch had arrested Matic on suspicion of serious crimes—not war crimes—but the Albanian prosecutor charged him, basing his case on war crimes anyhow. This mistake was made by many of his fellow-Albanian prosecutors in the following years. With local laymen often susceptible to public pressure, an international panel of judges regularly stepped in to guarantee a fair trial.\footnote{Kolasinac was eventually convicted and sentenced to eight years imprisonment for abetting in Albanians’ deportation and forced labour, but not on the basis of the war crimes with which he was originally charged.}{110} Jovanovic, however, was sentenced as charged for participating in the mass murder of 62 civilians at Bela Crkva as a member of a paramilitary group, ordering deportations and burning and looting their houses. In November 2001 a majority international panel reaffirmed the original sentence of twenty years imprisonment.\footnote{It is noteworthy that KFOR would have escorted Jovanovic out of Orahovac to freedom on a UNHCR convoy if it had not been for the Task Force’s risky, but assertive policy of arrest. No court had indicted him when the Dutch arrested him on the basis of their own criminal investigations.}{111}

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1 CAD, 1 (NL) Arty Bn KFOR I, Correspondentie Archief, box 3, Dennis McNamara (Deputy SRSG for Humanitarian Affairs), Subject: “Integrated Strategy for Minority Groups in Orahovac”, 20 September 1999.
2 “Russian, Albanians meet to end standoff”, AP/USA Today, 24 August 1999.
3 CAD, 1 (NL) Arty Bn KFOR I, Structurele rapportages, box 2, folder 5.1, Daily Sitrep, 23 August 1999.
5 Interview with Colonel Anton van Loon (Second Interview, The Hague, 13 February 2003);
7 The Dutch government’s argument was that the special arrangement NATO made for the Russians contingent within KFOR would result in an unclear chain of command. The Dutch Minister had said: “Nederland mag niet de voetveeg van de NAVO worden.” Cited in: M.P. Peters, “Gele Rijders of Russische Para’s? Orahovac en de Blokkade Tegen de Russen.”, Militaire Spectator, Vol. 170, No. 3 (2001) 117. See also the official KFOR evaluation of the Dutch Ministry of Defence, Ministerie van Defensie, Evaluatie KFOR 1999 (The Hague, June 2000; this document is available online at http://www.mindef.nl/).
8 Nevertheless, Van Loon said to the press that the arrival of Russians in Kosovo would contribute to Serb trust in KFOR. “VS en Rusland eens over KFOR”, NRC Handelsblad, 19 June 1999.
11 Jackson’s priorities are mentioned in: CAD, 1 (NL) Arty Bn KFOR I, Structurele rapportages, box 5, Daily Sitrep, 24 Nov 1999.
13 CAD, 1 (NL) Arty Bn RA KFOR I, Correspondentie Archief, box 7, Folder HQ MNBS(S), no. 9007, Van Loon to Sauer, 30 August 1999.
14 Interview with Agim Hasku (Rahovec/Orahovac, 10 September 2002); Interview with Ismet Tara, commander 124th Brigade UÇK in 1999 (Rahovec/Orahovac, 12 September 2002).
15 CAD, 1 (NL) Contco KFOR I&II, Werkarchief, box 7, Van Loon to Van den Aker (DCOM MNB South), 1 September 1999; Idem, Wolfgang Sauer (COM MNB South) to Michael Jackson (COMKFOR) 3 September 1999.
17 Organization for Security and Cooperation in Europe (OSCE) and the UN High Commissioner for Refugees (UNHCR), “Has the war in Kosovo actually ended? Update on the Situation of Ethnic Minorities in Kosovo” (February - May 2000, document available online at http://www.d-n.i.net/fcs/pdf/osce_unhcr_kosovo_minorities.pdf)
19 Stuart J. Kaufman, Modern Hatred: The Symbolic Politics of Ethnic Wars (Cornell 2002); Relief and Rehabilitation Network briefing note by Koenraad van Brabant, Peace-Making Through Protectorate: Six months in Kosovo (29 November 1999, available online at www.oneworld.org/odi/rrn)
20 UNHCR spokesperson Kris Janowski was the source for this much quoted figure in the world media. See for instance: “Kosovo Nu Bijna ‘Gezuiverd’”, Algemeen Dagblad, 25 Augustus 1999.

21 The UNHCR first redressed the figure to 70,000. Later it was confirmed that approximately 100,000 Serbs remained in Kosovo. ICG, “Kosovo Report Card”, 16; See also: ICG, “Violence in Kosovo: Who’s Killing Whom?”, ICG Balkans Report No. 78 (November 1999).

22 On 29 August 1999 Reuters reported that Bernard Kouchner had said: “The rate of criminality is down—look at where we are and where we were just two months ago.” KFOR figures on murder rates from June to November listed 145 Albanian, 135 Serb and 99 “other” murder victims. Serb representatives in Kosovo claimed the figure for Serbs was around 400, but it was unclear how it gathered its data. For unsubstantiated Serb claims see ICG, “Violence in Kosovo”, 1f2.

23 This image of selective shortages, but a sufficient food supply, is confirmed by Astrid van Genderen-Stort, the local UNHCR field officer during 1999-2000 in correspondence with author (Letter received 3 August 2004). CAD, 1 (NL) Arty Bn KFOR I, Structurele rapportages, box 2, folder 5.2, Daily Sitrep, 10 September 1999; Ibid., Daily Sitrep, 12 September 1999.

24 CAD, 1 (NL) Arty Bn KFOR I, Structurele rapportages, box 2, folder 4.1 Daily Sitrep, 2 July 1999; See also: Abels, Licht Boven Orahovac, 44, 95.


26 Correspondence between author and Van Genderen-Stort (Letter recieved 3 August 2004); CAD, 1 (NL) Arty Bn KFOR I, Correspondentie-archief, box 3, Folder S-2/S-3, Memorandum DSRSG HA Dennis McNamara, 20 September 1999. “I would like to note that all organisations present in the area are very positive about KFOR’s protection role and collaboration.”

27 Interview with Colonel Anton van Loon (The Hague, 13 February 2003). According the Van Loon, the claims by groups of Serbs which he considered to bending the truth were mostly far better orchestrated that those made by Albanians. He recalled how, for instance in claims of abductions, “five people could tell the exact same story down to details about the colour of the scarf a person had been wearing.”

28 Ibid.

29 Ibid.

30 Conversation between Dobrilja Vitosevic and Ljubisa Velickic and author in Serb quarter Orahovac (13 September 2002). Friendly relations between soldiers and the Serbs are also described in Corporal Harm Oirbans, “Dagboek van een Gele Rijder” (Available online at http://www.mindef.nl/misssies/gelerijders/gelerijders.htm). Overall, Serbs were reported to be comforted by KFOR tanks taking up position nearby their houses. Reported in: CAD, 1 (NL) Arty Bn KFOR I, Structurele rapportages, box 3, Intsu m nr. 87/99 (18 September 1999).

31 Slavisa Kolasinac, a moderate Serb leader, tried to remind his fellow Serbs that it had been Germans performing some of the arrests, but this seems to have slipped from popular memory. He was convinced that had the Dutch had stayed until more stable times, they would have recieved the same appreciation as German KFOR troops in Orahovac were getting in 2002. He was a classic example of the “moderate leader”, whose dilemma was that “the more pliable they are to the will of the internationals, the less credibility they have with their local population. As described in: Michiel Ignatieff, Empire Lite: Nation Building in Bosnia, Kosovo and Afghanistan (London 2003) 50.


34 CAD, 1 (NL) Arty Bn KFOR I, Structurele rapportages, box 2, folder 4.1 Daily Sitrep, 28 June 1999. See also Van Loon quoted in Trouw (13 November 1999). Also Reinhardt spoke of about the Serbs in Orahovac as living “like in a Ghetto” an referred to this process of “Gettoisierung.” Reinhardt, KFOR, 271-272; For the comparisons to the “Warsaw Ghetto” see: Jarad Israel, “The Woman of Orahovac Answer the Colonel” (23 November 1999; Available online at http://www.emperors-clothes.com/interviews/trouw.htm)

35 Interview with Colonel Anton van Loon (The Hague, 13 February 2003).


37 Van Genderen’s unenviable position was mentioned in: Chris Brid, “No Sanctuary in Town Ruled by Hate,” Guardian, 28 October 1999. After four suspects were taken off one of her convoys and arrested by KFOR, she received death threats from the Serb quarter. Correspondence between author and Van Gendereren (Letter received 3 August 2004)

38 The Task Force reported: “Albanians blame KFOR for not arresting Serb war criminals while Serbs blame KFOR for not protecting Serbs and their property enough. This feeling will grow in next couple of days despite explanations.” CAD, 1 (NL) Arty Bn KFOR I, Structurele rapportages, box 2, folder 4.2 Daily Sitrep, 29 July 1999.


40 It has been suggested that the United States only allowed Milosevic to be indicted in May 1999, after being let of the hook for many years, mostly because the NATO bombing campaign needed further justification. Shawcross, Deliver Us From Evil, 362; For the indictment see ICTY press release, 27 May 1999 (IL/PIU/403-E).


42 This explanation was given in all interviews by author with Dutch KFOR personnel and confirmed in correspondence between the author and Astrid van Gendereren (Letter received 3 August 2004).

43 Part of letter reproduced in Abels, Licht Boven Orahovac, 23, 29. On June 15 of every year since 1999, the day they witnessed their first mass grave, Van Loon invites the officers his artillery battalion to gather at his family’s farm in the South of The Netherlands.


45 Human Rights Watch, “Under Orders: War Crimes in Kosovo” (Chapter 9).

46 UNSCR 1244 demanded “full cooperation by all concerned, including the international security presence, with the International Tribunal for the Former Yugoslavia.”

47 CAD, 1 (NL) Arty Bn KFOR I, Correspondentiie Archief, box 7, folder: HQ, John T. Ralston (Chief of Investigations ICTY, Office of the Prosecutor) to General Mike Jackson.

48 Lecture by Colonel Anton van Loon at the Royal Military Academy at which the author was present.

49 Late June and early July Task Force Orahovac repeatedly reported to the German brigade commander and via the contingent commander to his own Ministry of Defence that his intelligence section and MPs were gathering substantial evidence on war crimes, on suspected perpetrators still residing in the area and on the fact that his unit was processing this information in a substantial intelligence database. The Contingent Commander also informed the Ministry of his intention to block them from leaving the province and reported that the Task Force’s “efforts are aimed at arresting

50 CAD, 1 (NL) Arty Bn KFOR I, Structurele rapportages, box 2, folder 4.1 Daily Sitrep, 10 July 1999. Sitrep reported that the 124st Brigade UÇK handed over the MUP-archive to KFOR. See also: Abels, Licht Boven Orahovac, 33.

51 Interview with Van Loon in: Abe de Vries, "De Albanezen halen ook weer het Servisch Vuil Op", Trouw, 11 November 1999. The number two thousand names in the intelligence database was mentionned by Major Roy Abels in an interview with the author (’t Harde, 3 September 2002).

52 CAD, 1 (NL) Arty Bn KFOR I, Correspondentie Archief, Box 3, Folder: Section 2/3, UNMIK report Rahovac no. 48 (4 November 1999).

53 Pleuní Bos, "Zonder Gerechtigheid Geen Vrede: Een Persoonlijk Impressie van de Samenwerking Tussen het ICTY en KFOR", Militaire Spectator, Vol. 169 (December 2000) 694; CAD, 1 (NL) Arty Bn KFOR I, Correspondentie Archief, box 7, John H. Ralston (Chief of Investigations ICTY Office of the Prosecutor) to General Jackson (4 October 1999). Ralston said that the "additional intelligence and investigative information to augment our on-site investigations [...] have set a very high standard for other support teams to meet."

54 The other primary contributing factor to the radicalisation of the Albanians was the continued imprisonment of an estimated 3,000 to 7,000 being held in Serbian prisons. ICG, "Violence in Kosovo", 4.


56 Interview with Colonel Anton van Loon (The Hague, 13 February 2003).

57 Correspondence with Colonel Peter van den Aker, 4 April 2005.

58 German Minister of Defence Rudolf Scharping pointed at Kouchner as the initiator of the arrests in Orahovac in August. “KFOR Houdt Servische Verdachte aan”, NRC Handelsblad, 21 August 1999.

59 This section of the Rules of Engagement for KFOR was directly taken from the SFOR Rules of Engagement.


61 Interview with Major Roy Abels (’t Harde, 3 September 2002).

62 The sudden increase of ICTY forensic teams in the area from two to four was another indicator that the Albanian population and the UÇK were not in their alone in their fear that evidence could go lost once the Russian took over. Interview with Colonel Anton van Loon (The Hague, 13 February 2003).


64 CAD, 1 (NL) Arty Bn KFOR I, Correspondentie-archief, box 1, Van Loon to Legal Advisor KFOR (attn Ltc Bulessbach), C-MNB(S), C-Contco (3 November 1999), Subject: Policy Towards suspected (war) criminals in Orahovac. This source mentions the sixteen persons targeted for arrest in July. Additional sources from July and August 1999 referring to the sixteen persons in Orahovac and Velika Hoca listed by KFOR headquarters for arrest are all classified.

65 Interview with Colonel Anton van Loon (The Hague, 13 February 2003). On the difficulties involved in such actions and the different opions of top NATO generals on military involvement in arrests see: Edith B. Wilkie, Beth C. DeGrasse and Richard W. Roan, A Force for Peace and Security: U.S. and Allied Commander’s Views of the Military Role in Peace Operations and the Impact on Terrorism of States in Conflict (Report, Peace Through Law Education Fund 2002) 47-52; Rheinhardt, who was eager to arrest suspects, was made aware of the complexities involved in such arrest operations when he visited Orahovac in December 1999. See: Reinhardt, KFOR, 271.

66 Interview with Colonel Anton van Loon (The Hague, 13 February 2003).
67 Ibid. Although Van Loon refused to mention in an interview which of NATO’s Special Forces from what memberstate performed the arrest, he did mention that it was the commander of this unit who made the final selection. Other sources indicate that the primary role in the arrests was played by the German KSK (see following note).

68 Major Roy Abels mentioned the role played by the KSK in the arrests. Interview with Major Roy Abels († Harde, 3 September 2002). On 24 September 2001, the German magazine Der Spiegel ran an article on the German KSK and mentioning its role in the arrests on 20 August in Orahovac in collaboration with Dutch soldiers (p42). For additional information on the KSK and its role in arrests of war crimes suspects in Bosnia and Kosovo, including that on 20 August 1999, see the German military website “Military Page”: http://www.military-page.de/einheit/ksk/ksk_01.htm.

69 There are some indications of partipation of the Dutch Korps Commando Troepen (KCT) in the arrests, but no reliable sources that confirm this. In an analysis of the German KSK, Alexander Richter writes that on 20 August the KSK “together with Dutch Special Forces” arrested three war crimes suspects in Kosovo. Alexander Richter, “Stichwort: Kommando Spezialkräfte”, Berlin Information Centre for Transatlantic Security (BITS, 15 January 2002; Available online at http://www.bits.de/public/stichwort/spezialk.htm). Arben Jaha, an Albanian translator for Task Force Orahovac present at the scene, was convinced that Dutch Special Forces performed the arrest. Interview with Arben Jaha, 14 September 2002. This however, would have been explicitly against orders from the Dutch Ministry of Defence. When confronted with Jaha’s interpretation of events, Van Loon answered: “Arban can say whatever he likes.”


71 Interview with Ljubisa Velikic (Rahovec/Orahovac, 14 September 2002); Interview with Arben Jaha (Rahovec/Orahovac, 14 September 2002).


74 UNMIK Press Release (7 February 2002).

75 CAD, 1 (NL) Arty Bn KFOR I, Structurele rapportages, box 2, 5.1 Daily Sitrep, 22 August 1999; Intelligence Section TF Orahovac, De Informant: Informatieblad voor TF Orahovac (22 and 24 August 1999); See also: Abels, Licht Boven Orahovac, 45. The numbers mentioned in the latter publication (550 arms siezed in Orahovac and 100 Velika Hoca) do not correspond with the numbers mentioned in the other sources.

76 KFOR headquarters’ instructions on law and order from 25 June 1999 further stated that “all persons suspected of involvement in the commission of war crimes should be arrested.” See chapter 10.

77 CAD, 1 (NL) Arty Bn KFOR I, Correspondentie-archief, box 1, Van Loon to Legal Advisor KFOR (attn Ltc Buellesbach), C-MNB(S), C-Contco (NL), 3 November 1999, Subject: Policy Towards suspected (war) criminals in Orahovac; CAD, 1 (NL) Arty Bn KFOR I, Correspondentie-archief, box 7 (Diversen), Map: Contco KFOR, no. 9048. Commander 1 (NL) Arty Bn RA to C-Contco, 27 September 1999.


79 CAD, 1 (NL) Arty Bn KFOR I, Structurele rapportages, box 2, Daily Sitrep, 8 September 1999.

80 Ibid., box 3, Daily Sitrep, 25 September 1999; Ibid., Daily Sitrep, 26 September 1999.
**Nieuwbericht Ministerie van Defensie, “ Arrestatie oorlogs misdadigers” (24 September 1999): “De aanhouding is verricht door civiele politiebeamten behorend tot de VN (UNMIK) tezamen met Duitse Feldjäger en Nederlandse militairen.” However, according to the a daily situation report from the Task Force “UNMIKPOL was informed, but did not participate in the arrest.” The investigations into these cases were conducted by Dutch Military Police in collaboration with UNMIK police, but thus far UNMIK police had no formal jurisdiction. CAD, 1 (NL) Arty Bn KFOR I, Structurele rapportages, box 3, Daily Sitrep, 24 September 1999.

Vitoshevic was suspected of participating in the mass murders at Brestovac and Velika Krusa. CAD, 1 (NL) Arty Bn KFOR I, Structurele rapportages, box 4 Daily Sitrep, 23 October 1999; Ibid., Daily Sitrep, 24 October 1999. This sitrep reported: “No extra tension noticed after yesterday’s arrest of 2 Serbs.”

Minister van Defensie, Minister van Buitenlandse Zaken, Minister van Ontwikkelingssamenwerking, Brief aan de Tweede Kamer, 18 June 1999: “Nederland streeft naar zo breed mogelijk invulling van mandaat voor KFOR ter ondersteuning van de inspanningen van het ICTY.” This letter from the Dutch Minister of Foreign Affairs to the Second Chamber of the Dutch parliament is available online at [http://www.mindef.nl/nieuws/parlement/brieven/content/180699_vr_resolutie.html](http://www.mindef.nl/nieuws/parlement/brieven/content/180699_vr_resolutie.html)

The Dutch media failed to describe in any length the actions by its troops and did not raise any questions over the arrests of war crimes suspects. Neither were any serious questions raised in the press or parliament over the implications of Dutch soldiers’ community-policing role in Kosovo.


CAD, 1 (NL) Arty Bn KFOR I, Correspondentie-archief, box 7 (Diversen), Folder: Contco KFOR, no. 9048. COM 1 (NL) Arty Bn RA to C-Contco, 27 September 1999


CAD, 1 (NL) Arty Bn KFOR I, Correspondentie-archief, box 1, Van Loon to Legal Advisor MNBS (attn Lt Buellesbach). In this document, Van Loon anwered questions from KFOR Legal Advisor (email 29 October 1999) passed to him by the German brigade’s legal advisor concerning UNHCR complains that KFOR’s screening of Serbs leaving Orahovac limited their freedom of movement and that “they could regard it as de facto detention.”

The UNHCR also raised the question whether the Task Force’s investigations were based on reliable sources. Van Loon argued that a suspect would only be arrested after serious investigations, which included at least two matching witness accounts supported by other physical evidence. He went through great length emphasized that KFOR was not working with the so-called “UCK-list” of 64 alleged war criminals, which Belgrade and local Serbs claimed he was using as a basis for arrest—
rumor that had probably reached the UNHCR. He had received this list, but only said to be using it to know who the UCK was potentially targeting. CAD, 1 (NL) Arty Bn KFOR I, Correspondentie-archief, box 1, Van Loon to Legal Advisor KFOR (attn Ltc Buellesbach), C-MNB(S), CONTCO-NL (3 November 1999), Subject: Policy Towards suspected (war) criminals in Orahovac.

93 CAD, 1 (NL) Arty Bn KFOR I, Correspondentie-archief, box 1, C-MNB(S)/BG Sauer to COMKFOR, KFOR HQ, 3 November 1999; CAD, 1 (NL) Arty Bn KFOR I, Correspondentie-archief, box 1, Van Loon to Legal Advisor KFOR (attn Ltc Buellesbach), C-MNB(S), CONTCO-NL, 3 November 1999, Subject: Policy Towards suspected (war) criminals in Orahovac;

94 Reinhardt quoted in: Edith B. Wilkie, Beth C. DeGrasse and Richard W. Roan, A Force for Peace and Security: U.S. and Allied Commander’s Views of the Military Role in Peace Operations and the Impact on Terrorism of States in Conflict (Report, Peace Through Law Education Fund 2002) 48. When visiting Orahovac in December after a terror attack had taken place against a Serbs bar, killing one and leaving ten wounded, Reinhardt was told that the hatred was fed by Albanian claims of remaining war criminals. He showed his willingness to take action when he asked the local UNMIK Police commander and Van Loon’s Dutch successor Lieutenant Colonel Van Maanen if a house to house search for war crimes suspects was a possible solution. They both told the General such an operation was practically impossible, since suspects could easily hide by hopping over to their neighbours. They also feared that poking in this hornets nest would result in a loss of trust that finally seemed to be growing in UNMIK and KFOR. See: Klaus Reinhardt, KFOR: Streitkräfte für den Frieden: Tagebuckaufzeichnungen als Deutscher Kommandeur im Kosovo (Frankfurt am Main 2002) 271.

95 Referring to operations in Bosnia and Kosovo, Jackson added: “Let’s face it, we’ve been doing it with the military for some while now.” Jackson quoted in: Wilkie, Grasse and Roan, A Force for Peace and Security, 49.

96 CAD, 1 (NL) Arty Bn KFOR I, Correspondentie-archief, doos 1, Preambel between UNMIK and MNB(S): “As of 27.10.1999, 1800 hours UNMK-Police in addition to KFOR will take over resp for upholding and maintaining civil law and order in the AOR of MNB(S) as follows: 1. Police Primary/Investigative Authority. Includes the control of enforcing criminal codes, conducting investigations, making arrest for criminal offences and community interface. It is understood that KFOR’s rights in criminal measures are not limited by this provision. […]”

97 CAD, 1 (NL) Arty Bn KFOR I, Correspondentie-archief, box 1, no. 11143, Contco aan C-11 AFDRA (Fax). Onderwerp: Russische CP en Oorlogsmisdadigers (12 November 1999). This directive also announced the impending alteration of the Dutch translation of Directive no. 8.

98 CAD, 1 (NL) Arty Bn KFOR I, Correspondentie-archief, box 1, no. 11150, C-Contco aan C-11 AFDRA:. Onderwerp: oorlogsmisdadigers (13 November 1999); CAD, 1 (NL) Arty Bn KFOR I, Correspondentie-archief, box 1, doc. 11156, Deputy commander and SNO (NL) Kol P.K. Smit aan C-Contco.

99 These motives were stated several day later in: CAD, 1 (NL) Arty Bn KFOR I, Correspondentie-archief, box 7, Ministerie van Defensie (Defensiestaf), Aanwijzing CDS Nr. A-19 (18 November 1999).

100 Interview with Colonel Anton van Loon (The Hague, 13 February 2003).

101 CAD, 1 (NL ) Contco I&II, Werkarchief, box 1, Vraagpunten en regelingen Op Joint Guarantor, 21 June 1999 (PV NAVO). Considering the Dutch national obstructions to their own troops proactive role in arrests in Kosovo, it may come as a surprise that the Dutch representative to NATO was amongst those propagating a more assertive role. However, as a traditional propagandist of international law and host to the ICTY, the Dutch Government was not against arrests, and propagated elaborate support to the tribunal’s investigators. The Dutch Foreign Minister, Jozias van Aerssen, his colleague Defence Minister Frank de Grave and the Dutch ambassador to NATO were all eager to emphasize the importance of successful and broad cooperation between KFOR and the international tribunal (See note 84). The Dutch government did not object to arrests as long its as KFOR headquarters ordered them after official indictments and request by ICTY or, in the case of Kosovo local UN courts, and after the Dutch Chief of the Defence staff had reviewed and agreed to proceed—a
policy and procedures similar to that in Bosnia. For this purpose it even kept open the possibility of using its own Special Forces.

102 KFOR Rules of Engagement (L31).

103 CAD, 1 (NL) Arty Bn KFOR I, Correspondentie-archief, box 1, no. 11194, DCBC Sitrep, 18 November 1999. ("Bijstand oppakken personen door UNMIK hoort nu ook bij takenpakket KFOR.")


105 Ibid., Maj. Mr J.C. Groenheijde to NL-SNR MNB(S), C-1(NL) Afrda/C-1(NL)Gnhulpbat, Betreft: Aanhouden verdachten (11 November 1999).


107 Michel Maas, "Terugkerende Serviërs Zijn Teken van Hoop", De Volkskrant, 7 February 2000; UNMIK-KFOR Press Briefing Transcript 2 February 2000: "On 31 January in Prizren, UNMIK Police arrested two Serb men from Velika Hoca in the area of Orahovac on charges relating to crimes committed during the recent conflict. They were acting on a warrant issued by the Prizren prosecutor."

108 The number of indictees is that of police statistics reported in the press. See: Human Rights Watch, "Under Orders", 2001

109 Only in February 2003 KFOR arrested the first three former UCK member that had been formally indicted by the ICTY for war crimes committed against both Serb and Albanian civilians. "Drie Albanen naar VN-Tribunaal in Den Haag", NRC Handelsblad, 28 February 2003; NRC Handelsblad, 17 July 2003; Early 2002 KFOR had arrested three former UCK members, but these were charged with crimes committed against “collaborating” Albanians during the 1998-1999 war.


111 On 2 November 2001 the initial conviction of Kolasinac was reversed, but after an appeal by the prosecutor he was convicted to eight years imprisonment. NRC Handelsblad, 4 February 2003.

112 OSCE, "Kosovo’s War Crimes Trials: A Review" (September 2001).