

**UNITED
NATIONS**

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

Case No. IT-04-83-T
Date: 13 June 2008

IN THE TRIAL CHAMBER

Before: Judge Bakone Justice Moloto, Presiding
Judge Frederick Harhoff
Judge Flavia Lattanzi

Registrar: Mr. Hans Holthuis

THE PROSECUTOR

v.

RASIM DELIĆ

PUBLIC

**NOTICE OF PUBLIC FILING, PROSECUTION'S FINAL
TRIAL BRIEF**

The Office of the Prosecutor:

Daryl A. Mundis

Counsel for the Accused:

Vasvija Vidović

THE INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIA

Case No. IT-04-83-T

THE PROSECUTOR

v.

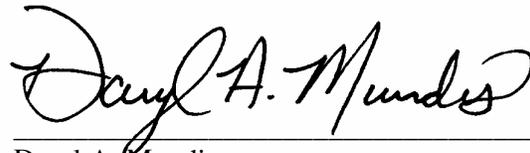
RASIM DELIĆ

PUBLIC

NOTICE OF PUBLIC FILING, PROSECUTION'S FINAL TRIAL BRIEF

1. The Prosecution hereby files a public version of the "Prosecution's Final Trial Brief", filed confidentially on 30 May 2008. In preparing this public version of the Brief, the Prosecution has redacted references to, or information contained in, exhibits admitted under seal as well as all information likely to reveal the identity of any protected witness.

Word Count: 56



Daryl A. Mundis
Senior Trial Attorney

Dated this 13th day of June 2008
At The Hague, The Netherlands

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RASIM DELIĆ**PUBLIC [REDACTED VERSION]**

PROSECUTION'S FINAL TRIAL BRIEF

The Office of the Prosecutor:

Mr. Daryl A. Mundis
Ms. Laurie Sartorio
Mr. Matthias Neuner
Mr. Kyle Wood
Mr. Aditya Menon

Counsel for the Accused:

Ms. Vasvija Vidović
Mr. Nicholas David Robson

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I. THE PROSECUTION CASE IN A NUTSHELL

2. From the first day of his command of the ARBiH, 8 June 1993, **Rasim DELIĆ** knew that Muslim extremist “Mujahedin” fighters in Central BiH were prone to murder and beat non-Bosniak civilians and POW. On that day, following successful ARBiH combat that cleared Central BiH’s Bila Valley of armed Bosnian Croat opposition, a group of Mujahedin under his effective control murdered at least 24 Bosnian Croat civilians and captured HVO soldiers in a hamlet called Bikoši.

3. **Rasim DELIĆ** was informed repeatedly about this crime, but failed to take the necessary and reasonable measures to punish the perpetrators. Rather, he personally signed an order granting men from the same formation their stated wish of becoming an official, formal unit of the ARBiH: the EMD. After **Rasim DELIĆ** formed the EMD, time and again over the next two-and-a-half years, the EMD was given the most difficult, dangerous and pivotal battlefield assignments.

4. In July 1995 and again in September 1995, the EMD repeated its behaviour from June 1993, murdering more than 50 Bosnian Serb POW at the EMD camp near the Gostović River and beating and otherwise mistreating others.

5. In July and again in September 1995, **Rasim DELIĆ** was put on notice of these crimes; he again failed to take the reasonable and necessary steps to prevent and punish the perpetrators. Rather, **Rasim DELIĆ** awarded members of the unit the army’s highest honours and praised them both in the media and at a farewell function held shortly after he formally disbanded the unit.

6. The evidence proves beyond a reasonable doubt that **Rasim DELIĆ** is guilty of Murder and Cruel Treatment for failing to prevent and/or punish the EMD for the crimes they committed in Central BiH.

II. A USER’S GUIDE TO THIS BRIEF

7. The Prosecution has sought to strike a balance between setting forth the facts that have been established during this trial and the need to be concise, recognising that the Trial Chamber has heard and read all of the evidence in this case. At the same

time, the Prosecution has endeavoured to introduce a number of features into this Brief to make it easier to read and digest. For example, certain exhibits have been embedded into the Brief to avoid the need to refer to the exhibit at all. Similarly, tables have been used to summarise the evidence on key points. These tables, which are an integral part of this Brief, are set forth in Annex and allow the reader to comprehend the evidence in a summary format. In order to rely upon evidence given in closed session or under seal, this Brief is being filed confidentially. A redacted public version of this Brief will be filed in due course.

8. More than anything else, this case is about whether **Rasim DELIĆ** had command and effective control over the fighters who committed the crimes in the Amended Indictment. In recognition of this, the Prosecution has placed its detailed analysis of this question at the beginning of the brief, before its analysis of each individual crime base. Thus, the Brief can be read in two ways: topically by reading the section on command and effective control first, or chronologically, by skipping to the crime-base evidence first before returning to the section on command and effective control.

9. As was the case with the Prosecution's Pre-Trial Brief, numerous shortened citations and abbreviations have been adopted for ease of reference. Thus, the following shortened citations are used throughout this Brief:

- **Exhibits** are referred to as Exh.# (public) *or* Exh.# (confidential). Unless other wise noted, the Prosecution cites to the English-language version of the exhibit.
- **Trial Testimony** is cited to under the surname (or pseudonym) of the witness, transcript page number(s) (denoted by "T.#"), date of testimony and indication as to whether the testimony was given in open, closed or private session.
- **Written witness statements admitted pursuant to Rule 92 *bis* Rule 92 *ter* or Rule *quater*** are cited to under the surname (or pseudonym) of the witness, the rule pursuant to which the statement was admitted, the exhibit number ("Exh.#"), the English version page number (as in Ringtail) that contains the evidence relied upon and an indication whether the statement is public or confidential.
- **Agreed Facts** are referred to AF#, with the number indicating the Agreed Fact as set forth on the table filed on 29 May 2007.

10. In the interest of efficiency, the Prosecution uses a number of abbreviations throughout this Brief. The Glossary contains a full list of these abbreviations and their meanings.

III. A SUGGESTED APPROACH TO EVALUATING THE EVIDENCE

11. Based upon the Trial Chamber's Guidelines and the jurisprudence of the International Tribunal, the following approach to evaluating the evidence is suggested.

A. Preliminary Observations on Witness Credibility

12. Although most witnesses testify truthfully most of the time, a number of factors in this respect merit brief discussion. Some witnesses tell the truth about some matters, but not about other issues. Other witnesses may generally be truthful, but avoid answering questions put to them in cross-examination or by the Trial Chamber. While some witnesses have honestly (and understandably) forgotten certain aspects of the events that transpired more than a decade ago, other witnesses may have used the fact that so much time has elapsed as an excuse to repeatedly indicate that they do not recall the answers to specific questions. Sometimes, witnesses spontaneously utter comments in response to a question and are then unable (or unwilling) to elaborate. Finally, some witnesses are prone to exaggeration during certain aspects of their testimony, whether about their own role in the events in question or about what they (or their family) endured during the war. All of these phenomena have occurred during the course of this trial and the one thing that they have in common is that they affect—to varying degrees—the credibility of the witnesses.

13. It is particularly important to evaluate the credibility of each witness on at least two different levels. First, how does the testimony of this witness “fit” into the other evidence adduced at trial? Second, did the demeanour of the witness during their *viva voce* testimony give any indications as to the truthfulness of the witness?

14. The Trial Chamber must exercise extreme caution when considering the credibility of the testimony of many of the former ARBiH witnesses concerning the Mujahedin and the EMD, not because of anything inherently suspect about the

testimony of these witnesses in general, but rather because of the specific evidence of these witnesses concerning the foreign fighters.

15. Care must be exercised for the following reasons. First, as described in the following main section, the evidence demonstrates that the Mujahedin came to BiH to assist the Bosniaks in their war effort. Over time, however, and notwithstanding the fact that the Accused ordered the formation of the EMD, the Defence led evidence that the unit was “out of control” and failed to follow the orders of the ARBiH command structures. This may represent a form of historical revisionism and must be dealt with carefully. Second, currently serving (and recently retired) ARBiH military officers would have a reason for claiming that the Mujahedin were not part of the ARBiH, or that the EMD was an “out of control” unit in light of the fact that many of the Mujahedin or EMD soldiers were involved in the commission of serious crimes, thus calling into question the integrity and professionalism of the ARBiH. Third, the mere presence and employment in combat of the Mujahedin and EMD during the war in BiH casts serious doubts on the sincerity of the ARBiH’s stated goal of maintaining a secular and multi-ethnic Bosnia where all nationalities could live peacefully. Fourth, the Defence has led some evidence that the Mujahedin were not under the control of the ARBiH 3K and that the issues presented by the presence of these fighters was something that could be resolved only at the most senior political levels. While the Prosecution disputes this evidence, as will be demonstrated below, it must be noted that if some of the Defence witnesses *believe* this to be the case—while lacking a solid basis for that belief—then that could impact upon the credibility of their evidence. For each of these reasons the Prosecution urges the Trial Chamber to exercise caution when evaluating the witness testimony concerning the Mujahedin and the EMD.

16. Consequently, many of the witnesses have an interest in distancing the ARBiH or themselves from the actual perpetrators of the crimes alleged in the Indictment.

17. In short, the Prosecution points the Trial Chamber to the helpful comments of the Trial Chamber in the *Stakić* case:

Special caution is warranted in cases like this one which have both a highly political, ethnic and religious element and a complex historical background. The Judges are convinced that for the most part, most witnesses sought to tell the Chamber what they believed to be the truth. However, the personal involvement in tragedies like

the one in the former Yugoslavia often consciously or unconsciously shapes a testimony.¹

B. Weight to be Given to Documents

18. The overwhelming majority of Prosecution exhibits were military documents, which were produced contemporaneously with the events set forth in such documents. These military documents are inherently reliable and evidence has been led demonstrating how such documents were transmitted and received. Moreover, because the issues addressed in many of the military documents relate to very serious matters—including matters of life and death—accuracy in producing such documents is important. This would tend to increase the reliability of such documents.

19. As contemporaneous “business records” of the ARBiH, HVO, UNPROFOR and BRITBAT, even those military documents tendered into evidence without the benefit of a witness should be given the appropriate weight due to them based on an evaluation of all the evidence before the Trial Chamber. This is by no means the first case where documents have been admitted from the bar table without any witnesses to testify about such documents. In the *Stakić* case, for example, the Prosecution tendered from the bar table 101 out of the total 438 documents admitted into evidence, whereas in the *Brdanin* case, 1803 out of 2736 exhibits appear to have been admitted without a witness.² Nevertheless, Judges in those cases found the documents to be particularly important, with the Judges in *Stakić* noting that “the Trial Chamber relied primarily on documentary evidence.”³

20. Many of these documents provide further circumstantial evidence pointing to overall command and control over the EMD. As such, the documents must be considered in conjunction with each other, and the oral evidence heard at trial. While an individual a piece of evidence may be insufficient to establish a particular fact, that piece of evidence may prove to be revealing when taken together with other facts. In

¹ *Stakić* TJ, para.15.

² Although the Defence in the *Brdanin* case did not object to most of the documents tendered from the bar table, the Prosecution submits that the issue of the *weight* to be given a document does not depend on whether a party objected to its *admissibility*.

³ *Stakić* TJ, para.14.

this sense, circumstantial evidence is a projection of multiple items of evidence that are related to each other in various ways, it is not like a single chain, whereby when one link fails, the entire chain breaks—rather it is like chainmail armour—the links are intertwined in such a way that when one link fails, the armour’s strength is not diminished.

C. What Constitutes a Reasonable Doubt?

21. Where the Defence, as in this case, have advanced a number of arguments in seeking to cast doubt on the Prosecution case, the Trial Chamber must ask itself whether the conclusion to be drawn from each Defence argument is, in and of itself, reasonable in light of all of the evidence before the Chamber. If arguments have conflicting conclusions, then the plausibility of one must necessarily diminish the reasonableness of the other. In essence, to be successful, the Defence must present a conclusion that is sufficiently developed that when considered against all of the evidence in the case, that conclusion is not merely possible, but rather sufficiently grounded on a real and tangible basis such that a reasonable person would be able to reach the conclusion.

D. The Impact of the *Hadžihasanović & Kubura* AJ on This Case

22. Although the Trial Chamber is clearly bound by decisions of the Appeals Chamber, the Prosecution urges the Trial Chamber to exercise extreme caution in applying the factual findings concerning the EMD and the Mujahedin from that Judgement to the current proceedings. In reviewing the legal conclusions reached by the *Hadžihasanović & Kubura* Trial Chamber, the Appeals Chamber obviously relied upon the facts as determined by that Trial Chamber.

23. The Prosecution stresses that the “evidence package” that was before the *Hadžihasanović & Kubura* Trial Chamber differs in materially from the evidence before the Trial Chamber in the current proceedings. This is especially the case with respect to the witnesses that were called in the respective cases. In the *Hadžihasanović & Kubura* trial, the Prosecution called no members of the EMD; no Bosniaks who served with the Mujahedin from Poljanice; and no low-level ARBiH soldiers from units that allegedly fought alongside the Mujahedin in joint combat or which had foreign soldiers within such ARBiH units.

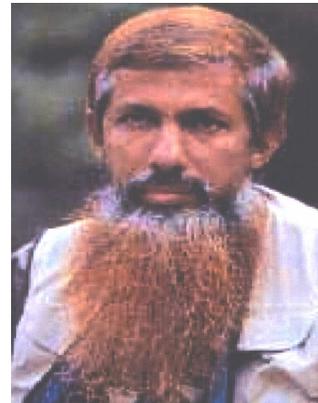
24. By contrast, and as described in greater detail below, the Prosecution in the current case called a number of witnesses, including “insiders” who testified about these matters.

25. Consequently, and in light of the principle that the Trial Chamber should consider the charges against General **Rasim DELIĆ** in light of the entire trial record, the Prosecution urges the Trial Chamber to consider any legal conclusions of the Appeals Chamber based upon the *Hadžihasanović & Kubura* TJ factual findings with extreme caution.

IV. THE ARRIVAL OF FOREIGN MUJAHEDIN IN BIH AND THE STORY OF THE EMD IN A NUTSHELL

A. Abdel AZIZ and the Mujahedin

26. Foreign Mujahedin fighters began arriving in Zenica and Travnik in 1992, particularly during the second half of that year.⁴ These combatants arrived in BiH to conduct a “jihad”.⁵ They came from both the Arab world and European countries, including Albania, England and Germany.⁶ They entered BiH via the Republic of Croatia.⁷ Most had gained combat experience on the battlefields of Afghanistan.⁸



Exh.53: Abdel AZIZ.

27. In 1992, Abdel AZIZ⁹, aka. “Red Beard” or “Crvena Brada,” was the leader of a group of foreign Mujahedin combatants in BiH.¹⁰ AZIZ had fought in Afghanistan

⁴ AF125.

⁵ Hogg, T.347-348, 10-07-07 (open session).

⁶ AF128; Exh.52 (public), p.4.

⁷ AF130.

⁸ Exh.52 (public), p.2.

⁹ Variations on his name in the transcript include “Abu Abdel AZIZ”, “Ebu Abdel AZIZ”, “Abdul AZIZ”, and “Abu Abdel AZIZ BARBAROS”.

for six years before arriving in BiH.¹¹ He had also engaged in “jihad” in the Philippines, Kashmir and Africa.¹² Andrew HOGG interviewed AZIZ for “The Sunday Times” of London in August 1992.¹³ During that interview, AZIZ told HOGG that the Muslims in BiH had “opened their hands” to the Mujahedin and “welcomed” them into the country because they knew that the Mujahedin were there to “defend” the Muslims.¹⁴ HOGG reported in August 1992 that “the mujahedin fighters apparently have the backing of Alija IZETBEGOVIĆ, the Bosnian President and his government.”¹⁵ AZIZ told Ali Ahmed Ali HAMAD, a combatant and later ground commander within the Mujahedin group that AZIZ formed, that he had “had contact with the military and political leadership in Sarajevo”, who had given AZIZ “their full support and that they had agreed with him where he and his unit would be accommodated.”¹⁶

B. AZIZ’s Mujahedin Join the Travnik MS

28. For much of 1992, AZIZ’s Mujahedin fighters joined the Travnik MS.¹⁷ During his August 1992 interview with HOGG, AZIZ confirmed that the Mujahedin in BiH were under the “guidance” and “control” of the “Muslim Forces”.¹⁸ AZIZ can be seen speaking at the Travnik MS’ oath swearing ceremony in exhibit 55.¹⁹

¹⁰ Hamad, T.15, 39, 07-09-07 (open session).

¹¹ Exh.52 (public), pp.3-4.

¹² Exh.52 (public), p.13.

¹³ Hogg, T.311, 10-07-07 (open session).

¹⁴ Exh.52 (public), p.7.

¹⁵ Exh.54 (public), p.1.

¹⁶ Hamad, T.25, 07-09-07 (open session).

¹⁷ Hamad, T.15-16, 07-09-07 (open session); Exh.1026 (public).

¹⁸ Exh.52 (public), p.2.

¹⁹ Exh.55 (public); Hogg, T.338-339, 10-07-07 (open session); Ribo, T.7108-7109, 06-03-08 (open session).

29. The Travnik MS ceased to exist after the 7MMB was formed on 19 November 1992 as a unit of the 3K.²⁰ Most of the soldiers from the Travnik MS soldiers joined the 1st Battalion of the 7MMB.²¹ Thus, Mujahedin fighters who had been a part of the Travnik MS continued to undertake combat missions under the command of the 3K or its subordinated units. This subject is addressed in section V of this Brief.

C. Bases Occupied by the Mujahedin Group Formed by AZIZ

30. The Mujahedin commanded by AZIZ were headquartered in a variety of locations. When HOGG met AZIZ in August 1992, he was based at the Mehurići school.²² Arrangements had been made to accommodate AZIZ there in July 1992, when Zihnija AGANOVIĆ, the Commander of the Regional Staff of the Patriotic League, and his associate, Adil LOZO, informed the director of the school that a Mujahedin unit needed to be billeted there.²³ According to HAMAD, the Mehurići school housed the “Mujahedin command”.²⁴ By the end of 1992, when the 1st Battalion of the 306MB moved into the school, the Mujahedin moved out, though they continued to store food and other logistics in the upper part of the building, and were seen in the building as late as June 1993.²⁵ The Mujahedin moved to a training camp near the village of Poljanice close to Mehurići, that was in or around the village of Poljanice.²⁶ The camp had been established sometime on or before September 1992.²⁷ The camp had a variety of names, including, “Zapode”²⁸, “Savici Kuce”²⁹,

²⁰ AF63; Exh.107 (public).

²¹ Ribo, T.7111-7112, 06-03-08 (open session); Exh.1026 (public).

²² Hogg, T.328-329, 10-07-07 (open session).

²³ Ribo, T.7011-7012, 05-03-08 (open session).

²⁴ Hamad, T.15-16, 07-09-07 (open session).

²⁵ Fuško, T.1142-1144, 23-07-07 (open session); Delalić, T.1763, 27-08-07 (open session); Negovetić, T.6771, 15-01-08 (open session).

²⁶ Fuško, T.1142-1143, 23-07-07 (open session); Delalić, T.1763, 27-08-07 (open session).

²⁷ Hamad, T.15-16, 07-09-07 (open session).

²⁸ Šaban Alić, T.640, 16-07-07 (open session); Begović, T.405, 408-409, 11-07-07 (open session).

²⁹ Delalić, T.1763, 27-08-07 (open session); Pušelja T.1019-1020, 20-7-07 (open session).

“Mehurići”,³⁰ and “Poljanice”³¹. In this brief the camp will be referred to as the Poljanice Camp.

31. Soon after the formation of the 7MMB, and no later than April 1993, some Mujahedin fighters from the Mehurići school, went to the Bilmište Barracks in Zenica, a 7MMB facility.³² These Mujahedin fighters left the Bilmište Barracks in the summer of 1993. Some went to the Poljanice camp³³ and others moved into the Vatrostalna building in Zenica,³⁴ a facility that was assigned to the Mujahedin by the 3K Command around the time when the EMD was formed.³⁵ When it was formed on 13 August 1993, the EMD was based at the Poljanice camp and the Vatrostalna building in Zenica, and also had a training camp in Orašac³⁶.

D. Other Prominent Mujahedin Leaders in the Group Formed by AZIZ

32. Several Mujahedin leaders within AZIZ’s group figure heavily in the story told during this trial. These men are: Dr. Abu HARIS; Abu MAALI³⁷; WAHIUDDIN³⁸; and MUATEZ³⁹. Abu HARIS would, by 1993, assume command over the Mujahedin group that AZIZ had formed.⁴⁰ He continued in this position after

³⁰ Hamad, T.15-16, 07-09-07 (open session); Awad, T.26, 08-02-08 (open session); Exh.136 (public), 181 (public).

³¹ Hasib Alić, T.559, 13-07-07 (open session); Fuško, T.1086, 23-07-07 (open session).

³² Hamad, T.48, 07-09-07 (open session); Awad, T.8-9, 08-02-08 (open session).

³³ Awad, T.22-23, 08-02-08 (open session).

³⁴ Awad, T.23-24, 08-02-08 (open session).

³⁵ Awad, T.24, 08-02-08 (open session); Exh.1133 (public).

³⁶ Begović, T.438-439, 11-07-07 (open session); [REDACTED]

³⁷ Variations on his name in documentary evidence and the transcript include, “Abu EL MAALI”, “Abu MALI”, and “Abu MA’ALI”.

³⁸ Variations on his name in the transcript include, “VAHIDIN”, “WAHIDDIN” “WAHIDDIN MASRI”, “WAHIUDDIN”, “WAHIUDDIN”, and “WAHIUDDIN EL MISRI”.

³⁹ Variations on his name in documentary evidence and the transcript include, “MOATEZ BELLAH”, “MOATEZ”, “MUTAS”, “MUATEZ BILLAH”, and “MUATEZ MASRI”.

⁴⁰ Hasib Alić, T.576, 13-07-07 (open session); Šaban Alić, T.644, 16-07-07 (open session); Awad, T.34, 08-02-08 (open session).

the formation of the EMD.⁴¹ Abu MAALI would assume Abu HARIS' responsibilities as the commander of the EMD by July 1994.⁴² He served in this position until the EMD was disbanded in December 1995.⁴³ WAHIUDDIN served as the Military Chief of the Mujahedin.⁴⁴ A position that he continued to hold after the EMD was formed, and until his death on 2 October 1993.⁴⁵ [REDACTED].⁴⁶ MUATEZ continued in this position until his death in September 1995.⁴⁷



Exh.92: Abu HARIS, identified by PW2.



Exh.70: Abu EL MAALI, identified by BEGOVIĆ.

⁴¹ Awad, T.9, 08-02-08 (open session); PW2, T.751, 17-07-07 (open session); Begović, T.418-419, 11-07-07 (open session); Exh.719 (public), p. 2.

⁴² Exh.570 (public), p.8.

⁴³ Exh.111 (public), p.1; Exh.824 (public).

⁴⁴ Hamad, T.24, 07-09-07 (open session).

⁴⁵ Begović, T.418-419, 11-07-07 (open session); [REDACTED]; PW9, T.5585-5586, 15-11-07 (open session); Exh.835 (public).

⁴⁶ [REDACTED]

⁴⁷ PW9, T.5578, 15-11-07 (open session).



Exh.92: WAHIUDDIN, identified by PW2.



Exh.92: MUATEZ, identified by PW2.

E. The Formation of the EMD

33. The EMD was formed on 13 August 1993. Consultations between the ŠVK and the Mujahedin at the Poljanice camp concerning its formal integration into the ARBiH started as early as around May 1993.⁴⁸ On 13 June 1993, **Rasim DELIĆ** was updated by his 3K Commander Enver HADŽIHASANNOVIĆ that:

[V]olunteers from foreign countries (Arabs and Turks), as well as a group of Bosnians trained by them [...] are still contemplating the proposals made to them by RBH Army Chief of Staff. They [...] wish to communicate exclusively with top officials of the RBH Army Staff.”⁴⁹

34. On 23 July 1993, **Rasim DELIĆ** authorized Sakib MAHMULJIN, then a member of his 3K Command, to carry out on his behalf:

[N]ecessary negotiations and arrangements with the representatives (commanders) of the Mujahedin unit from Zenica regarding [...] [t]he inclusion of *Mujahedin* unit in the RBH Army [and] [t]he use of the unit in [the] joint struggle against the Chetniks and the manner of its resubordination to the 3rd Corps command.⁵⁰

⁴⁸ Exh.136 (public); Exh.181 (public), p.2.

⁴⁹ Exh.179 (public).

⁵⁰ Exh.271 (public).

35. The Mujahedin proposed through the 3K that they be formally integrated into the ARBiH.⁵¹ The proposal noted the positions occupied by Abu HARIS, Abu MAALI, WAHIUDDIN and MUATEZ, and the location where each was based.⁵² Based on the Mujahedin proposal, and **Rasim DELIĆ's** authorization to MAHMULJIN, on 12 August 1993, the 3K submitted a proposal to **Rasim DELIĆ** concerning the "formation of a detachment of foreign citizens".⁵³ A day later, **Rasim DELIĆ** signed the order establishing the EMD.⁵⁴

36. Sometime in August 1993, after **Rasim DELIĆ's** order was issued, a formal ceremony was held at the Poljanice camp to commemorate the EMD's formation.⁵⁵ MAHMULJIN and Mehmed ALAGIĆ, then the Commander of the OG BK, were present at this ceremony.⁵⁶

37. From their formation on 13 August 1993 until their disbandment in December 1995, the EMD engaged in combat under the authority of the 3K or its subordinate units. This subject is addressed in Section V of this Brief.

F. Disbandment of the EMD

38. In December 1995, the EMD was disbanded following the Dayton Peace Agreement which mandated the withdrawal of foreign forces from the territory of BiH.⁵⁷ **Rasim DELIĆ** issued an order to the 3K to disband the unit on 12 December 1995.⁵⁸ By 13 December 1995, BiH officials were advised that the EMD would "accept all decisions of [the] political and military leadership" of BiH.⁵⁹

⁵¹ Awad, T.34, 08-02-08 (open session); Exh.272 (public).

⁵² Awad, T.38, 08-02-08 (open session).

⁵³ Exh.272 (public).

⁵⁴ Exh.273 (public); Divjak, T.2188, 12-09-07 (open session).

⁵⁵ Awad, T.42, 08-02-08 (open session).

⁵⁶ Exh.1127 (public); Awad, T.50, 08-02-08 (open session).

⁵⁷ Exh.48 (public), p.10 (*see art. III*); Exh.824 (public); Exh.900 (public).

⁵⁸ Exh.824 (public).

⁵⁹ Exh.365 (public), pp.1-2.

39. **Rasim DELIĆ**'s order was implemented through a subsequent order issued by the 3K commander MAHMULJIN to the EMD on 14 December 1995.⁶⁰ Kadir JUŠIĆ, the 3K Chief of Staff at the time, confirmed that the EMD was disbanded, "they were disarmed, had their equipment taken away from them, and that those troops were demobilised."⁶¹ The EMD reported to the 3K during the disbandment process. [REDACTED]⁶² [REDACTED]⁶³ On 31 December 1995, the 3K reported to the ŠVK that the recovery of "the weapons and MES /explosive ordinance/ from the 'El Mudžahedin' Detachment has been completed."⁶⁴ The weaponry handed over to the 3K included tanks, infantry weapons, a small cannon, mortars, hand held rocket launchers and ammunition.⁶⁵ The EMD returned the Vatrostalna facility to the 3K following an order concerning the recovery of this facility issued to the EMD by the 3K commander MAHMULJIN on 28 December 1995.⁶⁶

40. On 1 January 1996, **Rasim DELIĆ** bid farewell to the EMD troops alongside other senior ARBiH commanders at an event held at the Dom Armije in Zenica.⁶⁷ **Rasim DELIĆ** and MAHMULJIN made speeches at the event.⁶⁸ In his speech, **Rasim DELIĆ** thanked the Detachment's membership,⁶⁹ welcoming the future military engagement of its foreign members⁷⁰. **Rasim DELIĆ** also proclaimed that:

I never concealed the fact that this unit existed, that it is a unit of the Army of Bosnia and Herzegovina, **that it is part of the system of**

⁶⁰ Exh.900 (public).

⁶¹ Jusić, T.2650, 19-09-07 (open session).

⁶² [REDACTED]

⁶³ [REDACTED]

⁶⁴ Exh.1132 (public), p.3.

⁶⁵ Awad, T.128-129, 09-02-08 (open session).

⁶⁶ Awad, T.127-128, 09-02-08 (open session); Exh.1133 (public).

⁶⁷ [REDACTED] Awad, T.131, 09-02-08 (open session); Exh.1089 (public).

⁶⁸ Only the audio component of Exh.833 (public) relates to the EMD farewell event.

⁶⁹ Exh.833 (public); [REDACTED] Awad T.133, 09-02-08 (open session).

⁷⁰ Exh.833 (public); [REDACTED]

command and control of the Army of Bosnia and Herzegovina, and I confirmed it a few days ago at a meeting at Sarajevo airport with the commanders of the NATO forces.⁷¹

V. COMMAND AND CONTROL OVER THE MUJAHEDIN BASED IN POLJANICE AND THE EMD

A. Summary

41. The Mujahedin based in Poljanice, who were subsequently incorporated into the EMD upon the formation of that unit, were under the effective control of the ARBiH from at least 8 June 1993 until at least 31 December 1995.

42. Within this time span two periods have to be distinguished: the period *before* the official formation of the EMD on 13 August 1993 and the period thereafter. Before 13 August 1993 the superior-subordinate relationship between **Rasim DELIĆ** and the Mujahedin from Poljanice was based on his *de facto* authority.

43. Following its official formation in mid-August 1993 the EMD was *de jure* subordinated to the 3K and to **Rasim DELIĆ** as the head of the ARBiH. The Appeals Chamber in the *Čelebići* case held that “the possession of *de jure* power in itself may not suffice for the finding of command responsibility if it does not manifest in effective control (...).”⁷² The Appeals Chamber ruled in the *Hadžihasanović & Kubura* case that “even when a superior is found to have *de jure* authority over his subordinates, the Prosecution still has to prove beyond reasonable doubt that this superior exercised effective control over the his subordinates unless the accused does not challenge having exercised such control.”⁷³ Effective control is defined as the material ability to prevent or punish the commission of the offence. Customary law has specified a standard of *effective* control, although it does not define precisely the means by which the control must be exercised.⁷⁴ The material ability of a commander

⁷¹ Exh.833 (public) [**emphasis added**]. [REDACTED]

⁷² *Čelebići* AJ, para.197; *Galić* TJ, para.173.

⁷³ *Hadžihasanović* AJ, para.21.

⁷⁴ *Čelebići* AJ, paras.257, 266.

to prevent and punish the criminal conduct of the EMD is a “minimum requirement” for the recognition of a superior subordinate relationship for the purposes of Article 7(3) of the Statute.⁷⁵

44. In contrast to effective control, mere substantial influence is not sufficient under customary law to incur superior criminal responsibility.⁷⁶ It is unclear that in its natural sense the concept of “substantial influence” entails any necessary notion of control at all.⁷⁷ Co-operation with the EMD in joint actions resulting in mere military benefit of the ARBiH is insufficient; responsibility of a commander is triggered only upon a showing that the members of the EMD were his subordinates.⁷⁸

45. The *Hadžihasanović & Kubura* Trial Chamber developed indicators to determine effective control over the Mujahedin from Poljanice and the EMD and these indicators were approved by the Appeals Chamber.⁷⁹

46. The determination of whether the Accused **Rasim DELIĆ** had a superior-subordinate relationship to the EMD and if so, which *degree of subordination* existed will be dependent upon these indicators and additional factors of effective control.

B. Proposed indicators and factors of command and control

47. The Prosecution submits that the indicators proposed below are distilled from the jurisprudence of the International Tribunal as well as from facts specific to the current case involving the Mujahedin from Poljanice and later the EMD. The Prosecution proposes the following, non-exhaustive list of indicators of effective command and control:

⁷⁵ *Hadžihasanović & Kubura* AJ, para.231.

⁷⁶ *Brdanin* TJ, para.276; *Hadžihasanović*, 98bis Decision, para.164; *Čelebići* AJ, paras.196, 197, 256; *Blaškić* AJ, para.67.

⁷⁷ *Čelebići* AJ, paras.257, 266.

⁷⁸ *Hadžihasanović* AJ, paras.213-214.

⁷⁹ The indicators developed by the Trial Chamber in the *H&K* were (i) the power to give orders and have them executed, (ii) the conduct of combat operations involving the forces in question (iii) the absence of any other authority over the forces in question, (iv) the authority to apply disciplinary measures, (v) the authority to promote or to remove soldiers; and (vi) the participation of Accused in negotiations regarding the troops in question (*Hadžihasanović* TJ, paras. 851, 85-89, *Hadžihasanović* AJ, paras.192-193).

- **Rasim DELIĆ** commanded a hierarchy which included the Mujahedin/EMD⁸⁰
- **Rasim DELIĆ** created and disbanded the EMD
- The ARBiH conducted combat involving Mujahedin/EMD⁸¹
 - Frequency of EMD involvement in ARBiH combat
 - ARBiH superiors defined combat goals
 - ARBiH superiors approved combat plans
- Role of EMD in ARBiH combat
 - Preparation
 - ARBiH subordinated⁸² EMD to other units
 - ARBiH transferred EMD to AoR of combat activities
 - ARBiH combat reconnaissance done by EMD
 - EMD trained other ARBiH units
 - ARBiH provided logistics to EMD
 - ARBiH replenished the EMD with manpower
 - Combat
 - ARBiH issued orders to attack and concerning ceasefires⁸³
 - EMD spearheaded combat operations
 - ARBiH issued orders to the EMD during combat
 - IKM were used by ARBiH and EMD
 - ARBiH provided artillery support to EMD
 - After combat

⁸⁰ *Aleksovski* AJ, para.74; *Čelebići* AJ, para.206.

⁸¹ *Hadžihasanović* TJ, paras.83, 851.

⁸² *Hadžihasanović* AJ, paras.199-200; *Strugar* TJ, para.397.

⁸³ *Strugar* TJ, para.396.

- EMD held ARBiH frontlines until other ARBiH units could relieve them
- ARBiH issued orders and the EMD executed them⁸⁴
 - ARBiH issued orders to the EMD, which executed those orders
 - ARBiH assigned installations to EMD
 - ARBiH transferred soldiers to EMD
 - **Rasim DELIĆ** promoted and awarded EMD soldiers
- Communication ARBiH - EMD⁸⁵
- Rasim DELIĆ possessed the authority to apply disciplinary measures⁸⁶

C. Application of these “indicators” to the current case

1. Rasim DELIĆ on top of hierarchy which included the Mujahedin / EMD⁸⁷

48. As Commander of the ŠVK/GŠ, **Rasim DELIĆ** was the most senior military commander in the ARBiH. **Rasim DELIĆ** was appointed to this position on 8 June 1993.⁸⁸ He was responsible for all ARBiH components.⁸⁹

49. **Rasim DELIĆ** exercised direct command over the ŠVK/GŠ Deputy Commanders,⁹⁰ as well as the Chiefs of the ŠVK/GŠ administrative bodies (either directly or through his Chief of Staff, who was simultaneously a ŠVK/GŠ Deputy Commander⁹¹).

⁸⁴ *Blaškić* AJ, para.69; *Hadžihasanović* AJ, para.199.

⁸⁵ *Hadžihasanović* TJ, para.849.

⁸⁶ *Hadžihasanović* TJ, paras.85-89; *Aleksovski* AJ, para.74; *Čelebići* AJ, para. 206.

⁸⁷ *Aleksovski* AJ, para.74; *Čelebići* AJ, para.206.

⁸⁸ AF22.

⁸⁹ Exh.154 (public).

⁹⁰ Exh.154 (public), pp.3-4 (*see art. III, para.2*); Exh.419 (public), pp.2-3 (*see art. IV, paras.2, 5*).

⁹¹ Exh.154 (public), pp.3-4, (*see art. III, para.1-4*); Exh.419 (public), pp.2-3 (*see art. IV, paras.2, 3, 5*).

50. **Rasim DELIĆ** was also the immediate superior of the Corps Commanders.⁹² The Mujahedin from Poljanice and, after their formation, the EMD were subordinated to the 3K and thus in turn to **Rasim DELIĆ**. It is immaterial that the superior subordinate relationship which existed was not direct or immediate in nature.⁹³

51. **Rasim DELIĆ**'s only superior on matters concerning command and control over the ARBiH was the RBiH Presidency,⁹⁴ a body in which **Rasim DELIĆ** himself was a member with full voting rights.⁹⁵ Decisions taken by this body which concerned the ARBiH would have been heavily informed by **Rasim DELIĆ**. This inference is to be drawn from the words of Defence expert Dr. Paul Cornish, who stated that:

[I]f civil leadership is making the decision about the use of armed force, then it is fundamental, and at least common sense, for that decision making to be informed by military expertise.⁹⁶

Rasim DELIĆ was the sole military officer within the expanded RBiH Presidency.⁹⁷ It is clear therefore that on matters concerning the ARBiH, his words and actions would have directed the decisions that were taken.

(a) **Rasim DELIĆ** created and disbanded the EMD

52. The existence of the EMD depended on **Rasim DELIĆ**. He issued the orders to form and to disband the EMD.⁹⁸ Throughout the period of the EMD's existence, **Rasim DELIĆ** was commander of the ARBiH.

⁹² Exh.154 (public), p. 4 (*see* art. III, para.2); Exh.419 (public), pp.2-3 (*see* art. IV, paras.1, 5).

⁹³ *Halilović* TJ, paras.60, 63; *Celibići* AJ, para.303; *Orić* TJ, paras.310, 313; *Kordić* TJ, para.416.

⁹⁴ Exh.7 (public), p.10 (*see* art. 28).

⁹⁵ Exh.42 (public), pp.107-108, (*see* art. 222, 220).

⁹⁶ Cornish, T.8589, 15-04-08 (open session).

⁹⁷ Exh.42 (public), p.107-108 (*see* art. 222).

⁹⁸ Exh.273 (public), Exh.1132 (public).

(b) ARBiH conducted combat involving the Mujahedin and the EMD(i) Frequency of EMD involvement in ARBiH combat

53. The frequency of participation in ARBiH combat activities is an indicator that the Mujahedin from Poljanice and then after its establishment, the EMD not only fought alongside, but rather under the subordination of the ARBiH.

54. Before the formation of the EMD in August 1993 the Mujahedin from Poljanice participated in five combat actions alongside the ARBiH:

- September-November 1992: Karaula/Travnik municipality⁹⁹
- November 1992-June 1993: Bijelo Bučje/Travnik¹⁰⁰ municipality
- 28 December 1992: Višegrad near Visoko¹⁰¹
- 8 June 1993: Bila and Lašva valley (Maline)¹⁰²
- Before 28 July 1993: in Hrašće¹⁰³

55. Throughout its existence, from 13 August 1993 until December 1995, the EMD participated in at least thirteen ARBiH combat activities in the AoR of the 3K:

- **Seven combat activities in the AoR of OG BK:**
 - Early September 1993: Vitez¹⁰⁴
 - 5 September 1993: Đotline Kuće¹⁰⁵

⁹⁹ Witness PW2's unit participated in combat actions with foreign fighters (PW2, T.716-717, 17-07-07, (open session). *See also* Hamad, T.19, 21-22, 07-09-07 (open session).

¹⁰⁰ Hamad, T.23-24, 28-29, 07-09-07 (open session).

¹⁰¹ Exh.121 (public); Hamad, T.32-33, 113, 07-09-07 (open session); [REDACTED]

¹⁰² Pušelja, T.1030-1031, 20-07-07, (open session); Šaban Alić, T.648, 16-07-07, (open session); Hamad, T.59-60, 07-09-07, (open session); Exh.286 (public) (*see para.7*). *See also* the section on joint combat in Maline on 8 June 1993, below.

¹⁰³ Together with the 17th Krajina and the 314th Mountain Brigades (Exh.263 (public), p.2).

¹⁰⁴ Awad, T.64, 08-02-08 (open session)

- 10 September 1993: Đotline Kuće¹⁰⁶
 - 21 September 1993: Princip, Kruščića near Vitez¹⁰⁷
 - Early October 1993: Zubići near Novi Travnik¹⁰⁸
 - [REDACTED]¹⁰⁹
 - February 1994: Zabrdje near Vitez¹¹⁰
- **Two combat operations in the AoR of OG North:**
 - 28 August 1994: Pisana Jelika and Visoka Glava¹¹¹
 - 3 October 1994: Kajin Sapot, Brdo and Prevljaka¹¹²
 - **Four combat operations in the AoR of the 35Div the EMD:**
 - April 1995: Operation SABUR¹¹³
 - 27 May 1995: Operation PROLJEĆE-1¹¹⁴

¹⁰⁵ Together with the 27th Mountain Brigade and the 325th Brigade (Exh.834 (public), p.2).

¹⁰⁶ Together with the 325th Brigade and 306MB (Exh.262) [REDACTED]

¹⁰⁷ Exh.1207 (public); Begović, T.415-416, 11-07-07 (open session); Halim Hušić, T.7445-7446, 12-03-08 (open session); PW2, T.751, 17-07-07 (open session); Awad, T.188-189, 10-02-08 and T.64, 08-02-08 (open session).

¹⁰⁸ Awad, T.64, 08-02-08 (open session); PW2, T.755-756, 17-07-07 (open session); [REDACTED]

¹⁰⁹ [REDACTED]

¹¹⁰ Exh.719 (public), p.2.

¹¹¹ Neighbouring ARBiH units were the 319th and 330th Brigades and the Independent Sabotage Battalion (Exh.838 (public), p.2; Exh.1016 (public), p.2; Exh.837 (public)); PW9, T.5597, 15-11-07, (open session).

¹¹² Together with the 319th Brigade (Exh.839 (public)).

¹¹³ Hasanagić T.2935-2936, 24-09-07 (open session), T.3123, line 7, 26-09-07 (open session); Exh.430 (public) (*see no.7*); Zilkić, T.5343-5344, 09-11-07, Exh.1025 (public), Exh.432 (public), Exh.433 (public).

¹¹⁴ Exh.1037 (public), Exh.1038 (public).

- 21-27 July 1995: Operation PROLJEĆE-2¹¹⁵
- 10 September—10 October 1995: Operation FARZ¹¹⁶

56. In the following section the three ARBiH combat operations which form part of the indictment against **Rasim DELIĆ** will be discussed: (1) the combat activity on 8 June 1993 in the region of Mehurići – Maline – Guča Gora involving the Mujahedin from Poljanice and (2) Operations PROLJEĆE-2 and (3) FARZ, both of which occurred after the formation of the EMD.

(ii) Combat operations in the region of Mehurići – Maline – Guča Gora on 8 June 1993

57. The Mujahedin from the Poljanice Camp engaged in combat with the 306MB on 8 June 1993, following an order issued on or before 5 June to the 306MB commander Esad SIPIĆ by Mehmed ALAGIĆ, the Commander of the OG BK, instructing SIPIĆ:

To organize a unit of strength of one battalion (300 combatants) out of the parts of the 306th bbr and villagers of the village of Mehurić and move on the axis of villages of Maline-Radonjići-Krpeljići-Bukovica (...) with the aim of de-blocking Travnik.¹¹⁷

58. On 5 June 1993, the OG BK informed the 3K of this order, noting that “the connection with ŠIPIĆ is interrupted [...] [w]e are trying to reach him indirectly, through [...] 3rd Corps.”¹¹⁸ It is clear that the 3K managed to establish communication with SIPIĆ by 5 June 1993, as an order issued that day to the 306MB by HADŽIHASANOVIĆ instructed the 306MB to “[c]ontinue to execute the task as prescribed by the OG Bosnian Krajina Commander.”¹¹⁹

59. Asim DELALIĆ, the former Assistant Commander for Security of the 306MB acknowledged that around 6 June 1993, SIPIĆ sent a telegram to Mehurići ordering

¹¹⁵ Exh.789 (public), Exh.455 (public), Exh.530 (public), Exh.457 (public), Exh.1046 (public), Exh.459 (public), Exh.1049 (public), Exh.452 (public).

¹¹⁶ Exh.462 (public), Exh.461 (public), Exh.1060 (public), Exh.1063 (public).

¹¹⁷ Exh.258 (public).

¹¹⁸ Exh.258 (public).

that the blockade of Velika Bukovića be lifted,¹²⁰ the same instruction ALAGIĆ addressed to SIPIĆ. DELALIĆ confirmed that SIPIĆ's order was implemented on 8 June 1993, and that by 9 June 1993, Velika Bukovića had been de-blocked.¹²¹ DELALIĆ confirmed that in successfully de-blocking Velika Bukovića, forces of the 306MB from Suhi Dol and Mehurići moved toward Velika Bukovića via Maline.¹²² These forces fought together with the Mujahedin from the Poljanice camp, jointly attacking the village of Gornje Maline.

60. The operation in the Bila Valley on 8 June 1993 took place within the scope of a larger 3K operation that covered the Bila and Lašva valleys. British UNPROFOR personnel on 9 June 1993 observed:

It would appear that Enver HADŽIHASANOVIC and 3 Corps are orchestrating a carefully planned and phased attack against the HVO in the areas of Travnik and the Western Lašva Valley¹²³.

61. British UNPROFOR personnel surmised that one objective of the operation was to seize the road between Travnik and Zenica which runs via Guča Gora and Brajkovići.¹²⁴ HAMAD succinctly described the objective of the Mujahedin in this operation:

In cooperation with the B and H army, my unit, just like all the other units that were billeted in Travnik, were all issued an order to clear the terrain from Guča Gora up to Travnik of all Croats, both soldiers and civilians. And the Mujahedin who were in Mehurici, as well as other units of the B and H army, including Zenica, were given the assignment of clearing the terrain from Mehurići up to Guča Gora. We did that at the same time, so that I went from Travnik and Bijelo Bućje, and the Mujahedin from Mehurići joined up in Guča Gora,

¹¹⁹ Exh.999 (public) [**emphasis** added].

¹²⁰ Delalić, T.1708, 27-08-07 (open session).

¹²¹ Delalić, T.1708, 27-08-07 (open session).

¹²² Delalić, T.1708, 27-08-07 (open session).

¹²³ The Western Lašva Valley corresponds with the Bila Valley (*see* Duncan, T.1967, 30-08-07 (open session)); Exh.286 (public), p.2 (para.7).

¹²⁴ Exh.286 (public), p.2 (para.7).

meaning that the road was completely cleared of all citizens of Croat ethnicity, both soldiers and civilians.¹²⁵

62. On 8 June 1993, in Gornje Maline Arab Mujahedin fighters were seen with ARBiH soldiers following the HVO surrender. Željko PUŠELJA was warned by ARBiH soldiers while he was in Gornje Maline not to look at “dark-skinned” soldiers wearing bright green uniforms to avoid being killed by them.¹²⁶ [REDACTED]¹²⁷ [REDACTED]¹²⁸ [REDACTED]¹²⁹ [REDACTED]¹³⁰



Insignia seen by [REDACTED] in Gornje Maline

63. The movements of the Mujahedin from the Poljanice camp demonstrate that these soldiers were the ones observed by the Bosnian Croat villagers in Gornje Maline on 8 June 1993. The Mujahedin launched the attack from the area between Suhi Dol and Poljanice.¹³¹ The enemy line¹³² attacked by the Mujahedin stretched “above Gornje Maline”¹³³.

¹²⁵ Hamad, T.59-60, 07-09-07 (open session).

¹²⁶ Pušelja, T.1030-1031, 20-07-07 (open session).

¹²⁷ [REDACTED]

¹²⁸ [REDACTED]

¹²⁹ [REDACTED]

¹³⁰ [REDACTED]

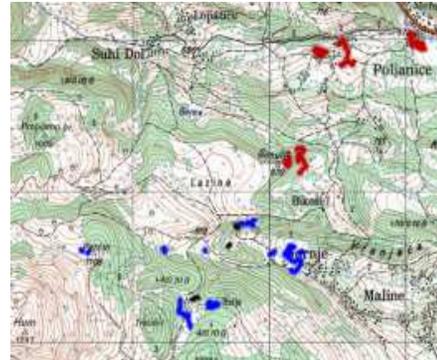
¹³¹ Exh.99 (public); Šaban Alić, T.645-646, 16-07-07 (open session).

¹³² Pranješ, T.977, 20-07-07 (open session); Exh.132 (public).

¹³³ Šaban Alić, T.648, 16-07-07 (open session).



Exh.132 marked by PRANJEŠ.



Exh.99 marked by Šaban ALIĆ.

(iii) ARBiH combat during Operation PROLJEĆE-2 involving the EMD

64. On 16 and 17 July 1995, **Rasim DELIĆ** ordered all ARBiH Corps to activate the whole front on the battlefield of the RBiH.¹³⁴ Based upon an order of the 3K the 35Div drafted on 18 July 1995 the plan for Operation PROLJEĆE-2 which began on 21 July 1995.¹³⁵ Upon completion of the combat operation the 3K stated that in “addition to approximately 600 members of the EMD, the commands of the 328th and 329th Mountain brigades each detached 240 members of position-holding units, as well as 100 of the best fighters from 5th Manoeuvre Battalion.”¹³⁶ A monthly report of the 328MB mentions that for operation PROLJEĆE-2 some of the brigades’ forces were set aside for the use according to the EMD’ combat plan:

The main body of troops of engaged forces focused on decisive defence and **setting aside forces for b/d /combat operations/ according to the EMD plan.**¹³⁷

¹³⁴ Exh.496 (public), (*see* no.1); Exh.494 (public), Exh.599 (public).

¹³⁵ Exh.444 (public); Hasanagić, T.3272-3275, 28-09-07 (open session).

¹³⁶ Exh.532 (public), p.7.

¹³⁷ Exh.789 (public), p.6 [**emphasis added**].

The **battalions allotted 30 soldiers each** to the **first echelon for b/d** according to the *PROLJEĆE /Spring/-95-2* plan.¹³⁸

65. The 35Div plan foresaw the following line of attack for the EMD:

Coordinating with the 328th bbr and the 329th bbr, breaking up the aggressor at the features: Malovan (tt 551), Podsijelovo (tt 685), Čevaljuša village (k 552), (k 673), Skradina Kosa, (K 551) and Vis by a simultaneous strike through the gap and from the front, capturing the Podsijelovo (tt 685) feature by a pincer movement, capture the Malovan (tt 551) by a strike from the front, capturing the (k 673) feature by a pincer movement and secure the left flank of the attack, breaking up the aggressor in the Čevaljuša village (k 552) sector by a strike from the front, **breaking up the aggressor at the Skradina Kosa feature and Krčevine village by a strike from the front (...)**.¹³⁹

66. [REDACTED]¹⁴⁰ [REDACTED]¹⁴¹

67. The attack was carried out in the morning hours on 21 July 1995. The EMD operations were directed from their IKM in the region of Malovan.¹⁴²

68. During the first day¹⁴³ of Operation PROLJEĆE-2 the IKM of the EMD in Malovan was manned by the EMD and the commanders of the 328MB, 329MB and of the 5ManBAT.¹⁴⁴

69. **Rasim DELIĆ** remained informed about the combat activities in the Vozuća pocket:

The 3rd Corps SVB informs that, in the area of responsibility of the 328th Mountain Brigade in the Vozuća battlefield, the joint units of

¹³⁸ Exh.789 (public), p.7 [**emphasis** added].

¹³⁹ Exh.444 (public), p.14 [**emphasis** added].

¹⁴⁰ [REDACTED]

¹⁴¹ [REDACTED]

¹⁴² Exh.449 (public), (*see* no.1).

¹⁴³ Also referred to as “D-1” or “day 1”.

¹⁴⁴ Exh.449 (public) (*see* no. 1).

the 35th Division broke through the enemy lines in the planned directions and on that occasion liberated the villages of **Kesten**, Gornjani, **Krčevine**, Čevaljuša and several dominant elevation points in that area.¹⁴⁵

70. The monthly report of the 328MB summarised the Operation PROLJEĆE-2 combat activities evolving in the direction of Krčevine:

In the period between 21 and 24 July 1995, as the result of a concerted action with part of the forces and the **joint forces of the 35th dKoV, led by the EMD, following offensive b/d /combat operations/, our forces took over and seized the newly achieved l/o /line of defence/** on the following axis: Jasička Kosa – Rudenjak – Markovića Vis – k. 571, **Krčevine** – k. 518 – Bezimeni Vis – tt. 685 – k. 673 – Čevaljuša – Nikolino Brdo – k. 576.¹⁴⁶

71. Fuad ZILKIĆ, the former commander of the 328MB, commented upon this part of his report:

Q. Can you comment upon that part of your document which says "led by the El Mujahid."

A. This concerns a continuation of the Proljeće operation, where the goal was to capture elevations Gaj, Jezero, Jasička Kosa, Rudenjak, Markovića Vis, all the others cited here, where our units - and, by this, I mean **parts of the units that were by the order of the 35th Division seconded and re-subordinated to the El Mujahedin Detachment - they took part in this area in combat operations**, because this is a monthly report outlining all the activities carried out by my unit.

Q. What does it mean when you wrote "led by the El Mujahid"?

A. After Proljeće in 1995, which means after 25th of May, where they had achieved a major success by capturing the elevation of Podsjelovo, I don't know what their tasks were, but what I did know is that they were preparing for further actions. And in all subsequent combat operations **engaged our units, parts of our units that the El Mujahid trained, but there were the driver of the -- such combat operations. They were conducted under their plans, and**

¹⁴⁵ Exh.375 (public), p.4 [**emphasis** added].

¹⁴⁶ Exh.789 (public), p.6 [**emphasis** added].

they were the first to engage in combat. So they were the ones to break through the enemy lines, to make this matter clear.”¹⁴⁷

72. The use of soldiers from the 328MB for combat with the EMD occurred not only on 21 July 1995, the first day of Operation PROLJEĆE-2, but over several days. For example the order from the 5th Battalion of the 328MB dating from 26 July 1995, the sixth day of combat activities, instructs:

Military personnel who **participated in offensive combat operations with the *El Mujahid* unit** must be in the village of Božići on 26 July 1995 by 1300 hours in order to carry out /?a/ combat task. They are to bring the equipment, weapons and MTS /materiel and technical equipment/ (...) ¹⁴⁸

73. Ahmet ŠEHIĆ, the former commander of the 5th Battalion of the 328MB, commented upon this order that “these are soldiers who had been attached to the El Mujahid unit earlier on and were probably about to be attached to them again, in order to carry out certain combat tasks on a given date; that is to say, the 26th of July, 1995.”¹⁴⁹

(iv) ARBiH combat during Operation FARZ involving the EMD

74. During the entire Operation FARZ at least five individual ARBiH 3K combat activities involving the EMD have to be distinguished:

- 10 September 1995: attack along the axis Ćurići village – Paljenik – Vis (k-607)
- Throughout 11 September 1995: EMD as intervention unit in triangle Kesten – Kosa - Prokop
- 11 September 1995 after 1130 AM: offensive combat towards Kvrge
- 11 September 1995 after 1730 hours: offensive combat along the axis: Radulovo Brdo–village Karačić

¹⁴⁷ Exh.789 (public), p.6. Zilkić, T.5325-5326, 09-11-07, (open session) [**emphasis added**].

¹⁴⁸ Exh.705 (public) [**emphasis added**].

¹⁴⁹ Šehić, T.5082, 05-11-07 (open session).

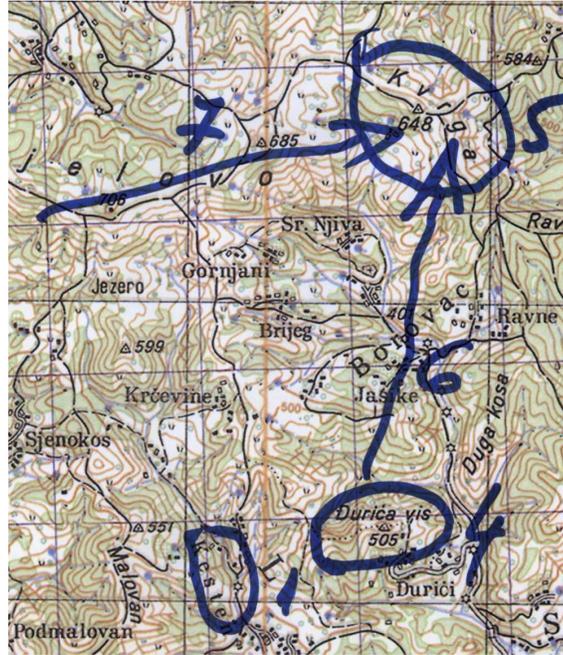
- 16 September 1995: attack on Zborište – Mramor (k.563) – Doline – Smrečje (tt 595)– Bkotički vis – Minska kosa

75. **First 3K Joint combat activity:** 10 September 1995: ARBiH combat towards Paljenik involving the EMD:

The attack order for operation FARZ determined that “the EMD (...) in co-ordination with the forces of the 3rd ManBat and with support from the forces of the 328MB, carry out the attack through the combat disposition of the forces of the 328MB along the axis Ćurići village – Paljenik – Vis (k-607).”¹⁵⁰

These forces successfully carried the attack out.

76. **Second 3K Joint combat activity:** 11 September 1995: EMD as intervention unit in AoR of 328MB (Kesten- Kosa – Prokop):¹⁵¹



Exh.469: Detail of map marked by HASANAGIĆ depicting the course of combat activities towards Kvrge on 11 September. The arrow marked with “6” indicates the direction of movement of the EMD and the 4ManBAT from Ćurića Vis towards Kvrge and the arrow marked with “7” the direction of movement of the 2ManBat from Podselovo towards Kvrge.

77. On or about 6 PM on 10 September 1995 MAHMULJIN the 3K Commander ordered Fadil HASANAGIĆ the 35Div Commander “to continue” the successful “attacks towards (...) Prokop.”¹⁵²

78. During the Serb retreat from the Vozuća pocket the ARBiH spotted a concentration of VRS soldiers on 10 September 1995 in the area of Kablovać,

¹⁵⁰ Exh.505 (public), p.7 (see section 5.3).

¹⁵¹ This intervention by the EMD was to be carried out in the AoR of 328MB (Exh.466 (public), (see section 8)).

¹⁵² Exh.396 (public), p.11 (see no.62).

Pejanovići, Kosa and Prokop.¹⁵³ In the evening of 10 September 1995 AWAD and ABU MAALI attended a meeting at IKM Panorama where, with MAHMULJIN and HASANAGIĆ, all other ARBiH commanders whose units had participated on the first day in operation FARZ were present.¹⁵⁴ After the meeting, at around midnight, HASANAGIĆ issued an order according to which “the EMD forces will be **at the disposal for intervention in the 328 MB’s zone of responsibility** in accordance with the following deployment schedule: - a part of the manpower will be along the line of defence in the region of the villages **Kesten and Kosa, and the Prokop area;** (...).”¹⁵⁵

79. HASANAGIĆ’s order called for the EMD to act as an intervention unit and described his intention in this respect as follows:

[I]n the rear of certain troops manning a line, we have a group of people who in the case that the line is broken can intervene (...) there was a need if our lines were to be broken, to intervene along this axis, because those new front lines were fresh and mobile and it wasn’t clear who was manning which part of the line.¹⁵⁶

80. The EMD was in Kesten on 11 September 1995 in accordance with HASANAGIĆ order.¹⁵⁷ That the EMD was that day in Kesten can be inferred from the fact that this unit later claimed in a fax sent from Vatrostalna, its headquarters, that it had captured “60 prisoners”.¹⁵⁸

¹⁵³ Exh.635 (public), p.2; Exh.535 (public), p.1; Exh.631 (public), p.1; Exh.634 (public), p.1; Exh.636 (public), p.2, Exh.638 (public) (*see no. 1, 2, 4, 5*); Edin Husić, T.4408, 4414, 23-10-07 (open session).

¹⁵⁴ Awad, T.110, 09-02-08, (open session).

¹⁵⁵ Exh.466 (public), [**emphasis added**].

¹⁵⁶ Hasanagić, T.3036-3037, 25-09-07 (open session).

¹⁵⁷ Exh.466 (public), (*see section 8*).

¹⁵⁸ Exh.669 (public); [REDACTED]

81. **Third 3K joint combat activity:** 11 September 1995: ARBiH combat from Đurića Vis towards Kvrge involving the EMD.¹⁵⁹ as ordered by HASANAGIĆ 3K units including the EMD successfully carried out combat operations towards Kvrge.¹⁶⁰

82. On or about 6 p.m. on 10 September 1995 MAHMULJIN ordered HASANAGIĆ “to continue” the successful “attacks towards Đurića Vis (...).”¹⁶¹ The 2K forces had moved as far as Đurića Vis and were fortifying this new forward defence line.¹⁶² By 1848 hours that evening the EMD informed the 3K that it had reached the forces of the 2K.¹⁶³



Exh.469: Detail of map marked by HASANAGIĆ depicting Kesten (“1”), Kosa (“2”) and Prokop (“3”), locations where the EMD was ordered to act as an intervention unit on 11 September 1995.

83. During the evening meeting on 10 September 1995 at IKM Panorama a future attack on Kvrge was discussed by the following ARBiH commanders:¹⁶⁴

MAHMULJIN, HASANAGIĆ, ABU MAALI and AWAD.¹⁶⁵ The next morning at 1130 hours HASANAGIĆ ordered that “Joint attack forces composed of the 4th ManBat, the 2nd ManBat and the EMD are to carry out an attack on the axis: Podsijelovo – Kvrge and Đurića Vis – Kvrge.”

¹⁵⁹ Together with the 4th ManBat and the 2nd ManBat (Exh.467 (public), section 2).

¹⁶⁰ Exh.516 (public), p.3.

¹⁶¹ Exh.396 (public), entry 62, p.11.

¹⁶² Exh.396 (public), entry 62, p.11.

¹⁶³ Exh.396 (public), entry 64, p.11.

¹⁶⁴ Zilkić, T.5310-5311, 09-11-07 (open session).

84. HASANAGIĆ testified that “**from the Djurica Vis position, where a part of the EMD and part of the 4th ManBat progressed towards Kvrge** and a part of the mechanised motorised battalion progressed towards Podsijelovo. This was a continuation of the previous day's advance that we had made.”¹⁶⁶

85. **Fourth 3K joint combat activity** - 11 September 1995: ARBiH combat towards Radulovo Brdo – Karačić involving the EMD:¹⁶⁷ two reports from the 35Div and the 3K mention that the combat towards Radulovo Brdo and Karačić indeed occurred.¹⁶⁸

86. **Fifth 3K joint combat activity** - 16 September 1995: ARBiH combat beginning at Zborište involving the EMD:¹⁶⁹ on 15 September 1995 MAHMULJIN ordered KARAJKO, the head of the 3K logistical operational organ, to immediately send 15 trucks to the EMD camp to transport them to Zborište.”¹⁷⁰ Following the transport the combat was carried out as ordered.¹⁷¹

(v) ARBiH superiors defined goal

¹⁶⁵ Zilkić, T.5306-5307, 09-11-07 (open session).

¹⁶⁶ Hasanagić, T.3039, 25-09-07 (open session) [**emphasis added**].

¹⁶⁷ Together with the 5th ManBat which was re-subordinated to the EMD (Exh.468 (public), section 5): “The **5th ManBat** troops are to be **re-subordinated to the EMD, and used for carrying out offensive combat activities** along the axis: Radulovo Brdo – the village of Karačić” [**emphasis added**].

¹⁶⁸ Exh.481 (public), p.3; Exh.566 (public), (section 1.1.5); Hajderhodžić, T.3825, 09-10-07 (open session).

¹⁶⁹ “The **3 mnb. /motorized brigade/, 4 mnb., (-1), 5 mnb. and the EMD** during the night deploy units to the OR Zborište (K. 591), rest the forces and **continue the attack** in the hourly hours of Saturday on 16.09.1995 on direction: **Zborište – Mramor** (K. 563) – Doline – **Smrečje** (tt 595) – Bakotički vis – Mlinska kosa (tt 539)” – Exh.478 (public), (*see* section 2) [**emphasis added**].

¹⁷⁰ Exh.394 (public), p.19 (*see* no.33); [REDACTED]

¹⁷¹ Hasanagić, T.3066-3067, 25-09-07 (open session). The troops successfully conquered Mramor and Smrečje, some of the targets of the attack: (Exh.481 (public) (*see* p.3).

87. GŠ ARBiH directives provided instructions on a strategic military level.¹⁷² Similar to previous directives, the ARBiH GŠ directive for 1995 contained strategic instructions to the 2K and the 3K to liberate of the Vozuća pocket.¹⁷³ One of the tasks **Rasim DELIĆ** directed for the 2K and the 3K was to co-ordinate their efforts to “liberate the wider area of Vozuća; cut off the Chetnik forces at Mount Ozren (...).”¹⁷⁴ The GŠ co-ordination plan for September 1995 mentioned as the *first* task for 2K and 3K the liberation of the Vozuća pocket.¹⁷⁵

88. Within the boundaries of the GŠ directives and co-ordinated by the GŠ co-ordination plans it was the Corps’ responsibility to independently work out plans and issue tasks.¹⁷⁶ **Rasim DELIĆ** ordered the Corps commanders to implement individual elements of the 1995 GŠ Directive, for example the task to liberate the Vozuća pocket.¹⁷⁷ This order went to the corps commanders, who defined the tasks of their subordinates. The commander of the division was tasked by the corps commander to prepare a combat operations plan for the division and then submit the division’s plan to the corps commander for his approval. This process continued down to the levels of brigades, battalions companies.”¹⁷⁸

89. AWAD testified that the priorities of a future attack by the EMD were determined by either the OG, the Division or the 3K:

Q. (...) Can you tell us, Mr. Awad, who set the combat priorities for the EMD terms of where the unit was to go, what areas were to be attacked, what areas were to be defended, et cetera?

¹⁷² Sead Delić, T.2842, 21-09-07 (open session).

¹⁷³ Exh.384 (public), (*see* no.5, 6); Sead Delić, T.2736, 20-09-07 (open session), T.2846, 21-09-07 (open session).

¹⁷⁴ Exh.384 (public), (*see* no.5, 6); Jusić, T. 2555-2556, 18-09-07 (open session); Sead Delić, T.2842, 21-09-07 (open session).

¹⁷⁵ Exh.400 (public), pp.15-16 (*see* sections XII no.1, XIII no.1).

¹⁷⁶ Sead Delić, T.2845-2846, 21-09-07 (open session); Alija, T.4207, 16-10-07 (open session).

¹⁷⁷ Exh.386 (public). The order was issued after the preparation and planning had been completed (Delić, T.2851, 21-09-07).

¹⁷⁸ Exh.386 (public), Alija, T.4210-4211, 16-10-07 (open session). Hasanagić, T.3013-3014, 25-09-07 (open session).

A. It is logical that the priorities would be set by the commanders, either of the corps or the operations group. That is the persons who had several units under their command, because the EMD as a small unit cannot determine where others would attack nor where they themselves would attack. So it is only logical and normal for the people who are in charge of several brigades or several units to plan and to determine the priorities where defences should be reinforced, where an attack should be launched, and so on.¹⁷⁹

90. The 3K and 35Div defined the objective for the EMD during Operations PROLJEĆE-2 and FARZ. Initially the EMD reconnoitred an axis of attack in the area of Čevaljuša ridge for Operation PROLJEĆE-2. The plans were changed by 3K and 35Div and the EMD was ordered to reconnoitre in a different area, the three 551 elevations of Podsjedlovo; the EMD complied with this change of mission, reconnoitred and then attacked the newly chosen axis during Operation PROLJEĆE-2.¹⁸⁰ Three days before the beginning of Operation PROLJEĆE-2, HASANAGIĆ reported that pursuant to orders from GŠ and 3K the 35Div would carry out combat with the EMD.¹⁸¹

91. MAHMULJIN and subordinated commanders agreed that the capture of Podsjedlovo was the main objective of Operation FARZ. MAHMULJIN stated that the EMD was going to attack the Paljenik feature, the key objective within Podsjedlovo.¹⁸² [REDACTED]¹⁸³

92. Communication of new missions was undertaken by the superior ARBiH unit by inviting the EMD to discuss the issue.¹⁸⁴ CORNISH explained that in a dialectical relationship between superior and subordinate unit there should be “an exchange of

¹⁷⁹ Awad, T.62-63, 08-02-08 (open session). [REDACTED]

¹⁸⁰ Awad, T.93-94, 09-02-08 (open session); Exh.375 (public), Exh.931 (public), p.36.

¹⁸¹ Exh.443 (public).

¹⁸² Jusić, T.2516-2517, 17-9-07 (open session); Hasanagić, T.3013-3014, 25-09-07 (open session); T.2969-2972, 24-09-07 (open session).

¹⁸³ [REDACTED]

¹⁸⁴ Awad, T.268-269, 10-02-08 (open session). In 1992 and early 1993 the ARBiH officers would also come to Mehurići: “after that, I would receive orders from the Mujahedin command that I need to collaborate with the Bosniak units and to take part in the attacks *which they had proposed* -- or, rather, *the locations that they had proposed*, and then the Bosniak officers would come to see me to agree with me as to what we should do. (...)” (Hamad, T.29, 07-09-07).

ideas”.¹⁸⁵ AWAD testified “**there weren’t cases when anyone said ‘I will not attack’, but, rather, there would be tasks, discussions to explain the situation.**”¹⁸⁶ Afterwards the ARBiH issued an order that the EMD has to participate in combat.¹⁸⁷ [REDACTED]¹⁸⁸ With regard to the period before the formation of the EMD, HAMAD testified that WAHIUDIN ordered that the Mujahedin billeted in Bijelo Bučje had “to cooperate with the domestic army and that *without them* we were *not allowed to carry out any attacks.*”¹⁸⁹

93. In 1994, the priority for the EMD attack to seize Pisana Jelika and Visoka Glava on 28 August 1994 was set by the 3K.¹⁹⁰ Once the EMD had planned how it intended to execute the order issued to it, the Commander of the Operations Group 3 North was informed.¹⁹¹

(vi) ARBiH superiors approved combat plan

94. That ARBiH superiors approved plans for combat activities involving the EMD before the combat occurred demonstrates that a particular operation was carried out under the command and control of the ARBiH.

¹⁸⁵ Cornish, T.8601, 15-04-08 (open session). *See also:*

JUDGE LATTANZI: [Interpretation] (...) If there is a unit tasked with a -- an assault unit, say, tasked with a particular mission which is supposed to operate in the front line, they should break the defence line of the enemy, close combat possibly, **if there are opinions expressed by that unit as to how, when and where things should be done, is that going to be taken into account with regard to the assault operation?**

CORNISH: **Yes, I think it could be.** What you would expect, though, is that the -- the system, the command chain, the hierarchy, should, if it is working properly, it should already be taking into account what that battalion is able to do, because it has all the information about what the battalion has done, about its personnel, about its ammunition and so on, so there should be a good level of judgment about what could be expected of that battalion.” (T8601-8602) [**emphasis added**].

¹⁸⁶ Awad, T.67, 08-02-08 (open session) [**emphasis added**].

¹⁸⁷ For operation FARZ, see Awad, T.106, 09-02-08 (open session).

¹⁸⁸ [REDACTED]

¹⁸⁹ Hamad, T.27, 07-09-07 [**emphasis added**].

¹⁹⁰ Exh.837 (public).

¹⁹¹ PW9, T.5601, 15-11-07 (open session).

95. The 1995 combat operations east of Zavidovići were all planned by the 35Div and approved by the 3K except for Operation FARZ, which was planned by 3K and approved by the GŠ.

96. Two maps for Operation SABUR were produced: a 328 Brigade map was signed by ZILKIĆ and approved by HASANAGIĆ, and a 35Div map and a corresponding attack order was signed by HASANAGIĆ.¹⁹² Only the 35Div map for Operation SABUR marked an axis of attack for the EMD¹⁹³ which indicated that the planning by the EMD was communicated to the 35Div which commanded the operation. HASANAGIĆ testified that MAHMULJIN approved Operation SABUR.¹⁹⁴

97. The plans for Operations PROLJEĆE-1 and PROLJEĆE-2 were signed by HASANAGIĆ and approved by MAHMULJIN.¹⁹⁵ The 35Div map for operation PROLJEĆE-2 refers to an IKM of the EMD.¹⁹⁶

98. The planning for Operation FARZ was organised by Kadir JUSIĆ, the Chief of Staff of the 3K.¹⁹⁷ The plan for Operation FARZ, which contained a reference to the axis of attack of EMD, was signed by HASANAGIĆ and authorized by

¹⁹² For the map of operation SABUR signed by Zilkić and approved by Hasanagić see Exh.797, p.3; Zilkić, T.5343-5344, 09-11-07 (open session). Hasanagić signed the attack order and a separate map of operation SABUR. He claimed that MAHMULJIN had given his approval (Exh.432 (public), Exh.1025 (public); Hasanagić, T.2940-2941, 24-09-07 (open session)).

¹⁹³ Exh.1025 (public), Exh.797 (public), p.3.

¹⁹⁴ Hasanagić, T.2941, 24-09-07 (open session).

Q. And who authorised you?

A. The corps commander had previously approved this action, and it was on that basis that I wrote the order. The order was signed by the corps commander, as was the appendix to my order, which was a map.

Q. We will come to this in a moment. Who is the corps commander? From which corps?

A. The commander of the 3rd Corps, Sakib Mahmuljin.

¹⁹⁵ For PROLJEĆE-1: Exh.435 (public), Exh.436 (public), Exh.1036 (public); Hasanagić, T.2944-2945, 27-09-07 (open session). Hasanagić explained that the map for operation PROLJEĆE-1 contained references to the EMD (T.2947, 27-09-07 (open session)). For PROLJEĆE-2: Exh.444 (public), Exh.1043 (public); Hasanagić testified that the order was drafted and signed based on a proposal coming from the subordinated units and forwarded to MAHMULJIN who approved the order with the map attached, sent it back to 35Div (T.2976, 24-09-07 (open session)). Jusić, T.2586, 18-09-07 (open session).

¹⁹⁶ Exh.1043 (public).

¹⁹⁷ Jusić, T.2496-2497, 17-09-07 (open session).

MAHMULJIN.¹⁹⁸ The 3K produced a separate map of Operation FARZ displaying the forces directly subordinate to 3K.¹⁹⁹ The 2K planned Operation URAGAN to liberate the Vozuća pocket from its Eastern side.²⁰⁰ On 26 August 1995, Ismet ALIJA drafted the order to 2K and 3K to carry out preparations for the implementation of the 1995 GŠ Directive to liberate the Vozuća pocket and requested that plans of action be submitted for approval.²⁰¹ Between 20 and 30 August 1995 the 2K Commander Sead DELIĆ and the 3K Commander MAHMULJIN went with the combat documentation from 2K and 3K to Visoko where **Rasim DELIĆ** approved the 2K order for attack and map of Operation URAGAN as well as the 3K map on Operation FARZ.²⁰² Though the map for Operation FARZ did not expressly mention the EMD **Rasim DELIĆ** knew, when he was signing the map, that the EMD was militarily operating in the wider Vozuća pocket together with other ARBiH units.²⁰³ On 3 September 1995 the GŠ co-ordination plan mentioned as the *first* task for 2K and 3K the liberation of the Vozuća pocket.²⁰⁴

2. Role of EMD in ARBiH combat

(a) Preparation

(i) ARBiH subordinated EMD to other units

¹⁹⁸ Exh.505 (public), Exh.461 (public). Hasanagić, T.3248-3251, 28-09-07 (open session).

¹⁹⁹ Jusić, T.2579-2580, 17-09-07 (open session).

²⁰⁰ Exh.402 (public), Exh.401 (public), Exh.1070 (public), Exh.420 (public).

²⁰¹ Alija, T.4209-4210, 16-10-07 (open session).

²⁰² Sead Delić, T.2743, 20-09-07 (open session), T.2851-2853, 21-09-07 (open session); Jusić, T.2530, 2569, 2586, 18-09-07 (open session).

²⁰³ Exh.735 (public), p.4, Exh.736 (public), p.7; Exh.738 (public), p.2; Exh.582 (public), p.4; Exh.740 (public), p.3; Exh.741 (public), pp.5-6; Exh.742 (public).

²⁰⁴ Exh.400 (public), pp.15-16.

99. **Rasim DELIĆ** ordered the reorganization of the 3K units and subordinated the EMD directly to the 3K Command on 12 January 1995.²⁰⁵ The organizational chart of the 3K links the EMD to the 3K.²⁰⁶

100. The issuance of subordination orders to the EMD²⁰⁷ is one of the main indicators of the command and control which the ARBiH had over the EMD. Indicators that the subordination was successful are that orders were issued to the EMD by the OG or Division, to which the EMD was subordinated to and that the EMD carried out combat activities together with other ARBiH forces:

101. On at least four occasions, the 3K effectively subordinated the EMD to OG Bosanska Krajina, OG North, OG Bosna or the 35Div in the time period August 1993 to September 1995. *See* Table 1: EMD Subordination, Annex A.

102. With regard to the subordination of the EMD during Operation FARZ HASANAGIĆ testified that he had not received an order from MAHMULJIN to re-subordinate the EMD to the 35Div.²⁰⁸ From at least 2 June 1995, the EMD was already in the composition of the 35Div and without any order *re*-subordinating it to the 3K, its subordination to the 35Div simply continued. After the EMD had been subordinated to the 35Div it remained part of that division until another order was passed by the superior to re-subordinate the EMD to another ARBiH formation.²⁰⁹

103. From 25 August 1995 until 15 September 1995 all combat orders to the EMD relating to Operation FARZ were issued by HASANAGIĆ (and not by

²⁰⁵ Para 2a, “Besides the mentioned units, those that enter the 3K composition are: 303rd “V” bbr, 7th M”S” bbr, 314th “S” bbr, 330th Lbr /Light brigade/, 319th bbr and the unit “El-Mudžahidin”. The Corps command retains all the previously received elements of mobilisation development.” Exh.165 (public), Exh.378 (public).

²⁰⁶ Exh.379 (public).

²⁰⁷ HASANAGIĆ testified about Exh.396 and Exh.431 that the re-subordination of the EMD by the 3K occurred for the purpose of combat operations (Hasanagić, T.2939, 2966, 24-09-07 (open session)).

²⁰⁸ Hasanagić, T.3099, 26-09-07 (open session).

²⁰⁹ Hasanagić, T.3100, 26-09-07 (open session).

MAHMULJIN).²¹⁰ JUSIĆ testified that on ARBiH planning maps only units *directly* subordinated to the unit drafting the map would be mentioned.²¹¹ That the EMD was subordinated to the 35Div follows from the fact that the division map for Operation FARZ mentioned the EMD, but not the corresponding 3K map.²¹²

(ii) ARBiH transferred EMD to AoR of combat activities

104. The 3K transferred the EMD to battlefields within its AoR from August 1993 through December 1995. The 3K was the only authority to order the transfer of the EMD between AoRs of the OG or Divisions.²¹³ Once the EMD was subordinated to a specific division, the division commander could order the EMD to transfer its troops *within* the AoR of this division.

105. In 1994 the EMD was deployed to the Teslić/Šerići battlefield. In autumn 1994 MAHMULJIN made the decision to transfer the EMD to Zavidovići AoR.²¹⁴ [REDACTED]²¹⁵ After an initial meeting at the 3K headquarters another meeting took place in Zavidovići which was attended by AWAD, HASANAGIĆ and LENDO.²¹⁶ The first group to deploy to the Zavidovići battlefield in October 1994 consisted of [REDACTED] EMD soldiers including scouts.²¹⁷ [REDACTED]²¹⁸

²¹⁰ Exh.461 (public), Exh.465 (public), Exh.467 (public), Exh.468 (public), Exh.478 (public). The EMD carried out the combat as ordered on 11-09-95 in direction of Kvrge (Hasanagić, T.3040, 25-09-07 (open session)).

²¹¹ Jusić, T.2579-2580, 18-09-07 (open session).

²¹² Exh.380 (public), Exh.461 (public), pp.17-18.

²¹³ For example on 24 March 1994 MAHMULJIN ordered the EMD to transfer from Nemila to the Vlašić plateau (Exh.1029 (public), p.2, (see section 2.1)). [REDACTED]

²¹⁴ Awad, T.70, 73, 08-02-08 (open session) and T.83-84, 09-02-08 (open session). *See also* ŠLJUKA, T.4298-4299, 22-10-07 (open session).

²¹⁵ [REDACTED]

²¹⁶ Awad, T.70, 08-02-08 (open session); Exh429; Hasanagić, T.2933-2934, 24-09-07 (open session).

²¹⁷ [REDACTED]Awad, T.69, 08-02-08 (open session).

²¹⁸ [REDACTED]

106. The EMD stayed in the AoR of the 35Div until Operation FARZ. When the combat activities moved northwards towards Maglaj during Operation FARZ, some EMD soldiers were transferred *within* the AoR of the 35Div in order to participate in combat. On 16 September 1995 HASANAGIĆ ordered the transfer of some EMD soldiers together with other units to Zboriste.²¹⁹

(iii) ARBiH combat reconnaissance conducted by EMD

107. In exercising its command and control the ARBiH ordered and facilitated reconnaissance missions by the Mujahedin from Poljanice and the EMD,²²⁰ in order to effectively use these resources in combat.

108. The Mujahedin from Poljanice and the EMD requested sufficient time to reconnoiter the area assigned to them and that ARBiH soldiers familiar with the area of the future attack assisted them.²²¹ The ARBiH provided scouts familiar with the area to assist the EMD with reconnaissance.²²²

109. In autumn 1993, the EMD conducted reconnaissance before participating in combat activities in Vitez, Novi Travnik and Zabrdje.²²³ [REDACTED]²²⁴ [REDACTED]²²⁵

110. For Operation MANEVAR the EMD had only 15 days to carry out reconnaissance.²²⁶ AWAD reported back about the results of the reconnaissance to

²¹⁹ Exh.478 (public), Nr.2 (order (...) Nr. 2 The 3 mnb. /motorized brigade/, 4 mnb., (-1), 5 mnb. and the detachment *El Mudžahidin* during the night deploy units to the OR Zborište (K. 591), rest the forces and continue the attack in the hourly hours of Saturday on 16.09.1995." The order was carried out. Hasanagić, T.3066-3067, 25-09-07 (open session).

²²⁰ Awad, T.70, 08-02-08 (open session).

²²¹ Hamad, T.29, 38, 07-09-07 (open session); Awad, T.70, 08-02-08 (open session).

²²² Hamad, T.160, 08-09-08 (open session); Awad, T.63, 08-02-08 (open session). On the Teslić/Šerići battlefield MAHMULJIN was subordinating a pioneer squad to the EMD (Exh.1128 (public)).

²²³ Awad, T.63-64, 08-02-08 (open session).

²²⁴ [REDACTED]

²²⁵ [REDACTED]

HASANAGIĆ.²²⁷ Since operation MANEVAR was not successful the EMD had to continue its reconnaissance activities in the AoR of the 35Div until operation PROLJEĆE-1.²²⁸

111. The 3K had the power to order the EMD to *change* the object of its reconnaissance. Initially the EMD reconnoitered the Čevaljuša ridge for Operation PROLJEĆE-2.²²⁹ However, on 2 June 1995 MAHMULJIN ordered the EMD to reconnoiter a different area, the Vis (elevation 551) and Paljenik features for Operations PROLJEĆE-2 and FARZ.²³⁰ Therefore MAHMULJIN *changed* the *object* of reconnaissance of the EMD for Operation PROLJEĆE-2 from Čevaljuša ridge to the 551 elevations.²³¹ The Vis feature (elevation 551) was attacked by the EMD during Operation PROLJEĆE-2²³², and the Paljenik feature during Operation FARZ.

112. Following MAHMULJIN's 2 June 1995 order, HASANAGIĆ ordered on 10 June 1995 that the EMD reconnoiter Paljenik.²³³ The order also stated that the commands of 328MB and 329MB command "will ensure that the EMD can reconnoiter without restrictions in their respective areas of responsibility on the axis

²²⁶ Awad, T.69, 08-02-08 (open session).

²²⁷ Awad, T.73, 08-02-08 (open session). Due to the results of the reconnaissance the EMD did not participate in operation MANEVAR.

²²⁸ According to AWAD after operation MANEVAR in October 1994 HASANAGIĆ stated the following to the EMD: "**You are going to stay here with me. You are not going to leave this territory. Don't even think of it. You're staying here!**" (Hasanagić, T.224, 10-02-08 (open session)) [**emphasis added**]. The EMD stayed on the Vozuća battlefield. BEGOVIĆ, T.449, 11-07-07 (open session); Awad, T.83, 09-02-08 (open session); Exh.362 (public), p.3.

²²⁹ Awad, T.93-94, 09-02-08 (open session).

²³⁰ Exh.396 (public).

²³¹ The EMD complied with this change of mission and reconnoitered and attacked the newly chosen axis. *See* Awad, T.93-94, 09-02-08 (open session); Exh.375 (public), Exh.931 (public) p.36.

²³² *See* attack order 18-Jul-95: "The EMD (...) will (...) group the main forces on the axis Sjenokos village - **Vis** - Markovića Vis (tt 556) - Đurića Vis (tt 505)(...)" (Exh.444 (public), section 5.5). *See* the attack order for operation FARZ : "The EMD (...) will (...) carry out the attack (...) along the axis Čurići village, Paljenik (...)"(Exh.505 (public), section 5.3 (p.7).

²³³ Exh.442 (public), (*see* no.2), Hasanagić, T.2969-2970, 24-09-07 (open session).

assigned in this order.”²³⁴ When the EMD attended its first meeting about Operation FARZ at the 3K headquarters, it had already begun performing reconnaissance.²³⁵ [REDACTED]²³⁶ HASANAGIĆ reported on 16 August 1995 that the EMD is “conducting daily reconnaissance in front of the forward defence lines in the area of responsibility of the 3rd, 4th, 1st, 5th Battalions of the 328MB, in co-operation with the 328MB reconnaissance organs.”²³⁷ On 24 August 1995 HASANAGIĆ ordered that “in the zone of intelligence responsibility, the assistant for intelligence affairs of the EMD shall collect information with the help of the assistant commander for Intelligence and Security of the 328th bbr /Mountain Brigade.”²³⁸

(iv) EMD trains other ARBiH units

113. The Mujahedin from Poljanice used their camp in Poljanice mainly for training purposes.²³⁹ [REDACTED]²⁴⁰ Local soldiers joining the EMD had to pass through training first.²⁴¹ The ŠVK knew that the Mujahedin engaged in military training.²⁴²

²³⁴ Exh.442 (public), (*see* no.3).

²³⁵ Awad, T.106-107, 09-02-08 (open session).

²³⁶ [REDACTED]

²³⁷ Exh.812 (public), p.3.

²³⁸ Exh.556 (public), p.3.; HAJDERHODŽIĆ testified that HASANAGIĆ provided the information he produced according to this order to the EMD, Hajderhodžić, T.3743-3744, 08-10-07 (open session).

²³⁹ Exh.89 (public), Exh.65 (public), p.2; Halim Husić, T.7304-7305, 11-03-08 (open session).

²⁴⁰ [REDACTED]

²⁴¹ [REDACTED] Exh.66 (public), p.2; Begović, T.409, 415, 438-439, 11-07-07 (open session).

²⁴² Divjak, T.2261, 12-09-07 (open session). In bulletin Nr.45 it is mentioned about the EMD that “once the ongoing training will have been completed, 67 other local combatants will join this unit” (Exh.720 (public), p.2). Training between EMD and the 328MB before operation PROLJEĆE-2 is mentioned in Exh.735 (public) (*see* p.4).

114. In November 1994 the EMD was ordered to propose five candidates out of which two soldiers were selected and sent to an ARBiH officer training course at hotel Rudar in Zenica.²⁴³

115. [REDACTED]²⁴⁴

116. From June 1995 the EMD participated in training with other ARBiH units at the 9th kilometre.²⁴⁵ Weeks before the final ARBiH offensive in the Vozuća pocket, ARBiH units were trained by the EMD in Čardak (or “9th kilometre”) and Osve within the 35Div AoR.²⁴⁶ ALIJA testified about the training and combat preparations for Operation PROLJEĆE-2: “there is a Division on the one side and on the other the detachment. There are two components. The 35Div will train and prepare combatants together with this other component, which is the EMD.”²⁴⁷ The 35Div initiated this training and inspected it.²⁴⁸

(v) ARBiH provided logistics to EMD

117. The ARBiH supported the EMD logistically before, during and after combat activities. This logistical support can be divided into four categories: ARBiH assistance with (1) communication devices, (2) delivery of MTS, meaning material, ammunition and other technical equipment, (3) repair works and medical care, and (4) engineering, such as demining, building of roads and fortification of lines.

118. **Communication devices:** HASANAGIĆ ordered the 35Div to supply communication equipment to the Kamenica camp of the EMD at the 12 kilometre: “In addition to the accommodation facilities, prepare the Command Post and the

²⁴³ Exh.1023 (public), Awad, T.259-260, 10-02-08 (open session).

²⁴⁴ [REDACTED]

²⁴⁵ Exh.598 (public), p.3 ; Zilkić, T.5326-5327, 09-11-07 (open session); Hasanagić, T.2949-2950, 2966, 24-09-07 (open session), Exh.440 (public), Exh.441 (public), Exh.774 (public), Exh.789 (public).

²⁴⁶ Exh.1067 (public), Exh.575 (public), Exh.438 (public), Exh.1069 (public), Exh.512 (public), p.8; Exh.1064 (public), Exh.1069 (public), p.1, Exh.1071 (public), Exh.1073 (public).

²⁴⁷ Alija, T.4129 (open session); Exh.598 (public), p.3.

²⁴⁸ Exh.438 (public), p.3; Exh.1056 (public), Exh.441 (public), Exh. 454 (public).

Communications Centre in the base area for the use of the El Mujahedin Detachment.”²⁴⁹ AWAD testified that during Operation PROLJEĆE-1, the EMD communicated via this communication centre with the EMD assault groups in the field and the 35Div or 3K.²⁵⁰

119. [REDACTED]²⁵¹ [REDACTED]²⁵²

120. **Delivery of MTS:** [REDACTED]²⁵³ Within the AoR of the 35Div the EMD received logistical support from the ARBiH on the orders of HASANAGIĆ.²⁵⁴ During Operation PROLJEĆE-2 the 3K and the 35Div delivered ammunition and MTS to Livade from where the EMD launched combat on 21 July 1995.²⁵⁵ During an operation the EMD made several requests for ammunition or weaponry that it did not have and could not buy.²⁵⁶ HASANAGIĆ ordered the EMD on 9 August 1995 to return a recoilless gun to the logistics base of the 35Div base in Kučiće.²⁵⁷

121. **Repair works/medical care:** The ARBiH repaired EMD vehicles.²⁵⁸ The ARBiH delivered MTS to the Mujahedin from Poljanice and to the EMD, before and

²⁴⁹ Exh.434 (public), Nr.5. The EMD also used communication equipment to contact the 3K directly: Exh.511 (public), entry 70.

²⁵⁰ Awad, T.86-87, 09-02-08 (open session).

²⁵¹ [REDACTED]

²⁵² [REDACTED] Exh.669 (public), Exh.666 (public).

²⁵³ [REDACTED]

²⁵⁴ The 328th Brigade moved heavy weapons for the EMD, established communications, brought food or other items (Zilkić, T.5321-5322 (open session) and T.5329-5330, 09-11-07 (open session), Exh.788 (public), Exh.790 (public)).

²⁵⁵ Exh.447 (public), Exh.450 (public), Exh.451 (public), Exh.457 (public); Hasanagić, T.2978-2979 and 2982-2984, 24-09-07 (open session); T.3211-3212, 27-09-07 (open session).

²⁵⁶ Awad, T.260-261, 10-02-08 (open session).

²⁵⁷ Exh.1062 (public).

²⁵⁸ Exh.788 (public), p.6; Zilkić, T.5322, 09-11-07 (open session).

during combat operations.²⁵⁹ The EMD used the war hospital of the 35Div for their wounded resulting from combat.²⁶⁰

122. **Engineering:** The ARBiH provided engineering services to the EMD²⁶¹. The ARBiH removed minefields²⁶² [REDACTED]²⁶³ to retrieve the wounded during combat and fortified²⁶⁴ the lines reached by the EMD and the ARBiH in joint combat activities.

(vi) Temporal replenishment of EMD with ARBiH manpower

123. The EMD alone could not attack, because it had insufficient manpower to launch an attack or to hold frontlines after the successful completion of an assault operation. Thus, the ARBiH began to temporarily subordinate certain soldiers from other units to the EMD in order to increase the power of this special unit.

124. The ARBiH provided manpower to the EMD in preparation for and during actual combat. Usually ARBiH soldiers from other units would be temporarily assigned to the EMD for certain tasks such as:

1. introducing the Mujahedin to the new AoR and assisting for reconnaissance;
2. performing engineering works at the lines of attack;

²⁵⁹ Delivery to the Mujahedin: Exh.336, Hamad, T.10, 07-09-07 (open session). Delivery of MTS to the EMD for operation PROLJEĆE-2: Exh.447 (public), Exh.450-Exh.452 (public), Exh.457 (public), Exh.465 (public) (see no.3); Hasanagić, T.2978-2979, 2982-283, 24-09-07 (open session), T.3211-3212, 27-09-07 (open session); Awad, T.260-261, 10-02-08 (open session). [REDACTED]

²⁶⁰ Hasanagić, T.3289, 28-09-07 (open session).

²⁶¹ The EMD did not have engineering units and requested therefore such services and the ARBiH provided them: Hasanagić, T.3142-3143, 27-09-07 (open session); PW9, Awad, T.195-196, 10-02-08 (open session); PW9, T.5704, 16-11-08 (open session).

²⁶² Operation PROLJEĆE-2: Exh.452 (public) (see no.1). Operation FARZ: Exh.1128 (public); Awad: T.76-77, 08-02-08 (open session).

²⁶³ [REDACTED]

²⁶⁴ For Operation PROLJEĆE-1: Exh.699 (public), p.10; Exh.701 (public), p.4; Begović, T.453, 11-07-07 (open session); Awad: T.89-92, 09-02-08 (open session). Operation PROLJEĆE-2: Exh.452 (public), p.2; Exh.447 (public), p.2; Exh.1054 (public), p.3; Exh.812 (public); Zilkić, T.5428, 13-11-07 (open session). For operation FARZ: Exh.1128 (public), Exh.1072 (public); Zilkić, T.5321, 09-11-07 (open session). The EMD sometimes fortified its own lines reached. Begović, T.458, 11-07-07 (open session).

3. pulling out the wounded EMD soldiers during combat; or
4. participating in offensive combat.

125. **Reconnaissance:** To prepare combat operations ARBiH scouts assisted or were subordinated to the EMD for reconnaissance.²⁶⁵

126. **Engineering:** ARBiH units subordinated soldiers to the EMD to remove mines laid by the enemy or build roads to pull out those wounded during combat. ARBiH pioneers would assist with or were subordinated to the EMD to remove mines on the territory designated for the axis of attack.²⁶⁶

127. **Subordination for combat operations.** Namely relating to the pull-out of wounded²⁶⁷ EMD and directly for offensive combat.²⁶⁸

128. There were two options for subordination: on the Vozuća battlefield for purposes of the initial combat operations only a limited number²⁶⁹ of soldiers from

²⁶⁵ Hamad, T.160, 08-09-08 (open session); Awad, T.63, 08-02-08 (open session).

²⁶⁶ Awad, T.76-77, 08-02-08 (open session), Exh.1128 (public); Zilkić testified that unfit ARBiH soldiers would be used to remove mines (T.5370, 09-11-07 (open session)); Exh.1128 (public) relates to the Teslić battlefield. For operation PROLJEĆE-2 fighters from the 328th and 329th Brigades were used for engineering works after Hasanagić had ordered this (Exh.447 (public), Exh.459 (public) (*see no.1b*), p.2). For operation FARZ “Chetnik mines in the minefields [around Paljenik] were removed and returned to their positions up to ten times” (Exh.111 (public) (*see no.1*, p.13).

²⁶⁷ 30 bearers of wounded are assigned from 5/328 Brigade to the EMD for purposes of the PROLJEĆE-1 operation (Exh.700 (public) (*see nos. 3, 9*); Exh.702 (public); ŠEHIĆ, T.5076-5077, 05-11-07 (open session)). Carriers of wounded were assigned by the 328th and 329th Brigades to the EMD also for operation PROLJEĆE-2 (Exh.459 (public), p.2 (*see no.1b*); Begović, T.455-456, 11-07-07 (open session)). The 328th Brigade detached 200 of its soldiers to the EMD for operation FARZ (Exh.793 (public); Zilkić, T.5334-5335, 09-11-07 (open session)). Zilkić testified that during operation FARZ unfit ARBiH soldiers would be used as bearers of the wounded (T.5371 line 24 until 5372 line 2, 09-11-07 (open session); Exh. 793 (public), Exh.479 (public), Exh.481 (public), p.2; Hasanagić, T.3067-3068, 25-09-07 (open session)).

²⁶⁸ Subordinations by 328MB Brigade soldiers for operation PROLJEĆE-1: Exh.700 (public), p.2; Zilkić, T.5301, 5305, 5373, 09-11-07 (open session)); for operation PROLJEĆE-2: Exh.459 (public). For operation FARZ: Exh.481 (public), Exh.505 (public) (*see sections 5.2 – 5.5*).

²⁶⁹ Exh.700 (public), Exh.444 (public), Exh.459 (public), p.1.

other ARBiH units were subordinated to the EMD, but during Operation FARZ *entire* ARBiH units were subordinated to the EMD.²⁷⁰

129. Within the 328MB the battalion commanders had to select soldiers for subordination to the EMD.²⁷¹ Before the subordination of soldiers of other ARBiH units to the EMD for combat operations they were trained with the EMD. ZILKIĆ testified that the training consisted of “religious exercises and the bonding of our troops with the people of Arabic origin, so that they be as compact a unit as possible during offensive operations.”²⁷²

130. With regard to combat in the 35Div AoR: the attack order for Operation PROLJEĆE-2 specified which units had to subordinate soldiers to the EMD:

(...) 5.2 The 328th Mountain Brigade (...) is to detach a force of 240 soldiers, 16 pioneers with weapons, equipment and one b/k /combat set/ of ammunition from its strength, and resubordinate them to the EMD for attacking b/d on the main axis of attack

- Detach 150 soldiers to carry the wounded and resubordinate them to the EMD on day- 1.

- Detach 100 soldiers with tools for the engineering organisation of the l/o on the axis of attack (...)

5.3 The 329th Mountain Brigade (...)

- Detach a force of 240 soldiers (120 of whom form the 35Div reserve on the axis attack of the EMD, use of the reserve at the request of the EMD and on approval by the 35Div commander), 16 pioneers with weapons, equipment and one b/k of ammunition, and resubordinate them to the EMD for attacking b/d on the main axis of attack

- Detach 100 soldiers with tools for engineering organisation of the l/o at the axis of attack (...)

²⁷⁰ The FARZ attack order subordinated the entire 1st tank platoon and the 4th ManBAT to the EMD (see Exh.505 (public), sections 5.3 & 5.4). Days before operation FARZ commenced Exh.465 (public) directed that the entire 3rd ManBAT should “carry out the task with the EMD, in the way the EMD Command requests.” On the second day, after operation FARZ had already begun, Hasanagić subordinated the entire 5th ManBAT to the EMD for “carrying out offensive combat activities” (see Exh.468 (public), Exh.505 (public)). [REDACTED]

²⁷¹ Zilkić, T.5372, 09-11-07 (open session); Exh.700 (public), Exh.702 (public).

²⁷² Zilkić, T.5327, 5325-5326, 09-11-07 (open session).

5.4 The 5th ManBAT (3rd oslb /?Liberation Battalion/) will detach 88 soldiers, 8 pioneers with weapons, equipment and one b/k of ammunition from its strength and resubordinate them to the EMD on D-1, to conduct attacking activities. (...)

5.5 The EMD, with forces numbering 600 soldiers, in coordination with the securing forces of the 328th bbr, 329th bbr and resubordinated forces: three tanks, one B-1 cannon, 240 328th bbr soldiers, 120 329th bbr soldiers, 88 5th mnb soldiers for attacking combat operations, 56 pioneers, 150 soldiers from the 328th bbr to carry the wounded, and 200 attached soldiers for engineering organisation of the line, will attack on the front (...)

5.6. The 35th dKoV reserve will [be] at readiness for use on the EMD's axis of attack on approval from the 35Div commander and at the request of the EMD.²⁷³

131. The above demonstrates that it was in the hands of the 35Div whether and to what degree to subordinate soldiers to the EMD. Especially the provision 5.6. demonstrates that HASANAGIĆ had the power to approve (or not) the subordination of its reserve force to the EMD.²⁷⁴

132. The subordination of soldiers from the 328MB and 329MB to the EMD occurred before Operation PROLJEĆE-2 began.²⁷⁵ For this operation the 328MB and 329MB subordinated 240 soldiers and the 5ManBAT 100 soldiers to the EMD.²⁷⁶ As a result of such temporary subordinations certain soldiers wished to stay with the EMD.²⁷⁷

133. That the trust of the ARBiH in the capabilities of the EMD increased during the combat operations can be inferred from the fact that the *scope* of soldiers subordinated to the EMD increased. During Operation FARZ not only individual soldiers from other ARBiH units, but *entire units* were subordinated to the EMD: the FARZ attack order subordinated the entire 1st tank platoon and the 4ManBAT to the

²⁷³ Exh.444 (public), pp.11-15.

²⁷⁴ Exh.444 (public), sections 5.3 and 5.6, pp.12, 14-15.

²⁷⁵ Exh.459 (public), Nr. 1b), p.2.

²⁷⁶ Exh.459 (public), Nr. 1b), p.2.

²⁷⁷ Exh.577 (public). The ARBiH authorised such transfers occasionally through transfer orders (see insofar the chapter "ARBiH transferred soldiers to EMD", below).

EMD.²⁷⁸ Days before Operation FARZ commenced HASANAGIĆ directed that the entire 3ManBAT should “carry out the task with the EMD, in the way the EMD Command requests.”²⁷⁹ On the second day, after Operation FARZ had begun, HASANAGIĆ subordinated the entire 5ManBAT to the EMD for “carrying out offensive combat activities”.²⁸⁰ Thus, by the second day of Operation FARZ, four units, the 3ManBAT, the 4ManBAT and the 5ManBAT as well as the tank platoon, were subordinated to the EMD.²⁸¹ The very fact that HASANAGIĆ could subordinate these units to the EMD shows his command and control over the EMD.²⁸²

(b) Combat

(i) ARBiH orders to attack and to ceasefire

134. One of the main indicators of command and control is the issuance of attack orders to the EMD by the ARBiH. If a unit accepts and carries out an attack order for the purpose of upcoming combat operations where its soldiers may die, this establishes that the unit concerned is within the military hierarchy.

135. In the time period September 1993 to September 1995, the ARBiH issued 13 orders of attack to the EMD which were carried out. *See* Annex A, Table 2: EMD Compliance with ARBiH Attack Orders.

136. In 1994, MAHMULJIN issued two decisions to attack related to future combat activities involving the EMD.²⁸³ After the subordination of the EMD in October 1994

²⁷⁸ Exh.505 (public) (*see* sections 5.3 & 5.4).

²⁷⁹ Exh.465 (public).

²⁸⁰ Exh.468 (public), Exh.505 (public).

²⁸¹ These subordinations were carried out. E.g. on 10 September 1995 at 1720 hours the EMD requested that the “commanders of 3rd, 4th and 5th ManBAT **be positioned with MUATAZ** [the military commander of the EMD] **in the course of combat activities**; and that they should be provided with wire communications” (Exh.394 (public), p.20 (*see* entry 39, p.20)).

²⁸² Exh.505 (public) (*see* sections 5.3 & 5.4), Exh.465 (public), Exh.468 (public), Exh.505 (public).

²⁸³ The first decision was communicated to OG North to which the EMD was subordinated at the time (Exh.837 (public) (*see* section 3.2)). The second decision was communicated to OG Bosna to which the EMD was subordinated at the time Exh.428 (public) (*see* section 2)

HASANAGIĆ issued seven attack orders to the EMD in the time period from April until 15 September 1995.²⁸⁴ According to these orders the EMD participated in the Operations SABUR, PROLJEĆE-1, PROLJEĆE-2 and FARZ.²⁸⁵

137. Following the successful ARBiH offensives in the Bila valley and in the Vozuća pocket **Rasim DELIĆ** issued ceasefire orders which were obeyed by the Mujahedin from Poljanice and the EMD.²⁸⁶

(ii) EMD spearheads operation

EMD spearheads operation

138. The EMD had the character of an *assault unit* which was used on different battlefields within the AoR of the 3K.²⁸⁷ The task of the EMD was often to (1) be the first unit to “break” through the lines of the enemy army or (2) to repulse the attacking adversary.²⁸⁸ In order to repulse the advancing enemy or in order to arrest enemy

“Operation MANEVAR”). The EMD did not comply with this order, but carried out a “fake attack” only (Awad, T.192, 10-02-08 (open session)).

²⁸⁴ Attack orders relating to Operation SABUR (Exh.432 (public), Exh.433 (public); Hasanagić, T.2940-2941, 24-09-08 (open session)), PROLJEĆE-1 (Exh.435 (public)), PROLJEĆE-2 (Exh.444 (public)), Operation FARZ (Exh.505 (public), Exh.461 (public), Exh.465 (public), Exh.467 (public), Exh.468 (public), Exh.478 (public); Hasanagić, T.3247-3251, 28-09-07 (open session) and T.3015, 25-09-07 (open session)).The main FARZ attack orders were delivered to EMD (Exh. 463 (public); Hasanagić, T.3019-3022, 25-09-07. (open session)).

²⁸⁵ Operation SABUR (Exh.432 (public), Exh.433 (public), Exh.1025 (public)), PROLJEĆE-1 (Exh.574 (public), Exh.573 (public), Exh.1037 (public), Exh.1209 (public), Exh.437 (public)), PROLJEĆE-2 (Exh.455 (public), Exh.457 (public), Exh.1046 (public), Exh.609 (public), Exh.528 (public), Exh.1050-Exh.1052 (public)), Operation FARZ (Exh.394 (public), pp.4-6, 9,10; Exh.515 (public), p.2; Exh.479 (public)).

²⁸⁶ Exh.1082 (public), Exh.1083 (public); Zilkić, T.5339, 09-11-07 (open session).

²⁸⁷ Ribo, T.7132-7133, 06-03-08 (open session).

²⁸⁸ Zilkić, T.5326, 09-11-07 (open session); BEGOVIĆ, T.462-463, 11-07-07 (open session); Awad, T.104, 09-02-08 (open session), HAMAD, T.161, 08-09-07 (open session); Exh.511 (public): ERN0183-5093. Following Operation PROLJEĆE-2, the VRS carried out an attack in which they successfully broke through the line which the EMD had previously captured. The 35DIV ordered the EMD to prevent any further progress by the EMD, to which the EMD responded by carrying out an attack in compliance with the 35DIV’s order (Exh.1049 (public); Awad, T.104, 9-2-08, (open session)).

troops which were left behind on the battlefield freshly conquered by the ARBiH the EMD was sometimes used as *intervention* unit.²⁸⁹

139. **Assaults:** implementing their mission the assault groups within the EMD set their own plans of attack and had to identify the axis along which the attack would be carried out.²⁹⁰ RIBO testified that HASANAGIĆ tasked the EMD to merge two or three assault units for combat.²⁹¹

140. The EMD lead several assault operations on crucial features in the AoR of the 35Div: for Operation PROLJEĆE-1 ABU MAALI proposed to HASANAGIĆ that “the basic concept is for spearhead groups to strike in two locations (K 726) and (K 706), at the same time as a spearhead group on TT 702 strikes only the front trenches and stays there to wait for the groups which penetrated the line at K 726 and K 706, clearing the left and right side and then launching a joint strike on TT 702. If everything goes to plan and if the situation on our right flank is favourable, we will launch an immediate strike against the villages towards Čevaljuša.”²⁹²

141. Two days before Operation PROLJEĆE-2 the 3K reported to the GŠ: the EMD “is the primary leader of the upcoming task”.²⁹³ The EMD was “the principal protagonist, the *spearhead* of this particular mission (...)”.²⁹⁴ During Operation FARZ the EMD with the subordinated 2ManBAT and 3ManBAT was the spearheading force attacking the crucial Paljenik feature.²⁹⁵

²⁸⁹ Exh.434 (public), p.2; Exh.396 (public), p.2; Exh.812 (public), p.3; Exh.466 (public), p.2; Exh.474 (public), p.2.

²⁹⁰ Awad, T.223, 20-02-08 (open session).

²⁹¹ RIBO was referring to the 2ManBAT and 3ManBAT (Ribo, T.7183, 06-03-08 (open session)).

²⁹² Exh.439 (public) [emphasis added]. Hasanagić, T.3126, 26-09-07 (open session). Awad, T.223, 10-02-08 (open session).

²⁹³ Exh.606 (public).

²⁹⁴ Alija, T.4159, 16-10-07 (open session)[emphasis added].

²⁹⁵ Ribo, T.7135, 7138, 06-03-08 (open session); Begović, T.462-463, 465, 11-07-07 (open session).

142. Several assault operations of the EMD were carried out in an efficient and speedy manner. Even the most difficult features were seized within minutes by the EMD, for example Paljenik fell within minutes to the ARBiH.²⁹⁶

143. Even before the formation of the EMD the Mujahedin from Poljanice were organised in “spearheading groups”²⁹⁷ during ARBiH combat activities. In Višegrad near Visoko the Mujahedin proceeded quickly into territory held by the VRS, ARBiH units followed too slowly which resulted in the wounding of several Mujahedin; the operation to lift the blockade of Sarajevo failed.²⁹⁸ During the 8 June 1993 combat activities from Mehurići one spearheading group of the Mujahedin went from the area between Poljanice and Suhi Dol via Simulje through the HVO lines towards Borije.²⁹⁹

144. **Intervention:** Several orders referred to the use of the EMD as an intervention unit.³⁰⁰ For example MAHMULJIN’s subordination order which preceded Operations PROLJEĆE-2 and FARZ mentioned about the EMD:

[E]ngage [the EMD] in accordance with the plan of the Commander of the 35th Division, focusing on the completion of the following tasks in the role of a back-up for the Commander of the 35th Division (intervention unit) of the strength of 350 to 400 fighters for repelling a possible attack on the Podsjelovo features.³⁰¹

145. During Operation FARZ the EMD was used on the first day of the combat activities as an assault unit which took the Paljenik feature. On the second day of Operation FARZ the EMD was used in a *dual* capacity: as assault³⁰² unit in the area of

²⁹⁶ Zilkić, T.5308, 09-11-07 (open session); Exh.396 (public), p.4..

²⁹⁷ Šaban ALIĆ, T.645-652, 16-07-07 (open session).

²⁹⁸ Hamad, T.33, 55, 07-09-07 (open session); Exh.319 (public). [REDACTED]

²⁹⁹ Šaban ALIĆ, T.645-652, 16-07-07 (open session); Exh.99 (public) (*see* no. 2, 3 &4). Compare Hamad T160-161, 08-09-07, (open session).

³⁰⁰ Exh.434 (public), p.2 (*see* no.7); Exh.396 (public), p.2; Exh.812 (public), p.3; Exh.466 (public), p.2 (*see* no.8), Exh.474 (public), p.2.

³⁰¹ Exh.396 (public),p.2.

³⁰² Exh.467 (public) (Nr.3).

Đurića Vis and Kvrge *and* as an intervention³⁰³ unit in the area of Kesten, Prokop, and Kosa.

(iii) IKMs used by ARBiH and EMD

146. At least during Operations PROLJEĆE-2 and FARZ IKMs were shared by soldiers of the EMD and of the ARBiH.³⁰⁴ In operation PROLJEĆE-2 the IKM Malovan was also shared by EMD and the ARBiH.³⁰⁵ During this operation the 35Div had its IKM in Livade, where the EMD had its outpost.³⁰⁶ For Operation FARZ HASANAGIĆ ordered that the commander of the 3ManBAT be located at the IKM of the EMD during combat.³⁰⁷ Contact person from the 35Div at the IKM of the EMD was Muharem ISMIČIĆ.³⁰⁸

(iv) ARBiH orders EMD during combat

147. The ARBiH issued orders to the EMD while combat was ongoing and the EMD complied with them.

148. In September 1993, during a meeting at IKM Lupać of the OG BK ALAGIĆ instructed WAHIUDIN to participate in an ongoing combat operation near Vitez. The EMD then attacked Crveno Brdo along the axis assigned, but suffered heavy losses.³⁰⁹

³⁰³ Exh.466 (public) (*see* no.8); Exh.474 (public) (*see* no.2).

³⁰⁴ During operation PROLJEĆE-1 Muharem ISMIČIĆ, a 35Div officer, was appointed as liaison officer to the EMD (Exh.487 (public)).

³⁰⁵ Exh.449 (public) (*see* no.1); Exh.448 (public) (*see* no.3), Hasanagić, T.2979-2981, 24-09-07 (open session).

³⁰⁶ Exh.449 (public). In relation to the EMD installation in Livade IMAMOVIĆ mentioned that ABU MAALI approved an interview with POW's in the "reception centre in the village of Livade" (Exh.553 (public)).

³⁰⁷ Exh.465 (public). AWAD testified that the IKM was across the hill of Paljenik. He was manning this IKM together with ABU MAALI and Anwar SHAABAN. (Awad, T.107-108, 09-02-08 (open session)).

³⁰⁸ Exh.464 (public). AWAD confirmed the presence of a soldier of the 35Div. (Awad, T.107-108, 09-02-08 (open session)).

³⁰⁹ Awad, T.59-60, 08-02-08 (open session), T187-188, 10-02-08 (open session).

149. During Operation PROLJEĆE-2, the VRS carried out an attack in which they successfully broke through the line which the EMD had previously captured. The 35Div ordered the EMD and the 4ManBAT to prevent any further progress of the VRS and both units carried out the requested action.³¹⁰

150. During Operation FARZ the 35Div issued five orders to the EMD *after* combat had begun and Paljenik was taken. This demonstrates that the EMD was under the command of the 35Div, because HASANAGIĆ possessed the power to *set new goals* after the initial mission of the EMD was accomplished: after Paljenik was taken in the morning of 10 September 1995 HASANAGIĆ issued orders to the EMD in the late evening of the same day and on 11, 12 and 15 September 1995.³¹¹

151. At 1755 hours on 10 September 1995 MAHMULJIN ordered HASANAGIĆ to continue attacks towards Đurića Vis and Prokop.³¹² During the evening of 10 September 1995 the EMD and other ARBiH units attended a meeting at IKM Panorama.³¹³ Around midnight on 10 September 1995 HASANAGIĆ issued an order to the units represented at this meeting and directed the EMD to act as an intervention unit in the area of Kosa, Prokop and Kesten.³¹⁴ This order was followed, as the next day the EMD was in Kesten, when VRS soldiers had been arrested. On 10 September 1995 MAHMULJIN ordered HASANAGIĆ to attack Đurića Vis which prompted an order of the latter to the EMD to attack Đurića Viš and Kvrge.³¹⁵ The EMD carried the order out. HASANAGIĆ issued a third order on 1730 that day subordinating the 5ManBAT to the EMD to participate in combat against Radulovo Brdo and Karačić.³¹⁶ On 15 September 1995 HASANAGIĆ ordered the EMD to deploy with the 3ManBAT to Zboriste; the combat was carried out.³¹⁷

³¹⁰ Exh.1049 (public); Awad, T.104, 9-2-08, (open session).

³¹¹ Exh.466 (public), Exh.468 (public), Exh.474 (public), Exh.478 (public).

³¹² Exh.396 (public) (*see* p.11).

³¹³ Awad, T.109-110, 09-02-08 (open session); T.249-250, 10-02-08 (open session); Zilkić, T.5307, 09-11-07, (open session).

³¹⁴ Exh.466 (public).

³¹⁵ Exh.467 (public) (section 2); Zilkić, T.5381-5382, 13-11-07. (open session).

³¹⁶ Exh.468 (public) (Section 5); Hasanagić, T.3044-3044, 25-09-07 (open session).

(v) Artillery support by ARBiH

152. [REDACTED]³¹⁸ It only possessed a very modest artillery, a 120 mm and two 80 mm mortars.³¹⁹ Thus, in order to carry out successful assault operations, the EMD depended on ARBiH artillery support.³²⁰

153. [REDACTED]³²¹ During combat operations AWAD acted as a co-ordinator between EMD soldiers at the frontline and the 35Div communication centre through which he requested artillery support if and when needed.³²² The objectives and targets of artillery had been set in advance and had been coded by numbers; AWAD requested via a Motorola the number of the target concerned to get a target attacked by the ARBiH artillery unit(s).³²³ The 35Div order for Operation PROLJEĆE-2 instructed to “open tank fire at the request of the EMD relayed by the command post”.³²⁴

154. Three days before Operation PROLJEĆE-1 was launched ZILKIĆ reported that the anti-aircraft defence artillery and rocket units occupied all firing places to provide support to the EMD and units of the 328MB.³²⁵

155. For Operation FARZ the artillery chief of the 35Div commanded the entire artillery, including the Artillery group of the EMD in Marići village.³²⁶ HASANAGIĆ

³¹⁷ Exh.478 (public) (*see* no.2); Exh.394 (public), p.19 (*see* no.33); Hasanagić, T.3066-3067, 25-09-07 (open session).

³¹⁸ [REDACTED] When the EMD was disbanded in December 1995 it returned tanks to the ARBiH (Awad, T.128-129, 09-02-08 (open session)).

³¹⁹ [REDACTED]Awad, T.87-88, 09-02-08 (open session); Exh.1061 (public) (Nr.6). The EMD operated in August 1995 a 120 mm mortar in Livade (Zilkić, T.5329-5330, 09-11-07 (open session); Exh.790 (public) (p.2)).

³²⁰ [REDACTED]Awad, T.87-88, 09-02-08 (open session).

³²¹ [REDACTED]

³²² Awad, T.87-88, 109, 09-02-08 (open session).

³²³ Awad, T.109, 09-02-08 (open session).

³²⁴ Exh.444 (public) (p.17)

³²⁵ Exh.70 (public), p.4.

requested the EMD to return a recoilless gun and ordered “pursuant to a demonstrated need and as requested by the EMD” that a 40 mm Anti Aircraft gun be mounted by the 329MB on the line of attack.³²⁷ During Operation FARZ the 1st tank platoon was subordinated to the EMD.³²⁸ AWAD acted as a co-ordinator for artillery.³²⁹

(c) After combat

(i) EMD holds ARBiH frontline

156. Another indication of command and control is what happened to the positions reached when ARBiH joint combat involving the Mujahedin from Poljanice or the EMD ceased. Usually regular ARBiH units took over³³⁰ the lines reached by the EMD and its subordinate ARBiH forces in order to fortify³³¹ them. Having taken over the lines reached by the EMD the ARBiH conducted decisive defence.³³² Occasionally the EMD would fortify the lines reached themselves, e.g. at the elevations Visoka Glava and Pisana Jelika at the Teslić/Šerići battlefield EMD soldiers fortified the positions, dug some trenches and laid mines in front of them.³³³ Occasionally EMD

³²⁶ Exh.1061 (public), p.7. The order mentioned on page 8 that “fire [is] to be guided by the emir of artillery of the EMD.”

³²⁷ Exh.1062 (public), Exh.1072 (public).

³²⁸ Exh.505 (public), p.7 (*see* section 5.3).

³²⁹ Awad, T.109, 09-02-08 (open session).

³³⁰ [REDACTED] Exh.696 (public), p.2; Exh.697 (public).

³³¹ For Operation PROLJEĆE-1: Exh.699 (public), p.10; Exh.701 (public), p.4; BEGOVIĆ, T.453, 11-07-07 (open session); Awad: T.89-92, 09-02-08 (open session). Operation PROLJEĆE-2: Exh.452 (public), p.2, Exh.447 (public), p.2, Exh.1054 (public), p.3; Exh.812 (public); Zilkić, T.5428, 13-11-07 (open session); Exh.812 (public), p.2. For Operation FARZ: Exh.1128 (public), Exh.1072 (public). Zilkić, T.5321, 09-11-07 (open session).

³³² For Operation PROLJEĆE-1: Awad, T.90, 09-02-08 (open session); Zilkić, T. 5348-5349, 09-11-07 (open session) providing explanations regarding the fourth map of Exh.797 (public). [REDACTED] A report from Zilkić stated about operation PROLJEĆE-2: “By conducting decisive defence of newly-reached positions, NŠ managed to keep under control the extremely important newly-achieved positions in the sector of Kesten village, Markovića Vis, Krčevine, Skradina Kosa, tt /trig. point/ 551, k. /feature/ 551 and Vis” (Exh.789 (public), p.2; Zilkić, T.5324-5325, 09-11-07 (open session)).

³³³ PW9, T.5603-5604, 15-11-07 (open session).

soldiers themselves would hold the line for some time, sometimes alone³³⁴, sometimes together with another ARBiH unit, for example after Operations PROLJEĆE-1 and PROLJEĆE-2.³³⁵

3. ARBiH issued orders, the EMD executed them

(i) ARBiH ordered EMD together with other ARBiH Unit(s)

157. The EMD was treated as any other ARBiH unit. The fact that the ARBiH issued 14 orders to several ARBiH units *including* the EMD and that the receivers carried out these orders (jointly) indicates that the EMD was inside the system of command and control. *See* Annex A, Table 3: EMD Compliance with ARBiH Orders Issued to the EMD and Other ARBiH Units.

158. In the time period April 1994 until December 1995 14 orders issued by 3K, OG BK, OG North, OG Bosna and the 35Div were issued to the EMD and several other ARBiH units.³³⁶

(ii) ARBiH assigned installations to EMD

159. Even before the EMD was formed, facilities were allocated to the Mujahedin for use as barracks and command posts. In 1992, journalist Andrew HOGG met with Abdel Aziz in front of the school in Mehurići³³⁷, where he and other Arabs were

³³⁴ [REDACTED] On 28 August 1994 the EMD took the elevations Visoka Glava and Pisana Jelika from the VRS. Members of the EMD remained at those positions until 3 October 1994 when combat activities resumed at a number of neighboring elevations (PW9, T.5603, line 11 – T.5604, 15-11-07 (open session)).

³³⁵ After operation PROLJEĆE-1 the EMD reported at a meeting with the 35Div what needed to be done in order to maintain the successes reached. The EMD requested that forces be brought in to relieve the EMD and that digging tools and saws for fortification be provided (Awad, T.91-92, 09-02-08 (open session)). The EMD fortified the frontlines reached in Podsjelovo for six days before reinforcement arrived and the line was guarded by new EMD soldiers and another ARBiH unit (Begović, T.453 11-07-07 (open session), Awad, T.91, 09-02-08 (open session)). [REDACTED] Begović, T.458, 11-07-07 (open session)).

³³⁶ 3K: Exh.845 (public); OG Bosanska Krajna: OG North: [REDACTED]; 35Div: Exh. 478 (public), Exh.468 (public), Exh.474 (public), Exh.467 (public), Exh.466 (public), Exh.465 (public), Exh.505 (public), Exh.444 (public), Exh.447 (public), Exh.434 (public), Exh.432 (public) and Zilkić, T.5369, 5359, 09-11-07 (open session), Hasanagić, T.3158-3161, 27-09-07 (open session).

³³⁷ Hogg, T.329, 10-07-07 (open session)

accommodated in 1992 and early 1993.³³⁸ This school building also served as the headquarters of the 1st Battalion of the 306MB.³³⁹ Ivan NEGOVEGIĆ testified that, in June 1993, the Mujahedin and the 306MB were accommodated in different floors of the Mehurići school at the same time.³⁴⁰

160. By at least April 1993, the ARBiH 7MMB had allocated for Mujahedin space in the Zenica Music School and Bilmište Barracks.³⁴¹ Later, the ARBiH provided the EMD the building that once housed the Vatrostalna Building, the settlement of Podrezje in Zenica Municipality.³⁴² The EMD was also given the use of another building, in Podbrežje, the Apatinska Pivovara Brewery.³⁴³

161. In April 1995, HASANAGIĆ signed an order commanding his subordinates to “[p]repare the deployment area for the El Mujahedin Detachment in the base area of the twelfth Kilometre ... prepare the base area so that it provides for undisturbed work and living conditions for the El Mujahedin Detachment.”³⁴⁴ In August, he asked that the Zavidovići Municipality to provide 20 workers to “consolidate infrastructure in the redeployment area of the El Mujahedin detachment at the 13th km (digging foundations for electricity poles).”³⁴⁵

(iii) ARBiH transferred soldiers to EMD

162. The creation of the EMD was not possible without other soldiers leaving other ARBiH units. Especially in the pre-formation period the EMD was replenished by

³³⁸ Begović, T.386-387, 11-07-07 (open session); Fuško, T.1076, 23-07-07 (open session); Delalić, T.1697, 27-08-07 (open session)

³³⁹ Begović, T.386, 11-07-07 (open session)

³⁴⁰ Negovetić, T.6771, 15-01-08 (open session)

³⁴¹ Hamad, T.48, 7-09-07 (open session), Awad, T.8, 8-02-08 (open session)

³⁴² Awad, T.24, 8-02-08 (open session), Exh.1315 (public)

³⁴³ Exh.1133 (public), Exh.1315 (public) (“Record on the inspection of utilisation of facilities appropriated for the purposes of [the EMD]” reporting that the “facilities of the Vatrostalno and Apatinska Pivara are being properly utilised.”)

³⁴⁴ Exh.434 (public), p.2.

³⁴⁵ Exh.1055 (public).

soldiers leaving other ARBiH units.³⁴⁶ The 3K commander personally dealt with transfers of soldiers to the EMD by authorising³⁴⁷ or, in some instances and at certain times, attempting to stop transfers³⁴⁸.

163. Between October 1994 and August 1995, MAHMULJIN issued 11 orders transferring soldiers from other ARBiH units to the EMD³⁴⁹. The EMD accepted 3K orders transferring these ARBiH soldiers to its unit. That these transfers indeed occurred is demonstrated by a list dating from February 1996, where persons mentioned in the 3K transfer orders are listed as soldiers of the EMD:³⁵⁰ *See* Annex A, Table 4: ARBiH Transfers Soldiers to EMD.

(iv) Assigning ranks and Awarding EMD soldiers

164. As commander of the GŠ ARBiH **Rasim DELIĆ** proposed that soldiers be assigned ranks; these decisions were approved by the expanded ARBiH Presidency, of which **Rasim DELIĆ** was a member.³⁵¹ When the ARBiH introduced ranks in August 1994, EMD commanders (such as ABU MAALI, MUATEZ, AWAD and ABU HARIS) and soldiers (such as [REDACTED]) were given ranks.³⁵²

³⁴⁶ The lists attached to Exh.65 (public) and Exh.66 (public) mention 43 people who transferred from the 306MB to the Mujahedin from Poljanice. Delalić, T.1705, 27-08-07 (open session); Hasib Alić, T. 558 (open session). *See also* the list attached to Exh.257 (public) and Delalić, T.1706, 27-08-07 (open session).

³⁴⁷ MAHMULJIN attempted to stop stop transfers to the EMD in April 1994 (Exh.591 (public)). [REDACTED] In late October 1994, December 1994 and August 1995, between the combat operations PROLJEĆE-2 and FARZ MAHMULJIN authorised numerous transfers of soldiers to the EMD (Exh.1145 (public)-Exh.1152 (public), Exh.1156 (public), Exh.1157 (public), Exh.1164 (public)-Exh.1167 (public)).

³⁴⁸ Exh.591 (public)

³⁴⁹ Exh.1146 (public), Exh.1147 (public), Exh.1148 (public), Exh.1149 (public), Exh.1152 (public), Exh.1156 (public), Exh.1164 (public), Exh.1165 (public), Exh.1166 (public), Exh.1167 (public), Exh.1169 (public).

³⁵⁰ Exh. 65 (public).

³⁵¹ Exh.570 (public), Exh.571 (public) *See also* Exh.42 (public) (Article 222).

³⁵² Exh.571 (public) mentions ranks assigned to ABU MAALI, ABU HARIS, ABU AIMAN aka AWAD and MUATAZ BELLAH. [REDACTED] *See also* Exh.570 (public); LONČARIĆ, T.8343, 10-04-08 (open session); MRKALJEVIĆ, T.3932-3933, 10-10-08 (open session); Order of assignment: Exh.571 (public); MRKALJEVIĆ, T.3866, 9-10-07 (open session).

165. In 1995 **Rasim DELIĆ** issued the following awards to EMD members: 48 soldiers including 9 foreigners received certificates of merits, 14 EMD soldiers including 11 foreigners were awarded Golden Lilies and 11 EMD soldiers including 9 foreigners were awarded Silver Shields.³⁵³ The EMD as a unit was commended by HASANAGIĆ and **Rasim DELIĆ**.³⁵⁴ Instead of discharging his obligation to prevent and punish perpetrators within the EMD, **Rasim DELIĆ** chose to reward the unit and certain individual members, including commander ABU MAALI who was one of the perpetrators responsible for the crimes committed in Livade and the Kamenica camp, as charged in the Amended Indictment.

(v) ARBiH payment records and support to obtain citizenship

166. At the end of the war the ARBiH issued certificates of service in the army so that EMD members could be compensated for their ARBiH service.³⁵⁵ [REDACTED]³⁵⁶ The certificate of ARBiH membership enabled foreign soldiers to obtain the citizenship of RBiH.³⁵⁷

4. Communication ARBiH – EMD

167. When the ARBiH planned to involve the Mujahedin from Poljanice in combat operations in the area of Bijelo Bučje they spoke to HAMAD who commanded the

³⁵³ For proposals for nominations from the 3K, *see* Exh.111 (public), Exh.1376 (public). For Golden Lily Awards *see* Exh.829 (public), Exh.828 (public) [REDACTED] Buljabasić, 92 *ter* statement, Exh.816 (public), para.26. For Silver Shield Awards *see* Exh.829 (public), Exh.79 (public); Begović, T.480-481, 12-07-07 (open session). For commendations *see* Exh.817 (public), Exh.1134 (public), Awad, T. 129-130, 09-02-08 (open session). All EMD soldiers awarded by DELIĆ are listed in Exh.1377. *See* Lončarić, T.8418-8424, 11-04-08 (open session); [REDACTED]

³⁵⁴ On 4 June 1995 Hasanagić commended the EMD “for the exposed bravery and devotion demonstrated in operation PROLJEĆE”, Exh.437 (public). **Rasim DELIĆ** personally awarded the EMD on 1 December 1995, Exh.817 (public). MUJEZINović, T.6018-6019, 22-11-07 (open session); LONČARIĆ, T.8415, 11-04-08 (open session).

³⁵⁵ [REDACTED]Exh.78 (public), p.11; [REDACTED] Exh.78 (public), [REDACTED]

³⁵⁶ [REDACTED]

³⁵⁷ Vuković, Rule 92*bis* statement, Exh.976 (public), p.30, paras. 61, 62; p.27, para. 44.

Mujahedin billeted there. HAMAD would then refer the ARBiH commander to WAHIUDIN to agree on the details of the planned combat activities.³⁵⁸

168. In 1994 the 3K summoned the EMD command to discuss a new mission east of Zavidovići.³⁵⁹ [REDACTED]³⁶⁰

169. ARBiH and EMD met frequently to prepare of upcoming combat operations. Before the EMD engaged in combat in the AoR of an OG or a Division, preparatory meetings on OG- or Division-level occurred.³⁶¹

170. During ongoing ARBiH combat activities regular meetings were held or communication between the EMD and the ARBiH take place.³⁶²

171. After combat activities the EMD and the ARBiH met to review performance.³⁶³

172. [REDACTED]³⁶⁴ Following the first day of combat activities the 35Div called a meeting where ABU MAALI, MUATEZ and other commanders were present.³⁶⁵ AWAD testified:

³⁵⁸ Hamad, T.158-159, 08-09-07 (open session).

³⁵⁹ Awad, T.69, 08-02-07 (open session); [REDACTED], Exh.426 (public), para. 100; Exh.429 (public).

³⁶⁰ [REDACTED]

³⁶¹ 1) Meetings EMD with OG North: PW9, T.5605, 15-11-07 (open session), T.5699 (open session), [REDACTED] Meetings EMD with OG Bosna/35Div: a) in October 1994: Awad, T.69, 08-02-07 (open session) b) in spring 1995: Awad, T.87-88, 91-92, 09-02-08 (open session) c) relating to operation PROLJEĆE-2: [REDACTED] PW9, T.5732-5733, 16-11-07 (open session) d) relating to operation FARZ: Awad, T.106-107, 09-02-07 (open session); [REDACTED] PW9, T.5732-5733, 16-11-07 (open session).

³⁶² During operation PROLJEĆE-1: Awad, T.87-88, 09-02-07 (open session); During operation PROLJEĆE-2: Awad, T. 101-102, 09-02-08 (open session), T. 242, 10-02-08 (open session); During operation FARZ: Exh.394 (public), entries 19 & 21 on page 4, entries 25, 28 & 29 on page 5, entry 35 on page 6, entry 59 on page 11.

³⁶³ After joint combat in Bijelo Bučje: Hamad, T.163, 08-09-07 (open session). After Operation MANEVAR: Awad, T.223-224, 10-02-08. After Operation PROLJEĆE-1: Awad, T.91-92, 09-02-08. After Operation PROLJEĆE-2: Hasanagić, T.3272-3275, 28-09-07; Awad, T.242-243, 10-02-08 (open session), T.101-102, 09-02-08 (open session). After Operation FARZ: Zilkić referred to meetins at IKM Panorama and at IKM Natron (T.5306-5307, 09-11-07 (open session); Awad, T.249-250, 10-02-08 (open session)).

³⁶⁴ [REDACTED]

Q: [...] do you recall whether there were any meetings held immediately after the operation on 21 July 1995?

A: There would usually and meeting after the operation. Now, whether was that was the same day or the next day, I can't say. **There was a meeting, and then the report would be submitted about the success of the operation and everything else that happened during the operation.**

Q. Were you personally present at any such meeting following the July 1995 operation?

A. Yes, I was present at the meeting.

Q. Do you recall where this meeting was and who attended?

A. **The commander of the 35th Division, our commander Abu Mali, Muatez, and myself.**³⁶⁶

173. **Operation FARZ:** The EMD and the ARBiH held preparatory meetings before Operation FARZ, including the night before the combat operation began.³⁶⁷ On 10 September 1995, the first day of Operation FARZ AWAD and MAHMULJIN communicated several times; usually AWAD reported.³⁶⁸

174. HASANAGIĆ and MAHMULJIN met twice with officers from the EMD on 10 September 1995, the first day of Operation FARZ, on the freshly liberated road from Zavidovići towards Vozuća³⁶⁹ and in the evening at IKM Babylon³⁷⁰ On 12 September 1995, HASANAGIĆ, MAHMULJIN, Ekrem ALIHODZIĆ, Sead DELIĆ

³⁶⁵ Awad, T.242, 10-02-08, (open session).

³⁶⁶ Awad, T.101-102, 09-02-08, (open session).

³⁶⁷ Exh.394 (public), p.2 (*see* no.7); Exh.524 (public), (*see* no.70); Awad, T.106-107, 09-02-08 (open session).

³⁶⁸ Exh.394 (public), entries 19 & 21 on page 4, entries 25, 28 & 29 on page 5, entry 35 on page 6, entry 59 on page 11.

³⁶⁹ Hasanagić, T.3046-3049, 3055-3057, 25-09-07 (open session); Exh.470 (public)-Exh.473 (public).

³⁷⁰ Awad, T.109-110, 249-250, 09-02-08 (open session); Zilkić, T.5307, 09-11-07 (open session); Zilkić, T.5306-5307, 09-11-07, (open session).

and Alija IZETBEGOVIĆ met ABU MAALI, Anwar SHAABAN and AWAD in Vožuća proper.³⁷¹

175. After POW were taken during Operations PROLJEĆE-2 and FARZ, the ARBiH met EMD command in order to arrange to transfer them to KP DOM Zenica.³⁷² ARBiH units involved in combat frequently reported about the activities of the EMD in their reports.³⁷³

5. DELIC's authority to apply disciplinary measures

176. As the commander of the GŠ of the ARBiH, the highest position within the army, **Rasim DELIĆ** had both a responsibility to prevent and punish the criminal activity of his subordinates and all means at his disposal to fulfil this obligation. His obligations to prevent and punish were triggered once **Rasim DELIĆ** had reason to know that crimes were committed by his subordinates.

177. **Rasim DELIĆ** was required to abide by the laws and customs governing the conduct of armed conflict, including the Geneva Conventions of 1949 and the Additional Protocols thereto.³⁷⁴ Under ARBiH doctrine, **Rasim DELIĆ** and all unit commanders, and each service-member individually, were responsible for the enforcement of the rules of international law. **Rasim DELIĆ** was obliged to initiate legal procedures against persons who violate international law.³⁷⁵

³⁷¹ Exh.1211 (public), Exh.409 (public) (time code 00:43:35-00:44:56); Halim Husić, T.7460-7461, 13-03-08, (open session).

³⁷² Meetings with POW's taken during (1) operation PROLJEĆE-2: Exh.553 (public); Exh.859 (public); Exh.499 (public); (2) operation FARZ: [REDACTED] Exh.875 (public); PW4, T.4825-4826, 30-10-07, (open session); ŠLJUKA, T.4325-4329, 22-10-07, (open session).

³⁷³ Reports about the EMD involvement in ARBiH combat in AoR of OG North: Exh.839 (public), Exh.838 (public), p.2; Exh.1016 (public), p.2; Exh.837 (public); about combat in AoR of 35Div: (1) operation PROLJEĆE-1: Exh.1037 (public), Exh.1038 (public), (2) operation PROLJEĆE-2: Exh.455 (public), Exh.458 (public), Exh.457 (public), Exh.1046 (public), Exh.459 (public), Exh.532 (public), Exh.1049 (public)-Exh.1053, Exh.529 (public), Operation FARZ: Exh.812 (public), Exh.481 (public). Such reports sometimes listed also killed soldiers by ARBiH and EMD. See Exh.1037 (public), Exh.1162, (public) Exh.532 (public).

³⁷⁴ AF38.

³⁷⁵ Exh.427 (public), Exh.1096 (public), Exh.1095 (public).

178. Various rules and regulations in effect in RBiH during the relevant periods in the indictment legislated the measures that commanders of the ARBiH including **Rasim DELIĆ** were required to take in order to prevent and punish crimes committed by his subordinates. These measures included:

- instructing subordinate commanders and soldiers in their duties under international humanitarian law;³⁷⁶
- ordering that subordinates observe international humanitarian law and that any violations be punished;³⁷⁷
- monitoring subordinate command and ensuring that all necessary measures to observe and implement international humanitarian law are taken;³⁷⁸
- disciplining commanders who do not implement all necessary measures to observe and implement international humanitarian law;³⁷⁹
- ordering that any violations of international humanitarian law by subordinates cease immediately.³⁸⁰
- initiating an investigation using the SVB resources;³⁸¹
- detaining the perpetrators and handing them over to a competent authorities;³⁸²
- determining whether the type and the seriousness of the offence requires disciplinary action or criminal prosecution;³⁸³
- taking immediate steps to establish responsibility for breaches of discipline and pronouncing disciplinary measures, if the

³⁷⁶ Exh.427 (public).

³⁷⁷ Exh.1096 (public), Exh.25 (public).

³⁷⁸ Exh.427 (public).

³⁷⁹ Exh.21 (public), Exh.1095 (public).

³⁸⁰ Exh.14 (public).

³⁸¹ Exh.25 (public).

³⁸² Exh.25 (public).

³⁸³ Exh.427 (public).

seriousness of the crimes warranted disciplinary action as well as criminal sanction;³⁸⁴

- imposing discipline and/or criminal measures to enforce compliance with international humanitarian law; this included the removal of such commanders from their posts;³⁸⁵
- taking all immediate measures necessary for the transfer of the case to the prosecuting agency and the initiation of criminal prosecution, in any case when the seriousness of the crimes warranted criminal prosecution.³⁸⁶

Rasim DELIĆ in his role as Commander of the ARBiH GŠ, was required to comply with these legal obligations.

179. The military criminal justice system in RBiH from 1992 to 1996 primarily concerned the District Military Courts³⁸⁷ and the corresponding District Military Prosecutor's Offices.³⁸⁸ These institutions represented the regular system of military justice to adjudicate military personnel, for all applicable criminal acts,³⁸⁹ as well as civilians for certain enumerated offences directed against the armed forces.³⁹⁰

180. The District Military Prosecutor's Offices had competence to prosecute perpetrators of crimes falling under the jurisdiction of District Military Courts.³⁹¹ Accordingly, they were established for the areas of District Military Courts, including in Zenica, which had territorial jurisdiction over crimes committed in Zavidovići Municipality,³⁹² and Travnik, which had territorial jurisdiction over crimes committed

³⁸⁴ Exh.1095 (public).

³⁸⁵ Exh.21 (public), Exh.1095 (public).

³⁸⁶ Exh.25 (public).

³⁸⁷ Exh.25 (public), Exh.36 (public).

³⁸⁸ Exh.26 (public).

³⁸⁹ Exh.25 (public), AF138.

³⁹⁰ Exh.25 (public).

³⁹¹ Exh.24 (public), Exh.26 (public).

³⁹² Exh.24 (public), AF132, 141.

in the Bila Valley³⁹³. The Zenica and Travnik District Military Prosecutor's Offices were fully functional between 1993 and 1996, handling thousands of criminal cases referred to them by both military and civilian police.³⁹⁴

181. The RBiH Decree Law on District Military Courts imposed on military commanders specific obligations to follow-up on the crimes of their subordinates. According to the law, the commander of the military unit and the military institution was obliged to:

1. Take certain actions so that the person who committed the criminal act for which official prosecution is foreseen does not hide or escape, and the traces and objects which may be used as evidence are preserved, and to collect all information that may be useful for conducting the criminal procedure;
2. Inform immediately the District Military Prosecutor or supreme commander about the information under point "1"; and
3. After this, the criminal report of the military commander from paragraph 2 could be used in the criminal procedure.³⁹⁵

182. Commanders could maintain discipline over their subordinates through the imposition of disciplinary measures³⁹⁶ or through the operation of disciplinary courts.³⁹⁷ The SFRY Criminal Code, adopted as the BiH Criminal Code, provided that disciplinary measures, instead of criminal sanctions, could be imposed only for those crimes against the Armed Forces punishable with up to three years in prison if the act was of a particularly minor nature and if it was in the interest of the service.³⁹⁸ Murder or serious assault could not be dealt with as disciplinary matters, but rather as criminal matters.³⁹⁹

³⁹³ Žerić, 92*bis* statement, Exh.925 (public), p. 15 (0609-6399)

³⁹⁴ Exh.26 (public); Exh.36 (public); Žerić, 92*bis* statement, Exh.925 (public), p. 7 (0355-2152); Hadžiselimović, T. 6146, 27-11-07 (open session); AF136.

³⁹⁵ Exh.25 (public).

³⁹⁶ Exh.21 (public), Exh.1095 (public).

³⁹⁷ Exh.1095 (public).

³⁹⁸ Exh.3 (public).

³⁹⁹ Mujezinović, T.6032, 22-11-07 (open session)

183. The ARBiH organ primarily responsible for investigating criminal offences within the jurisdiction of District Military Courts was the SVB,⁴⁰⁰ which was in charge of counterintelligence, security and management of the MP.⁴⁰¹ In matters of investigation in the pre-trial stage of proceedings, the MP was fully autonomous where members of the armed forces were suspected perpetrators of criminal offences.⁴⁰² Officers of the SVB in brigades or higher had to submit criminal reports to the competent military prosecutor's office.⁴⁰³

184. The civilian courts which operated in the relevant period had jurisdiction over civilians who committed offences contrary to the law, including Chapter 16 of the former SFRY Code.⁴⁰⁴ They had jurisdiction over service-members only when they co-perpetrated crimes with civilians.⁴⁰⁵

185. At all times relevant to the indictment **Rasim DELIĆ** had the authority to request from the Security Administration the application of disciplinary and criminal measures against the Mujahedin from Poljanice and the EMD. In 1993 and 1995 the Security Administration was subordinated to **Rasim DELIĆ**. It could issue orders relating to investigations down the chain of command.⁴⁰⁶ **Rasim DELIĆ** was the only officer in the ARBiH who could authorise very sensitive applications, such as the use of special methods and the commencing operative treatment.⁴⁰⁷

186. To obtain information to prevent and punish **Rasim DELIĆ** could direct the ARBiH Military Security Service to secretly listening, recording, monitoring, observing, searching, controlling, interviewing of persons, inspecting crime sites,

⁴⁰⁰ Exh.585 (public), para.40.

⁴⁰¹ Exh.585 (public), paras.5-7.

⁴⁰² Exh.586 (public), para.2.

⁴⁰³ Exh.586 (public), para.41.

⁴⁰⁴ Hadžiselimović, T.6129, 23-11-07 (open session)

⁴⁰⁵ Exh.25 (public).

⁴⁰⁶ Vučković, Rule 92ter statement, Exh.706 (public), para.31.

⁴⁰⁷ Exh.566 (public) (*see* Article 10); Vučković, consolidated Rule 92ter statement, Exh.706 (public), para.31.

seizure and arrest operations, detention of suspects and disbanding entire ARBiH units.⁴⁰⁸

187. For example **Rasim DELIĆ** exercised his power by ordering the arrest of the criminal elements in the leadership of the 9th Motorised Brigade and 10th Mountain Brigade in Sarajevo late October 1993.⁴⁰⁹ As commander of the GŠ ARBiH **Rasim DELIĆ** had the power to crack down on all units in the ARBiH, in- *and* outside Sarajevo, for example in the AoR of the 3K: [REDACTED]⁴¹⁰ In March 1994 five Turkish members of this unit Gerilla-Mujahedin were summoned for interviews and several items including their passports seized.⁴¹¹ Arrests were also applied against individual members of the EMD: after the killing of Paul GOODALL two soldiers of the EMD were detained and questioned by the civilian authorities.⁴¹² [REDACTED]⁴¹³

188. The Military Security Service had access to the EMD HQ, the Vatrostalna compound and, at least on one occasion, carried out an on-site inspection there.⁴¹⁴

189. **Rasim DELIĆ** could act against entire ARBiH units or initiate that authorities subordinated to him arrest individuals engaging in criminal conduct. [REDACTED]⁴¹⁵ [REDACTED]⁴¹⁶

⁴⁰⁸ Exh.566 (public), (*see* Articles 5, 31-35, 39, 40, 43); Exh.959 (public).

⁴⁰⁹ Exh.959 (public) (Operation TREBEVIĆ-2).

⁴¹⁰ [REDACTED] Exh.690 (public); [REDACTED] Preceding this arrest operation was a comment by **Rasim DELIĆ** on Exh.713 (public): "If those are such behaviours, they should be resolved in a military manner" (Vučković, T.5176-5177, 07-11-07 (open session)).

⁴¹¹ Exh.242 (public).

⁴¹² Exh.887 (public).

⁴¹³ [REDACTED]

⁴¹⁴ Exh.755 (public), p.2; Alispahić, 92^{ter} statement, Exh.926 (public), p.10, (0466-2120), paras. 77-79.

⁴¹⁵ [REDACTED]

⁴¹⁶ [REDACTED]

190. Following the arrests of members of the EMD after the GOODALL killing ABU HARIS, the then commander of the EMD complained to the 3K Military Security Service to stop any further apprehension of foreign citizens involved in various criminal activities and similar.⁴¹⁷

191. **Rasim DELIĆ**'s attitude to EMD crimes in 1994 can best be seen in operation TREBEVIĆ-4, which was designed to prevent and sanction criminal elements within the ARBiH including within the EMD.⁴¹⁸ [REDACTED]⁴¹⁹

192. DELIĆ's acceptance of EMD crimes dates back to Bikoši on 8 June 1993. Instead of ordering a fully fledged investigation into the crimes committed by the Mujahedin from Poljanice, DELIĆ ordered HADŽIHASANOVIĆ to send the Mujahedin to Igman where the Mujahedin were to be **merged** with the ŠVK independent detachment in Zuka's unit.⁴²⁰ HADŽIHASANOVIĆ did not give effect to this order.

193. Throughout his tenure DELIĆ acquiesced and was then on notice about the criminal conduct of the EMD through numerous bulletins.⁴²¹ *See* Annex A, Table 6: Incidents of EMD Criminality Reported in SVB Bulletins.

194. In 1995 DELIĆ's knowledge about the criminal conduct of the EMD increased. Through operative actions against ABU MAALI, the commander of the EMD and through VRANDUK he obtained even more information.⁴²²

195. The lenience of the SDB and the ARBiH Military Security Service to EMD crimes can best be seen in the aftermaths of the take over of Vozuća. Instead of

⁴¹⁷ Exh.660 (public).

⁴¹⁸ Exh.660 (public), p.2; Exh.1233 (public).

⁴¹⁹ [REDACTED]

⁴²⁰ Exh.163 (public).

⁴²¹ Exh.712 (public)-Exh.716 (public), Exh.659 (public), Exh.718 (public), Exh.719 (public), Exh.721 (public)-Exh.725 (public), Exh.727 (public), Exh.730 (public)-Exh.733 (public), Exh.735 (public)-Exh.742 (public), Exh.582 (public), Exh.710 (public), Exh.744 (public)-Exh.747 (public), Exh.749 (public), Exh.751 (public), Exh.753 (public).

⁴²² Exh.656 (public), Exh.681 (public), Exh.1298 (public). *See also* Exh.706 (public), para.31. [REDACTED]

investigating the slaughter of the Serb POW's by EMD soldiers during the night of 11 September 1995, prominent ARBiH officers sat together with the EMD commanders together in Vozuća on 12 September 1995.

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Exh.1211: Ekrem ALIHODŽIĆ (1), Bakir ALISPAHIĆ (3) at meeting with ABU MAALI, Anwar SHAABAN and Alija IZETBEGOVIĆ in Vozuća on 12 September 1995.



Exh.1212: Alija IZETBEGOVIĆ (1), Sakib MAHMULJIN (2), Abu MAALI (3) and Aiman AWAD (4) attending the same meeting in Vozuća on 12 September 1995.

VI. MALINE/BIKOŠI

A. Overview

196. Forces of the 306MB and units comprised of Mujahedin fighters from the Poljanice camp attacked the village of Gornje Maline on 8 June 1993.

197. Soon after the onset of the attack, the Bosnian Croat civilians and HVO soldiers in Gornje Maline surrendered to the ARBiH forces. The captured Bosnian Croats were then led towards the village of Mehurići in three separate groups. Two groups were led towards Mehurići by foot. The larger of these two groups featured between 300 and 350 Bosnian Croat civilians and HVO soldiers. The smaller group featuring between 40 and 50 Bosnian Croat civilians lagged behind. The third group, which included a number of wounded Bosnian Croats, was taken towards Mehurići by truck and then, in or around Bikoši, the Bosnian Croats were made to get off the truck, and continue on towards Mehurići by foot as well.

198. En route to Mehurići, a number of Bosnian Croats were separated from each of these groups by armed Mujahedin from the Poljanice camp. Those who had been separated were taken back towards Bikoši by the Mujahedin. One of the Bosnian Croats, Ana PRANJEŠ, was murdered en route to Bikoši. Once in Bikoši, the Mujahedin opened fire on the other Bosnian Croats, twenty-four of whom were

ultimately murdered by the Mujahedin. At least six men were however able to escape the massacre, five of whom suffered serious gunshot wounds. These men are: Ždravko PRANJEŠ; Berislav MARIJANOVIĆ; PW8; Darko PUŠELJA and Željko PUŠELJA. Three of these men — Željko PUŠELJA, Darko PUŠELJA and PW8 — were however re-captured by the ARBiH and taken to the Mehurići school.

199. **Rasim DELIĆ** knew or had reason to know that the crimes in Bikoši had been committed, but failed to take the reasonable and necessary measures to punish the perpetrators of the crimes over whom he had effective control.

B. Article 3 of the Statute of the Tribunal applies.

200. For the events described in paragraphs 24-27 of the Amended Indictment, **Rasim DELIĆ** has been charged with Murder and Cruel Treatment, violations of “the laws or customs of war, punishable under Articles 3 and 7(3) of the Statute and recognized by Article 3(1)(a) of the Geneva Conventions.”⁴²³

201. For Article 3 of the Statute to apply, the Trial Chamber must find, as a preliminary matter, the following: 1) an armed conflict existed at the time of the crimes alleged and 2) a connection, or “close nexus” between the armed conflict and the crimes alleged.⁴²⁴ Article 3 of the Statute applies to both international and internal armed conflicts.⁴²⁵

202. For the Trial Chamber to have jurisdiction over Article 3 offences, it must determine whether the so-called “*Tadić* Conditions” have been fulfilled: 1) the violation must constitute an infringement of a rule of international humanitarian law; 2) the rule must be customary in nature, or, if it belongs to treaty law, the required conditions must be met; 3) the violation must be “serious”, that is to say, it must constitute a breach of a rule protecting important values; and 4) the violation of the

⁴²³ Amended Indictment, p. 12

⁴²⁴ *Hadžihasanović* TJ, para. 13, citing *Tadić* Jurisdiction Decision AD, paras. 67-70

⁴²⁵ *Hadžihasanović* TJ, para. 13; *Tadić* Jurisdiction AD, paras. 84 and 137

rule must entail, under customary or conventional law, the individual criminal responsibility of the person breaching the rule.⁴²⁶

203. Lastly, to convict an accused of an Article 3 charge based on Common Article 3 of the Geneva Conventions, the Trial Chamber must find that the Prosecution has proven that the victim was a person taking no active part in the hostilities.⁴²⁷ Though the question of whether a particular person enjoys the protection of Common Article 3 must be determined on a case-by-case basis,⁴²⁸ Trial Chambers have considered a number of relevant factors in determining this question, including the activity in which the victim was engaged at the time of the alleged offence, whether or not the victim was carrying weapons and the age and gender of the victims at the time of the alleged offence.⁴²⁹

1. When these alleged crimes occurred (8 June 1993), a state of Armed Conflict existed in BiH.

204. In this case, the parties agree that “[a]t all times relevant to this Indictment, an armed conflict existed in the territory of Bosnia and Herzegovina.”⁴³⁰

2. There was a “close nexus” between this armed conflict and the criminal act or omissions.

205. A close nexus exists between the armed conflict and the commission of the crime where “the perpetrator acted in furtherance of or under the guise of the armed conflict.”⁴³¹ In this regard, it is sufficient to show that “the existence of the armed conflict played a substantial part in the perpetrator’s ability to commit the alleged crime, his decision to commit it, the manner in which it was committed or the purpose for which it is committed.”

⁴²⁶ *Tadić* Jurisdiction AD, para. 94

⁴²⁷ *Stakić* TJ, para. 581; *Čelebići* AJ, para. 424; *Blaškić* AJ, para. 595

⁴²⁸ *Halilović* TJ, para. 34

⁴²⁹ *Halilović* TJ, para. 34, citing *Galić* TJ, para. 50

⁴³⁰ AF37.

⁴³¹ *Kunarac* AJ, para. 58

206. As set out above, following the attack on Gornje Maline, all those who were in the village surrendered to forces of the ARBiH, including the victims who were either murdered or ill-treated later that day.⁴³² This establishes a sufficiently “close nexus” between the armed conflict and the criminal acts that were committed in Bikoši on 8 June 1993 as alleged in the Amended Indictment.

3. The Offences of Murder and Cruel Treatment satisfy the “Tadić Conditions”.

207. It is well-established in the jurisprudence of the International Tribunal that 1) Article 3 of the Statute of the Tribunal encompasses violations of Common Article 3⁴³³; 2) that Common Article 3 is part of international customary law⁴³⁴; 3) that Murder and Cruel Treatment constitute serious violations of international humanitarian law⁴³⁵ which have grave consequences for the victim⁴³⁶ and 4) entail individual criminal responsibility.⁴³⁷

4. Each of the Victims of Cruel Treatment and Murder was taking no active part in the hostilities: each was either a civilian or had been placed *hors de combat*.

208. Following the HVO surrender in Gornje Maline, all the Bosnian Croats in the village who were armed relinquished their weapons and surrendered to forces of the ARBiH.⁴³⁸ The rest were civilians who took no active part in the combat.⁴³⁹ There is no doubt therefore that the victims of Cruel Treatment and Murder were taking no

⁴³² [REDACTED]; Marijanović, T.914-916, 19-7-07 (open session); Pranješ, T.1000-1001, 20-7-07 (open session); Pušelja, T.1027-1028, 20-7-07 (open session).

⁴³³ *Halilović* Case TJ, para. 31, citing *Tadić* Jurisdiction AD, para. 89; *Čelebići* AJ, para. 143; *Kunarac* AJ, para. 68. See also *Orić* TJ, para. 261 (“The jurisprudence of the Tribunal has consistently regarded that the crimes of murder and cruel treatment entail individual criminal responsibility.”).

⁴³⁴ *Tadić* Jurisdiction AD, para. 89; *Čelebići* AJ, para. 143; *Kunarac* AJ, para. 68.

⁴³⁵ *Tadić* Jurisdiction AD, para. 129. See also *Čelebići* AJ, para. 174.

⁴³⁶ *Tadić* TJ, para. 612.

⁴³⁷ *Tadić* Jurisdiction AD, para. 129; *Čelebići* AJ, para. 153-174.

⁴³⁸ [REDACTED]; Marijanović, T.916, 19-7-07 (open session); Pranješ, T.1000-1001, 20-7-07 (open session); Pušelja, T.1029, 20-7-07 (open session).

⁴³⁹ [REDACTED]; Pušelja, T.1029-1030, 20-7-07 (open session); Marijanović, T.916, 19-7-07 (open session).

active part in hostilities when the crimes were committed in Bikoši on 8 June 1993 as alleged in the Amended Indictment.

C. Cruel Treatment and Murder

209. To convict an accused of Murder, the Prosecution must establish 1) the death of a victim taking no active part in the hostilities which was 2) the result of an act or omission of the accused or of one or more persons for whom the accused is criminally responsible; and 3) that the intent of the perpetrator was to either kill the victim or to wilfully cause serious bodily harm which the perpetrator should reasonably have known might lead to death.⁴⁴⁰

210. Proof beyond a reasonable doubt that a person was murdered does not necessarily require proof that the dead body of that person has been recovered.⁴⁴¹ The fact of a victim's death can be inferred circumstantially from all of the evidence presented to the Trial Chamber. All that is required to be established from the evidence is that the only reasonable inference is that the victim is dead as a result of acts or omissions of the accused or of one or more persons for whom the accused is criminally responsible.⁴⁴²

211. To convict an accused of Cruel Treatment, the Prosecution must prove 1) an intentional act or omission of the accused or of one or more persons for whom the accused is criminally responsible which causes serious mental or physical suffering or injury or constitutes a serious attack on human dignity 2) committed against a person taking no active part in the hostilities.⁴⁴³ The perpetrator must be shown to have acted with direct intent or with indirect intent, that is, in the knowledge that cruel treatment was a likely consequence of his act or omission.⁴⁴⁴ Though "all factual circumstances must be taken into account" to determine the seriousness of an act,⁴⁴⁵ the

⁴⁴⁰ *Kvočka* AJ, para. 261.

⁴⁴¹ *Kvočka* AJ, para. 260.

⁴⁴² *Kvočka* AJ, para. 260.

⁴⁴³ *Čelebići* AJ, para. 424.

⁴⁴⁴ *Martić* TJ, para. 79.

⁴⁴⁵ *Krnojelac* TJ, para. 131.

jurisprudence of the International Tribunal recognises that “beating or detaining persons in difficult conditions may constitute cruel treatment if they cause great suffering or physical or mental harm, or are a serious attack on human dignity.”⁴⁴⁶

212. A superior need not necessarily know the identity of his subordinates who perpetrate crimes (such as Murder and Cruel Treatment), particularly not the name, nor the identity or number of possible intermediaries, in order to incur liability under Article 7(3), provided that it is at least established that the perpetrators were within a unit or a group under the control of the superior.⁴⁴⁷ Thus, to establish the existence of a superior-subordinate relationship, it is sufficient to specify to which group the perpetrators belonged and to show that the Accused exercised effective control over that group.⁴⁴⁸

1. The Mujahedin from the Poljanice camp were the perpetrators of the Cruel Treatment and Murder in Bikoši.

213. There were approximately ten perpetrators who were a mix of Bosnians and foreigners.⁴⁴⁹ Ždravko PRANJEŠ indicated that approximately “four or five” were “Mujahedin”, who were “dark-skinned” and “sported long beards”, and another “four or five” wore “hats on their faces with just slots for their eyes and their mouth.”⁴⁵⁰ Both PRANJEŠ and MARIJANOVIĆ heard the masked perpetrators speak Bosnian.⁴⁵¹

214. The evidence adduced at trial established the identity of two of the local perpetrators: Ishak AGANOVIĆ and Zihnad SEJDIĆ. Both were members of the Mujahedin group from the Poljanice camp. Željko PUŠELJA learned that these men

⁴⁴⁶ Čelebići TJ, paras. 554-558, 1015-1018, 1112-1119.

⁴⁴⁷ Blagojević TJ, para. 287; Orić TJ, para. 311, 315; Hadžihasanović TJ, para. 90, citing Krnojelac Indictment TD, para.46 [“if the Prosecution is unable to identify those directly participating in such events by name, it will be sufficient for it to identify them at least by reference to their 'category' (or their official position) as a group.”]; Blaškić AJ, para.217.

⁴⁴⁸ Hadžihasanović TJ, para. 90.

⁴⁴⁹ Pranješ, T.985, 987-988, 20-7-07 (open session); [REDACTED] Pušelja, T.1037, 20-7-07 (open session).

⁴⁵⁰ Pranješ, T.985, 20-7-07 (open session).

⁴⁵¹ Pranješ, T.988, 20-7-07 (open session); Marijanović, T.922, 19-7-07 (open session).

were among the perpetrators by describing the physical characteristics of the local perpetrators to his fellow prisoners at the Mehurići school.⁴⁵² Though masked when they first appeared, the locals removed their masks in Bikoši.⁴⁵³ Željko PUŠELJA also heard one of the Arabs refer to one of the local perpetrators as “Isak”.⁴⁵⁴

215. Additionally, DELALIĆ confirmed that AGANOVIĆ had left the 306MB at the end of 1992 or the beginning of 1993 in order to join the Mujahedin,⁴⁵⁵ and that SEJDIĆ had joined the Mujahedin in April 1993⁴⁵⁶.

216. It is also clear from the evidence that the perpetrators emerged from the Poljanice camp. In this regard, Željko PUŠELJA testified that en route to Mehurići, the Bosnian Croats were told by an ARBiH soldier to “remove all our religious items, such as crosses on chains, and all HVO insignia we had on” because the group would be “walking by the Arabs”.⁴⁵⁷ The only Mujahedin group in the Mehurići area was the one at the Poljanice camp, a matter confirmed during Halim HUŠIĆ’s testimony.⁴⁵⁸

217. Furthermore, the location of the Poljanice camp was identified by Šaban ALIĆ, Hasib ALIĆ and Sinan BEGOVIĆ, former members of the Mujahedin group that was there. It is clear from their evidence that the camp was located **in or around**

⁴⁵² Pušelja, T.1041, 1043-1044, 20-7-07 (open session).

⁴⁵³ Pušelja, T.1040, 20-7-07 (open session).

⁴⁵⁴ Pušelja, T.1044, 20-7-07 (open session).

⁴⁵⁵ Delalić, T.1767, 27-8-07 (open session).

⁴⁵⁶ Delalić, T.1767-1768, 27-8-07 (open session).

⁴⁵⁷ Pušelja, T.1035, 20-7-07 (open session).

⁴⁵⁸ Halim Hušić, T.7336, 11-3-08 (open session):

Q. So I wonder if you could clarify, at this time here in May, June 1993, which Arab groups were stationed in Mehurići.

A. There was one group at Mehurić. [...] Halim Hušić, T.7338, 11-3-08 (open session):

Q. But let us then just have a look at the Arabs who were billeted in Mehurići. Did you just cross the bridge over the river and walk over [the] Poljanice and ask to talk to the commander?

A. I said that the only group that we were able to communicate with was that group in Poljanice. I did not personally go to Poljanice and communicate, but some people that they tolerated better or respected more, we would send such people to their unit; yes, that is what we did.

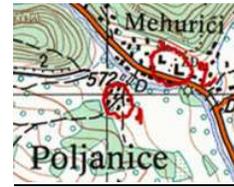
Poljanice. This corresponds with the location where Ždravko PRANJEŠ and Berislav MARIJANOVIĆ testified that the perpetrators emerged to take custody over them.



Exh.99: Šaban ALIĆ identified the location of the Poljanice Camp with a red dot which he marked a “1” next to.⁴⁵⁹

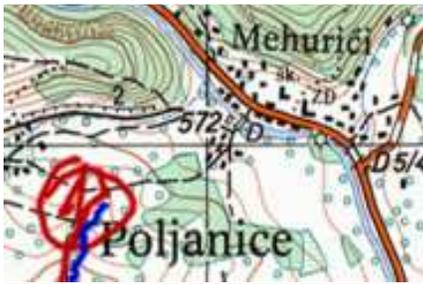


Exh.91: Hasib ALIĆ circled the location of the Poljanice camp.⁴⁶⁰

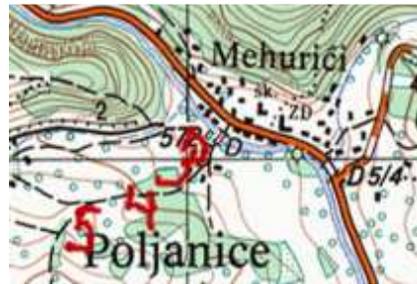


Exh.63: Sinan BEGOVIĆ circled the location of the Poljanice camp and marked a “1” next to it.⁴⁶¹

218. Ždravko PRANJEŠ was among the group of Bosnian Croats being taken to Mehurići which numbered between 300 and 350 persons.⁴⁶² He identified the approximate location where the separation took place on exhibit 133 with a circled



Exh.133 marked by PRANJEŠ



Exh.129 marked by MARIJANOVIĆ

“1”.⁴⁶³ MARIJANOVIĆ, who was among the group of 40 to 50 Bosnian Croat civilians that lagged behind the larger group of Bosnian Croats,⁴⁶⁴ marked the location

⁴⁵⁹ Exh.99 (public); Saban Alić, T.640, 16-7-07 (open session).

⁴⁶⁰ Exh.91 (public); Hasib Alić, T.572-573, 13-7-07 (open session).

⁴⁶¹ Exh.63 (public); Begović, T.387, 391, 11-7-07 (open session).

⁴⁶² Pranješ, T.985, 20-7-07 (open session).

⁴⁶³ Exh.133 (public); Pranješ, T.987, 20-7-07 (open session).

⁴⁶⁴ Marijanović, T.916, 19-7-07 (open session).

where he encountered the Bosnian Croats being taken back to Bikoši on exhibit 129 with a “3”.⁴⁶⁵ The variation between the locations identified by MARIJANOVIĆ and PRANJEŠ is insignificant. The location identified by each is in the area in or around Poljanice and therefore corresponds with the Poljanice camp.

2. Cruel Treatment: The Mujahedin from the Poljanice camp acting with direct or indirect intent caused the serious mental and physical suffering of PW8, Berislav MARIJANOVIĆ, Ždravko PRANJEŠ, Darko PUŠELJA and Željko PUŠELJA

219. After having separated the eventual victims from the groups being led towards Mehurići, and while en route to Bikoši, the Mujahedin made their intentions clear. Željko PUŠELJA witnessed an Arab Mujahedin murder Ana PRANJEŠ. According to him, the Arab “grabbed her by the waist, pushed her to the left side, and then fired a burst into her.”⁴⁶⁶ [REDACTED]⁴⁶⁷ [REDACTED]⁴⁶⁸.

220. Once in Bikoši, after the Bosnian Croats were lined up, Željko PUŠELJA saw one of the Mujahedin drag his hand across his throat.⁴⁶⁹ The shooting began when Mijo TAVIĆ suffered an epileptic seizure, to which all of the Mujahedin responded by releasing a burst of fire.⁴⁷⁰ When one of the Bosnian Croats attempted to flee over a road side fence, the Mujahedin shot this person.⁴⁷¹ Following the burst of gunfire, as the Bosnian Croats lay on the ground, the Mujahedin moved from person to person, firing individual shots at them.⁴⁷² Ždravko PRANJEŠ concluded that the Mujahedin were firing at anyone showing “signs of life”.⁴⁷³ As he lay on the ground,

⁴⁶⁵ Exh.129 (public); Marijanović, T.919, 19-7-07 (open session).

⁴⁶⁶ Pušelja, T.1038-1039, 20-7-07 (open session).

⁴⁶⁷ [REDACTED]

⁴⁶⁸ [REDACTED]

⁴⁶⁹ Pušelja, T.1040, 20-7-07 (open session).

⁴⁷⁰ Pušelja, T.1044-1045, 20-7-07 (open session); Marijanović, T.925-926, 20-7-07 (open session); Pranješ, T.1013, 20-7-07 (open session); [REDACTED]

⁴⁷¹ Marijanović, T.926, 19-7-07 (open session).

⁴⁷² Pranješ, T. 992, 20-7-07 (open session); Marijanović, T.926-927, 19-7-07 (open session); Pušelja, T.1045-1046, 20-7-07 (open session); [REDACTED]

⁴⁷³ Pranješ, T. 992, 20-7-07 (open session).

MARIJANOVIĆ was “splattered by blood” when the man lying next to him was shot in the head.⁴⁷⁴ [REDACTED]⁴⁷⁵ [REDACTED]⁴⁷⁶ which “ricocheted off the asphalt”⁴⁷⁷. Željko PUŠELJA heard the injured Mujahedin yell out in Bosnian: “Take me away first, and then go on with your business.”⁴⁷⁸ Once the Mujahedin left, Ždravko PRANJEŠ, Berislav MARIJANOVIĆ, [REDACTED], Darko PUŠELJA, Željko PUŠELJA and Pavo BARAĆ managed to flee the scene of the massacre.⁴⁷⁹

221. During the shooting, Ždravko PRANJEŠ suffered bullet wounds in the chest and leg.⁴⁸⁰ After fleeing, he travelled approximately 60 kilometres in his wounded condition before surrendering to the VRS in Babanovac.⁴⁸¹

222. MARIJANOVIĆ suffered a bullet wound in the left leg.⁴⁸² MARIJANOVIĆ’s wounds were not properly treated until he reached the HVO held village of Sarići, from there he was taken to the Nova Bila hospital for treatment.⁴⁸³

223. [REDACTED]⁴⁸⁴ [REDACTED]⁴⁸⁵ [REDACTED]. As told by Željko PUŠELJA, PW8 “could not continue.”⁴⁸⁶

474 Marijanović, T.926, 19-7-07 (open session).

475 [REDACTED]

476 [REDACTED]

477 Marijanović, T.926, 19-7-07 (open session).

478 Pušelja, T.1046, 20-7-07 (open session).

479 [REDACTED]Pranješ, T.991-992, 20-07-07 (open session).

480 Pranješ, T.991-992, 20-7-07 (open session).

481 Pranješ, T.994-995, 20-7-07 (open session).

482 Marijanović, T.925-926, 19-7-07 (open session).

483 Marijanović, T.933, 19-7-07 (open session).

484 [REDACTED]

485 [REDACTED]

486 Pušelja, T.1047, 20-7-07 (open session).

224. Darko PUŠELJA was wounded in the shoulder and rib area.⁴⁸⁷ Željko PUŠELJA indicated that Darko PUŠELJA was “riddled with bullets” and that “his lungs were full of air.”⁴⁸⁸ He also confirmed that both he and Darko PUŠELJA were in bad condition when they were taken to the Mehurići school after having been re-captured.⁴⁸⁹

225. Željko PUŠELJA was hit by a bullet in his right elbow as he fell to the ground during the initial burst of fire.⁴⁹⁰ As a result, his “arm gave in the shoulder and [he] hit [his] face on the asphalt”.⁴⁹¹ Željko PUŠELJA’s arm was injured so badly that it hung limp at his side when he later fled.⁴⁹² The injuries that Željko PUŠELJA suffered on 8 June 1993 still affect him. When he testified, he indicated that he continues to feel pain in his arm,⁴⁹³ and, because of the injuries that he sustained, is on “80 per cent disability”⁴⁹⁴. In addition, Željko PUŠELJA still experiences serious emotional trauma as a result of the events on 8 June 1993, which he constantly relives.⁴⁹⁵ As a result, he has difficulty sleeping, has “lost the internal strength of [his] body”, and “has a compulsion to withdraw, to hide.”⁴⁹⁶

226. From this, the Trial Chamber can properly infer that Mujahedin combatants from the Poljanice camp acted with direct or indirect intent in causing the serious mental and physical suffering experienced by Ždravko PRANJEŠ, MARIJANOVIĆ, PW8, Darko PUŠELJA, and Željko PUŠELJA.

⁴⁸⁷ Marijanović, T.929-930, 19-7-07 (open session).

⁴⁸⁸ Pušelja, T.1047, 20-7-07 (open session).

⁴⁸⁹ Pušelja, T.1059, 20-7-07 (open session).

⁴⁹⁰ Pušelja, T.1044-1045, 20-7-07 (open session).

⁴⁹¹ Pušelja, T.1045, 20-7-07 (open session).

⁴⁹² Pušelja, T.1046-1047, 20-7-07 (open session).

⁴⁹³ Pušelja, T.1052, 20-7-07 (open session).

⁴⁹⁴ Pušelja, T.1052, 20-7-07 (open session).

⁴⁹⁵ Pušelja, T.1053, 20-7-07 (open session).

⁴⁹⁶ Pušelja, T.1053-1054, 20-7-07, (open session).

3. The Mujahedin from the Poljanice camp Murdered the twenty-four people listed in Annex B of the Amended Indictment.

227. The parties agreed prior to the commencement of trial, that the twenty-four people listed in Annex B of the Amended Indictment were murdered in Bikoši.⁴⁹⁷ As noted above, the testimony given by Željko PUŠELJA shows that Ana PRANJEŠ was in fact murdered by Mujahedin from the Poljanice camp en route to Bikoši, and not in Bikoši itself. PUŠELJA's evidence concerning Ana PRANJEŠ was corroborated by Ždravko PRANJEŠ, who indicated that he heard gun shots approximately 70 metres after the group being led to Bikoši by the Mujahedin, encountered the wounded from Maline.⁴⁹⁸ [REDACTED]⁴⁹⁹

D. Rasim DELIĆ had Effective Control over the Mujahedin on 8 June 1993

228. As noted in Section V above, **Rasim DELIĆ** assumed command over the ARBiH on 8 June 1993, the same day that the Mujahedin from the Poljanice camp committed the crimes in Bikoši. When these crimes were committed the Mujahedin were *de facto* subordinated to the 3K, and thus under **Rasim DELIĆ**'s effective control.

229. In the alternative, even if the Trial Chamber disagrees with the Prosecution's submission that **Rasim DELIĆ** had effective control over the Mujahedin on 8 June 1993, **Rasim DELIĆ** is nevertheless criminally responsible for failing to punish the crimes. As set out below, **Rasim DELIĆ** knew that these crimes had occurred and was thus obligated to punish those responsible upon establishing effective control over them. Holding **Rasim DELIĆ** responsible for failing to punish these crimes is necessary to ensure a coherent system of prevention and punishment, so that successor commanders are subject to the general rule that superiors are responsible for the past crimes of their subordinates if they fail to punish them. The Prosecution has submitted to the Appeals Chamber in the *Orić* appeal that there are cogent reasons for the Appeals Chamber to depart from the Majority's position in the *Hadžihasanović*

⁴⁹⁷ AF39.

⁴⁹⁸ Pranješ, T.990-991, 20-7-07 (open session).

⁴⁹⁹ [REDACTED]

Command Responsibility Appeal Decision.⁵⁰⁰ The Appeals Judgement in the *Orić* case will be rendered on 3 July 2008.⁵⁰¹

E. Rasim DELIĆ Knew or Had Reason to Know that Mujahedin Fighters from the Poljanice Camp Committed the Crimes in Bikoši

1. Actual notice

230. Actual knowledge may be established through direct or circumstantial evidence, but cannot be presumed.⁵⁰² To determine whether the superior in fact had actual knowledge of the acts of his subordinates, the Chamber may take into account factors such as the number, type and scope of unlawful acts, the time during which they occurred, the number and type of troops involved, the logistics involved, if any, the *modus operandi* of similar unlawful acts, the officers and staff involved, and the location of the commander at the time the acts were committed.⁵⁰³ It may also be easier to prove the actual knowledge of a military commander if, *a priori*, he is part of an organised structure with established reporting and monitoring systems.⁵⁰⁴ Finally, the superior's position may *per se* appear to be a significant indication from which knowledge of a subordinate's criminal conduct can be inferred,⁵⁰⁵ such status is not however to be understood as a conclusive criterion,⁵⁰⁶ but must be supported by additional facts⁵⁰⁷.

⁵⁰⁰ *Hadžihašanović* jurisdiction TD; *Orić* PB, paras. 102-120; *Orić* TO.

⁵⁰¹ *Prosecutor v. Orić*, Case No.IT-03-68-A, Scheduling Order for Delivery of Judgement, 23 May 2008.

⁵⁰² *Hadžihasanović* TJ, para. 94, citing *Čelibići* TJ, para. 386; *Krnojelac* TJ, para. 94; *Kordić* TJ, para. 427; *Brdanin* TJ, para. 278; *Strugar* TJ, para. 368.

⁵⁰³ *Čelibići*, TJ, para. 386.

⁵⁰⁴ *Hadžihasanović* TJ, para. 94, citing *Kordić* TJ, para. 428.

⁵⁰⁵ *Orić* TJ, para. 319, citing *Aleksovski* TJ, para. 80; *Blaškić* TJ, para. 308.

⁵⁰⁶ *Orić* TJ, para. 319, citing *Blaškić* AJ, para. 57; *Bagilishema* TJ, para. 45; *Semanza* TJ, para. 404; *Kajelijeli* TJ, para. 776.

⁵⁰⁷ *Orić* TJ, para. 319, citing *Naletilić* TJ, para. 71; *Bagilishema* TJ, para. 45; *Semanza* TJ, para. 404; *Kajelijeli* TJ, para. 776.

2. Inquiry notice

231. Criminal responsibility attaches to a superior where information was available to him which would have put him on notice of offences.⁵⁰⁸ A superior will be deemed to have had reason to know when he possessed information sufficiently alarming to justify further inquiry.⁵⁰⁹ The information may be general in nature: it need not contain specific details about the unlawful acts which had been or were about to be committed.⁵¹⁰

232. Information may be written or oral and does not need have the form of specific reports submitted pursuant to a monitoring system.⁵¹¹ It is not required that the superior actually acquaint himself with the information.⁵¹² Relevant examples that may put a superior on notice include the criminal reputation or notorious character of subordinates, the tactical situation, the level of training and instruction of subordinate officers and their troops.⁵¹³ It is not required that the information alone establish that crimes took place but it must be of a nature to at least put him on notice of the risk of criminal offences.⁵¹⁴

233. Knowledge may be presumed if a superior had the means to obtain the relevant information of a crime and deliberately refrained from doing so.⁵¹⁵ Once on notice a superior is expected to stay vigilant and make additional enquiries.⁵¹⁶ A

⁵⁰⁸ *Čelebići* AJ, para. 241; *Blaškić* AJ, para. 62, 64 (citing *Čelebići* as “the authoritative interpretation of the standard of “had reason to know.”); *Halilović* TJ, para. 67, undisturbed on appeal.

⁵⁰⁹ *Hadžihasanović* AJ, para. 261.

⁵¹⁰ *Hadžihasanović* AJ, para. 28; *Čelebići* AJ, para. 238; *Halilović* TJ, para. 68; *Hadžihasanović* TJ, para. 97; *Kordić* TJ para. 437.

⁵¹¹ *Čelebići* AJ, para. 238; *Orić* TJ, para. 323.

⁵¹² *Čelebići* AJ, para. 239.

⁵¹³ *Hadžihasanović* TJ, paras. 97-100 citing ICRC Commentary on Additional Protocol 1, para. 3545; *Čelebići* AJ, para. 238; *Kordić* TJ, para. 437; *Orić* TJ, para. 323, citing *Krnjelac* AJ, paras. 154, 155; *Čelebići* AJ, para. 298; *Halilović* TJ, para. 68 which added emphasis to the words “character traits” when citing the *Čelebići* AJ.

⁵¹⁴ *Hadžihasanović & TJ*, para. 92, citing *Čelebići* AJ, para. 223.

⁵¹⁵ *Čelebići* AJ, para. 226; *Brdanin* TJ, para. 278; *Halilović* TJ, para. 69; *Čelebići* TJ, para 387.

⁵¹⁶ *Orić*, TJ, para. 322.

superior may be held responsible for deliberately refraining from finding out, but not for negligently failing to find out.⁵¹⁷ The “had reason to know” standard does not encompass a “should have known standard”.⁵¹⁸

234. The Appeals Chamber has opined that a superior’s past failure to punish the acts of a subordinate not only increases the risk that further similar acts will be committed by the same subordinates but can also serve to support a finding that he had the requisite knowledge under Article 7(3) of the Statute of his subordinate’s similar acts where there is additional alarming information at his disposal.⁵¹⁹ This applies even where the similar incidents are separated by both time and geographic location.⁵²⁰

235. Where a superior uses soldiers while knowing or having reason to know that there is a serious risk they will not obey his orders, especially orders to comply with international humanitarian law or where the superior’s conduct before the crimes were committed demonstrates that he accepted the possibility that subsequently he might not be able to control his troops, he may not claim to have lacked effective control over them in order to avoid his responsibility under Article 7(3) of the Statute.⁵²¹

3. Rasim DELIĆ knew or had reason to know that Mujahedin from the Poljanice camp committed the crimes in Bikoši.

236. [REDACTED]⁵²²

237. [REDACTED]⁵²³ [REDACTED]⁵²⁴ [REDACTED]⁵²⁵

⁵¹⁷ *Hadžihasanović* TJ, para. 94, citing *Blaškić* AJ, para. 406; *Čelebići* AJ, para. 230, 239.

⁵¹⁸ *See Blaškić* AJ, para. 59; *Hadžihasanović* TJ, para. 96.

⁵¹⁹ *Hadžihasanović* AJ, paras. 278, 30.

⁵²⁰ *Hadžihasanović* AJ, paras. 267, 269, 278.

⁵²¹ *Hadžihasanović* TJ, para. 89.

⁵²² [REDACTED]

⁵²³ [REDACTED]

⁵²⁴ [REDACTED]

238. [REDACTED]⁵²⁶ [REDACTED]⁵²⁷ [REDACTED]⁵²⁸. Therefore, as the intended recipient within the ŠVK of both documents, the ŠVK Communications Centre would have directed these documents to **Rasim DELIĆ**.⁵²⁹

239. [REDACTED]⁵³⁰ [REDACTED]⁵³¹ [REDACTED]⁵³²

240. [REDACTED]⁵³³ [REDACTED]⁵³⁴ [REDACTED]⁵³⁵

F. Rasim DELIĆ Failed to take the Reasonable and Necessary Measures to Punish the Perpetrators of the Crimes Committed in Bikoši

241. As a commander in such a high position, **Rasim DELIĆ** had a responsibility to punish the criminal activity of his subordinates and the means at his disposal to fulfil this obligation. These obligations were triggered once **Rasim DELIĆ** was on notice of the Murder and Cruel Treatment in Bikoši on 8 June 1993.

⁵²⁵ [REDACTED]

⁵²⁶ [REDACTED]Negovetić, T.6807-6808, 6850, 6855-6857, 15-1-08 (open session).

⁵²⁷ [REDACTED]

⁵²⁸ [REDACTED]

⁵²⁹ Buljubašić, T.5528, 14-11-07 (open session): according to **Rasim DELIĆ**'s former Chief of Cabinet Ferid BULJUBAŠIĆ, the "Communications Centre [...] forwarded [documents] to whoever the addressee happened to be."

⁵³⁰ [REDACTED]

⁵³¹ [REDACTED]

⁵³² [REDACTED]

⁵³³ [REDACTED]

⁵³⁴ [REDACTED]

⁵³⁵ [REDACTED]

1. No real measures were taken by **Rasim DELIĆ** to investigate or initiate criminal proceedings against the perpetrators of the crimes in Bikoši.

242. The District Military Prosecutor in Travnik never received any criminal reports from the ARBiH regarding the events that occurred there.⁵³⁶ Furthermore, though the village of Bikoši was in the vicinity of the territory covered by the District Military Prosecutor in Zenica,⁵³⁷ that office did not receive any criminal reports from the ARBiH concerning the events in Bikoši either⁵³⁸. The court registers of the District Military Courts in Zenica and Travnik further demonstrate that no individual was ever tried or investigated for the crimes committed in Bikoši before these courts, and that the District Military Prosecutors made no such referrals.⁵³⁹

243. The Higher Public Prosecutor in Zenica handled cases involving serious crimes committed by civilian perpetrators within Travnik municipality while the District Military Prosecutor's Office in Travnik was in existence.⁵⁴⁰ Furthermore, after the Travnik and Zenica District Military Prosecutor's Offices were disbanded in 1996, the Higher Public Prosecutor in Zenica absorbed cases that were with these

⁵³⁶ Exh.884 (public), Exh.886 (public), Exh.1005 (public), Exh.1171 (public); Žerić, 92bis statement, Exh.925 (public), p. 9-10, 17, 19-20 (0355-2154-0355-2155, 0609-6401, 0609-6403-0609-6404).

⁵³⁷ Žerić, 92bis statement, Exh.925 (public), p. 15 (0609-6399).

⁵³⁸ Exh.881 (public), Exh.882 (public), Exh.1092 (public); Hadžiselimović, T.6135-6137, 6151, 27-11-07 (open session).

⁵³⁹ Exh.884 (public), Exh.1101 (public), Exh.1100 (public), Exh.1104 (public), Exh.1108 (public), Exh.1107 (public), Exh.1112 (public), Exh.1116 (public), Exh.1098 (public), Exh.1099 (public), Exh.1172 (public), Exh.1103 (public), Exh.1102 (public), Exh.1173 (public), Exh.1109 (public), Exh.1106 (public), Exh.1105 (public), Exh.1113 (public), Exh.1111 (public), Exh.1110 (public), Exh.1114 (public), Exh.1115 (public), Exh.1092 (public), Exh.881 (public), Exh.882 (public); Hadžiselimović, T.6135-6137, 6151-6152, 27-11-07 (open session).

⁵⁴⁰ Žerić, 92bis statement, Exh.925 (public), p. 20 (0609-6404): "Military personnel, like all citizens, are and were obligated to report crimes. If the military police went to the scene of a crime and determined that the perpetrators were civilians, their obligation would be to conduct an investigation and file a report with the competent prosecutor, **the civilian prosecutor's office in Zenica for major crimes** and civilian prosecutor's office in Travnik for minor crimes" [**emphasis added**].

offices.⁵⁴¹ The Higher Public Prosecutor in Zenica never received any criminal reports in connection with the events in Bikoši.⁵⁴²

2. The investigation ordered by **Rasim DELIĆ** in October 1993 into the events in Bikoši was not a real investigation.

244. The investigation which **Rasim DELIĆ** ordered in October 1993 produced a result that was in direct contradiction to what **Rasim DELIĆ** already knew or had reason to know about the events in Bikoši on 8 June 1993. Because what he knew or had reason to know was sufficiently detailed and came from reliable sources in the form of PW3 and the United Nations, it was incumbent upon **Rasim DELIĆ** to take steps to resolve the conflict between the different information that he had in his possession, which he failed to do.⁵⁴³

245. **Rasim DELIĆ** ordered the 3K to investigate allegations concerning the massacre in Bikoši on 17 October 1993.⁵⁴⁴ **Rasim DELIĆ** did so at the behest of IZETBEGOVIĆ, who had written to **Rasim DELIĆ** indicating that Tadeusz MAZOWIETZKI, the UN Special Rapporteur on the Former Yugoslavia, had indicated amongst others that on 8 June 1993, 25 Bosnian Croats were killed in the village of Maline. On the basis of MAZOWIETZKI's letter, IZETBEGOVIĆ informed **Rasim DELIĆ** that:

[I]t is necessary that an investigation of the above-mentioned cases be urgently completed and a report [...] be prepared [...] undertake all measures to prevent any kind of arbitrariness and violation of the Laws of War in the field. Punishing the perpetrators and informing the public are an efficient measure of prevention of violations of this kind.⁵⁴⁵

⁵⁴¹ Žerić, 92bis statement, Exh.925 (public), p. 4, 14 (0355-2149, 0609-6398); Hadžiselimović, T.6148, 6168, 27-11-07 (open session).

⁵⁴² Exh.881 (public), Exh.882 (public); Hadžiselimović, T.6135-6137, 6151-6152, 27-11-07 (open session).

⁵⁴³ *Hadžihasanović* TJ, para. 1223.

⁵⁴⁴ Exh.176 (public).

⁵⁴⁵ Exh.182 (public), p. 1.

246. Having been informed by **Rasim DELIĆ** of the “alleged massacre of 25 Bosnian Croats (civilians) in the village of Maljine”,⁵⁴⁶ the 3K reported back to **Rasim DELIĆ**, on 21 October 1993. Exhibit 231 is the 3K response. It concluded that:

[T]here was no massacre of civilians by the members of RBH Army, nor were HVO soldiers executed. After the end of combat actions, the regular clearing up of the battlefield was done. All Croats killed by bullets and shells (a total of 25 soldiers and civilians) were collected in one spot and buried in two graves between the villages [Bikoši] and Maline at the place known as the *Pješčara /sand pit/*, of which HVO representatives were informed.⁵⁴⁷

247. The 3K response was based upon exhibit 140, which is a report dated 19 October 1993 that was drafted by Osman FUŠKO, then a security officer in the 306MB.⁵⁴⁸ Exhibit 140 states that “the dead bodies of 25 Croats were collected in the period between 8 June and 10 June 1993 [...] They were all dressed in uniforms [...] We repeat that all these individuals died in combat.”⁵⁴⁹ FUŠKO was however in no position to reach this conclusion. He confirmed that he was never involved in an investigation concerning the events in Bikoši.⁵⁵⁰ He never consulted any witness interviews concerning the events there.⁵⁵¹ And he did not have any reports from any alleged inquiries that had previously been undertaken concerning the matter.⁵⁵² In fact, FUŠKO indicated that to his knowledge, the SVB of the 306MB never conducted an on-site investigation at the burial site referred to in exhibit 140.⁵⁵³

⁵⁴⁶ Exh.176 (public).

⁵⁴⁷ Exh.231 (public).

⁵⁴⁸ The 3K communicated DELIĆ’s request to the OG BK, *see* Exh.177 (public), which in turn would have made a request of the 306MB.

⁵⁴⁹ Exh.140 (public).

⁵⁵⁰ Fuško, T.1115, 23-7-07 (open session):

Q. Did you write down what he said, or did you do any investigation, any investigative steps?

A. No, no. I was not authorised to take any investigative steps. I could only have done those based on Delalić’s instructions, not otherwise.

⁵⁵¹ Fuško, T.1120, 23-7-07 (open session).

⁵⁵² Fuško, T.1119, 23-7-07 (open session).

⁵⁵³ Fuško, T.1119, 23-7-07 (open session).

DELALIĆ confirmed this, indicating that nobody from the SVB of the 306MB examined the bodies of those killed in Bikoši before or after they were buried.⁵⁵⁴ The evidence given by DELALIĆ and FUŠKO demonstrates that there was no basis for the conclusion that the deaths in Bikoši were combat fatalities. In fact, the information which the SVB of the 306MB did possess, clearly indicated that the Mujahedin from the Poljanice camp were responsible for the massacre in Bikoši, a matter which the 306MB SVB reported to the 3K SVB.⁵⁵⁵

248. By 21 October 1993, when **Rasim DELIĆ** received the response of the 3K to his order to undertake an investigation, he had sufficient information to reasonably suspect that a crime had been committed by his subordinates on 8 June 1993 in Bikoši. **Rasim DELIĆ** was therefore under a duty to punish them.⁵⁵⁶ Nevertheless, **Rasim DELIĆ** simply rubber stamped the story that was presented in exhibit 231,⁵⁵⁷ though he received the 3K response in a mere four days, far too little time for an actual investigation to have been undertaken. On 23 October 1993, **Rasim DELIĆ** reported concerning the events in Bikoši that:

⁵⁵⁴ Delalić, T.1713-1714, 27-8-07 (open session):

- Q. Did anybody of your Military Security Service ever look at the bodies before or after they were buried?
 A. I don't think that they had time to look at them [...]
 Q. Were these bodies ever exhumed?
 A. I think so.
 Q. And did anybody from your Military Security Service look at these bodies after they were exhumed?
 A. I don't know. Nobody asked us for anything like that, and as far as I recall, I did not.
 Q. And when were they exhumed?
 A. I don't know that, either.

⁵⁵⁵ Fuško, T.1162-1163, 23-7-07 (open session); Delalić, T.1710-1711, 1782, 27-8-07 (open session).

⁵⁵⁶ *Orić* TJ, para. 336.

⁵⁵⁷ Exh.178 (public); Softić, T.1829-1830, 28-8-07 (open session):

- Q. And you indicated that you were responsible for drafting the document. How would you have gone about drafting this document?
 A. I must have written this document, and I've seen the document that you showed me earlier, received from the 3rd Corps Command. We wrote to the 3rd Corps Command on the order of General Delić, asking them to give us precise information about what had happened on the ground. Once I received a report from the 3rd Corps, on the basis of that report, I drafted this report and sent it to the Ministry of Foreign Affairs in order to convey this to Mr. Mazowiecki. [...]
 Q. Did General Delić give you any instructions when drafting this document?
 A. I think that the focus was the source from the 3rd Corps, probably had General Delić had some objections, he would have made them to me, because without his signature, this document could not leave the office. He probably ordered me to draft this letter.

The conflicts were intense and occurred in the wider area of Maline village. When they stopped, the dead were collected in one place in order to clear the battlefield [...] the massacre which is being attributed to the RBH Army did not take place. As a result of an armed conflict caused by extremist HVO forces, 25 people were killed on one side, including civilian villagers of Croatian nationality.⁵⁵⁸

249. [REDACTED]⁵⁵⁹ Beyond that however, the circumstances relating to **Rasim DELIĆ**'s failure to carry out an effective investigation indicate that he sought to conceal the involvement of EMD fighters in the crimes committed in Bikoši. This is evident from the abundant information that **Rasim DELIĆ** possessed concerning the existence of a massacre, and his knowledge that the perpetrators had joined the EMD, a matter described in further detail below.

3. **Rasim DELIĆ** formally integrated those who had perpetrated the crimes in Bikoši into the ARBiH, instead of taking measures against them.

250. Rather than taking measures against the perpetrators of the crimes in Bikoši on the basis of the information that reached him, **Rasim DELIĆ**'s efforts were directed at officially integrating these combatants into the ARBiH. For example, as early as 13 June 1993, the 3K Commander HADŽIHASANOVIĆ had complained to him in exhibit 179 about,

Volunteers from foreign countries (Arabs and Turks), as well as a group of Bosnians trained by them [...] acting outside the usual context and lawful methods of combat.⁵⁶⁰

251. **Rasim DELIĆ**'s response, which came on 16 June 1993, was to attempt to re-subordinate these combatants, ordering that they be merged with Zuka's detachment, another formation under ŠVK control.⁵⁶¹

⁵⁵⁸ Exh.178 (public).

⁵⁵⁹ *Hadžihasanović TJ*, paras. 175, citing *Strugar TJ*, para. 376; *Halilović TJ*, para. 98.

⁵⁶⁰ Exh.179 (public).

⁵⁶¹ Exh.163 (public).

252. [REDACTED],⁵⁶² he would persist on, ultimately ordering the formation of the EMD. The Trial Chamber can properly infer that **Rasim DELIĆ** knew that the EMD would be comprised of combatants who had committed the crimes in Bikoši on the basis of the 3K proposal to form the unit, which it is clear **Rasim DELIĆ** reviewed.⁵⁶³ Paragraph one of that proposal states: “[o]rganise **all foreign volunteers** [...] in the zone of responsibility of the 3K into a Detachment”.⁵⁶⁴ By 12 August 1993, when the 3K proposal reached **Rasim DELIĆ**, as set out above, he was on notice that some of these “foreign volunteers” had committed the crimes in Bikoši. By failing to punish these perpetrators, an unacceptable degree of risk was posed that fighters joining the EMD would commit similar crimes in the future. A risk that materialised in July, August, and September 1995.

VII. KAMENICA: JULY 1995

A. Overview

253. The ARBiH attacked the VRS along the Mount Ozren front on 21 July 1995, capturing at least 14 VRS soldiers. These soldiers — among them Krstan MARINKOVIĆ, Velibor TRIVIČEVIĆ and Dr. Branko ŠIKANIĆ — were subjected to Cruel Treatment from the moment of their capture to their last hours in EMD custody. Twelve of the POW were first held in a house in the village of Livade, where they were beaten by members of the EMD and interrogated by other ARBiH soldiers. Two POW, Momir MITROVIĆ and Predrag KNEŽEVIĆ, were decapitated near Livade, and their heads displayed to the survivors.

⁵⁶² [REDACTED]

⁵⁶³ Exh.272 (public); Softić, T.1817, 28-8-07 (open session):

Q. And I'd like to draw your attention to a handwritten comment at the top of the document. It's in the middle at the top.

A. Yes.

Q. Can you indicate what that says?

A. This comment is addressed to the Organisation and Mobilisation Administration by General Delić.

Q. And --

A. And it says, further on, I agree --

Q. And how do you know that this comment was made by General Delić?

A. I think this is his handwriting.

⁵⁶⁴ Exh.272 (public) [**emphasis added**].

254. On 23 July 1995, the men were transferred to the EMD's "Kamenica Camp", also called the "13 km Camp". There, they were beaten, bound in uncomfortable positions for hours at a time, subjected to cramp-inducing electrical shocks and made to oink like pigs, bark like dogs and bray like horses. They were visited a second time by non-EMD ARBiH soldiers, who tortured them for intelligence about the VRS but did nothing to end their suffering at the hands of the EMD. One of the POW, Gojko VUJIČIĆ, was shot and decapitated in the camp. His head was placed on the laps of other POW and hung on a butcher's meat hook in the camp's makeshift prison cell.

255. On 24 August 1995, more than a month after their transfer to the Kamenica Camp, the ARBiH 3K military police transferred the 11 surviving POW from the camp to KP Dom in Zenica.

256. As early as 22 July 1995, the day before the decapitation of Gojko VUJIČIĆ, **Rasim DELIĆ** had reason to know these POW were being mistreated by the EMD and that this abuse would continue. Though he exercised command and effective control over the EMD, he failed to take the reasonable and necessary measures to remove the POW from the Kamenica Camp and to punish the perpetrators.

B. Article 3 of the Statute of the Tribunal applies

1. When these alleged crimes occurred (21 July 1995 until 24 August 1995), a state of Armed Conflict existed in BiH.

257. As stated above, the parties agree that "[a]t all times relevant to this Indictment, an armed conflict existed in the territory of Bosnia and Herzegovina."⁵⁶⁵

2. There was a "close nexus" between this armed conflict and the criminal acts or omissions.

258. The Trial Chamber heard testimony from multiple sources that each of the men who was either murdered or ill-treated in July 1995 was a member of the VRS, which both parties agree was then engaged in an armed conflict with the ARBiH.⁵⁶⁶

⁵⁶⁵ AF37.

⁵⁶⁶ AF35.

These men, referred to by the ARBiH as “aggressor soldiers”⁵⁶⁷ and “prisoners of war”⁵⁶⁸, were captured “during the previous b/d /combat operation/ in the region of Ozren – Vozuća battlefield”.⁵⁶⁹ The men were first detained and beaten in a house in the village of Livade, described by the ARBiH as a “reception centre”⁵⁷⁰ and interviewed by ARBiH personnel “in relation to intelligence information”.⁵⁷¹ They were then taken to the camp of the “‘El Mudžahidin’ Detachment Kamenica”, where they were held until their release to the 3K Military Police Battalion on 24 August 1995.⁵⁷²

259. This evidence is not in dispute. The Prosecution has proved, beyond a reasonable doubt, a sufficiently



Exh.544. Velibor TOŠIĆ, Krstan MARINKOVIĆ and Petko MARIĆ, shortly after their capture on 21 July 1995 (names marked by MARINKOVIĆ in court).

“close nexus” between the armed conflict then raging in BiH between the ARBiH and the VRS and the beatings and murders alleged, in the Amended Indictment, to have been committed in July 1995.

⁵⁶⁷ Exh.449 (public).

⁵⁶⁸ Exh.553 (public).

⁵⁶⁹ Exh.449 (public).

⁵⁷⁰ Exh.553 (public).

⁵⁷¹ Exh.553 (public).

⁵⁷² Exh.449 (public).

3. Each of the victims of Cruel Treatment and Murder was taking no active part in the hostilities: each had laid down his arms and been placed *hors de combat* by being detained

260. Each of the VRS POW who were subjected to Murder and Cruel Treatment in Livade and in the Kamenia Camp was unarmed, detained and taking no active part in the hostilities at the time of the alleged offences. The Trial Chamber can discern this fact from two main sources: testimony of the victims and documents generated by the ARBiH.

261. As to the testimony of the victims, the Trial Chamber has before it the testimony of three men: Krstan MARINKOVIĆ, Velibor TRIVIČEVIĆ and Branko ŠIKANIĆ (whose written testimony was admitted via Rule 92 *bis* of the Rules of Procedure and Evidence). MARINKOVIĆ he testified that he had had a gun that he had lost before deciding to give himself up.⁵⁷³ ŠIKANIĆ said the ARBiH confiscated a revolver he was carrying shortly after his surrender.⁵⁷⁴ Each man described surrendering to the ARBiH forces on 21 July 1995 and being immediately physically restrained and beaten.⁵⁷⁵ Each man described seeing his fellow soldiers similarly restrained and under guard, both in Livade and in the Kamenica Camp.⁵⁷⁶

262. ARBiH documents refer to these men as “prisoners of war” who were detained until at least 24 August 1995.⁵⁷⁷ As explained more fully below, it was during this period that these men were subjected to Murder and Cruel Treatment.

263. This evidence has not been challenged by the Defence. The Prosecution has proved, beyond a reasonable doubt, that the men subjected to Murder and Cruel Treatment in July and August 1995 were unarmed, detained and taking no active part in the hostilities at the time of the offences.

⁵⁷³ Marinković, T.3515:10; 03-10-07 (open session)

⁵⁷⁴ Šikanić, 92*bis* statement, Exh.927, p.5 (0091-1499)

⁵⁷⁵ Marinković, T.3515:19-23; 03-10-07 (open session); Trivičević, T.3608:21, 4-10-07 (open session); Šikanić, 92*bis* statement, Exh.927 (public), p.5 (0091-1499).

⁵⁷⁶ Marinković, T.3524, 3-10-07 (open session); Trivičević, T.3615, 4-10-07 (open session); Šikanić, 92*bis* statement, Exh.927 (public), p.7 (0091-1501).

⁵⁷⁷ Exh.553 (public).

C. Murder

1. Gojko VUJIČIĆ was Killed and Decapitated by a member of the EMD in the Kamenica Camp on 24 July 1995.

(i) Livade

264. Gojko VUJIČIĆ was a VRS soldier⁵⁷⁸ who was captured by the ARBiH on 21 July 1995. After their capture, VUJIČIĆ and 11 other VRS POW from VUJIČIĆ's unit were first detained at an ARBiH house in the village of Livade,⁵⁷⁹ where the 35Div had an IKM⁵⁸⁰ and where the EMD had a command post.⁵⁸¹ In Livade, the POW were clearly in the custody of the EMD, even as other members of the ARBiH conducted interviews with the men. Fadil IMAMOVIĆ, Assistant Commander for Security in the 35Div, reported that the interviews of the POW were conducted "with the approval of [EMD commander] Abu Mali", that "'El Mudžahedin'" members only gave permission for a short interview" and that "the 'El Mudžahedin' Detachment 'does not allow us takeover.'"⁵⁸² Another witness, Izudin HAJDERHODŽIĆ, Assistant Commander for Intelligence in the 35Div, testified that he and IMAMOVIĆ gained access to the POW after first speaking with "an Arab", who took the two men into an empty room in the house so that the POW could be brought to them.⁵⁸³

(ii) Kamenica Camp

⁵⁷⁸ Trivičević, T.3617, 4-10-07 (open session)

⁵⁷⁹ Exh.553 (public) (ARBiH document referring to interviews of POW captured by the EMD, conducted at the "reception centre" in Livade); Trivičević, T.3617:16, 4-10-07 (open session); Šikanić, 92bis statement, Exh.927 (public), p.7 (0091-1501), p. 9 (0091-1503)

⁵⁸⁰ Exh.449 (public).

⁵⁸¹ Mrkaljević, T.3898, 10-10-07 (open session)

⁵⁸² Exh.553 (public), p.2.

⁵⁸³ Hajderhoždić, T.3719, 8-10-07 (open session).

265. On 23 July 1995, Gojko VUJIČIĆ and the other POW were transferred to the Kamenica Camp of the EMD.⁵⁸⁴ But for Gojko VUJIČIĆ, these 12 POW remained at the Kamenica Camp until 24 August 1995.⁵⁸⁵

266. Shortly after their arrival at the Kamenica Camp, VUJIČIĆ and the other POW were tied up, blindfolded and left outdoors. Specifically, the men were “tied up with our legs raised so that we were in a sort of semi-hanging position” in which they remained until the following morning, 24 July 1995.⁵⁸⁶ POW Velibor TRIVIČEVIĆ managed to remove his blindfold during the night; in its place, one of TRIVIČEVIĆ’s captors covered the man’s eyes with a blindfold made of translucent gauze through which TRIVIČEVIĆ could see “everything that was going on.”⁵⁸⁷ During the night, VUJIČIĆ, who had been wounded “in the groin area and in a lot of pain”⁵⁸⁸, was heard moaning and asking for water.⁵⁸⁹

267. On the morning of 24 July 1995, TRIVIČEVIĆ was awakened by the sounds of members of the EMD praying in a tent nearby.⁵⁹⁰ TRIVIČEVIĆ looked at VUJIČIĆ, who was laying adjacent to him, and heard VUJIČIĆ “beg to be given some water, to be helped, or to have his arms and legs untied because he really couldn’t stand it anymore.”⁵⁹¹ At one point, TRIVIČEVIĆ testified, VUJIČIĆ “started to swear, and amongst other things, he mentioned God in those curses.”⁵⁹²

⁵⁸⁴ Trivičević, T.3620, 4-10-07 (open session); Šikanić, 92bis statement, Exh.927 (public), p.5 (0091-1499); Awad, T.263, 8-02-08 (open session); [REDACTED]; PW9, T.5753, 5765, 16-11-07 (open session); Exh.554 (public) (a 24 July 1995 report referring to “prisoners of the 1st Prnjavor Ipbr” at the “El Mujahidin Detachment” camp “located 14 km towards Kamenica village.” This suggests both that the POW were in the camp by 24 July 1995 and that the ARBiH knew this.)

⁵⁸⁵ Exh.499 (public) (referring to the “take over” by the ARBiH MP of 11 VRS POW, including Trivičević and Marinković, from the “Kamenica El Mujahedin Light Infantry Detachment”); Exh.542 (public)

⁵⁸⁶ Trivičević, T.3637, 4-10-07 (open session)

⁵⁸⁷ Trivičević, T.3639, 4-10-07 (open session)

⁵⁸⁸ Trivičević, T.3639, 4-10-07 (open session)

⁵⁸⁹ Marinković, T.3537, 3-10-07 (open session)

⁵⁹⁰ Trivičević, T.3639, 4-10-07 (open session)

⁵⁹¹ Trivičević, T.3639, 4-10-07 (open session)

⁵⁹² Trivičević, T.3639, 4-10-07 (open session)



Exhibit 547a, a still from a video depicting the EMD “Kamenica Camp”. The marks, placed on the still by Velibor TRIVIČEVIĆ, indicate the location of a “weeping willow” (7), the house in which the POW were detained (8) and the “second house” in the camp (9).

The EMD had warned the POW, TRIVIČEVIĆ testified, that the POW were strictly forbidden from cursing.⁵⁹³ TRIVIČEVIĆ continued:

And one of the Mujahedin who were in the tent at prayer came out of the tent, took an automatic rifle that was right next to the entrance, and he cocked it on his way. And then walking, he stopped next to Gojko’s head, and Gojko could see him coming up, and he just turned his head towards me, to his left. And then going along, he stood next to Gojko’s head and coolly fired a shot to Gojko’s right temple and then went back to the tent. And then I just looked at Gojko and I could see his little finger still twitching as if he were alive. The Mujahedin went to the tent, and then he took a sword, came back to Gojko, and in several strokes he severed Gojko’s head.⁵⁹⁴

268. Krstan MARINKOVIĆ and Dr. Branko ŠIKANIĆ, two other POW who served in the same unit as VUJIČIĆ, were also tied up and left on the ground with VUJIČIĆ in the Kamenica Camp.⁵⁹⁵ MARINKOVIĆ testified that he heard VUJIČIĆ

⁵⁹³ Trivičević, T.3639, 4-10-07 (open session)

⁵⁹⁴ Trivičević, T.3639-3640, 4-10-07 (open session)

⁵⁹⁵ Marinković, T.3536:17, 3-10-07 (open session)

“moaning” and “cursing” for water, saying “I am parched and these people are killing me.”⁵⁹⁶ Sometime after VUJIČIĆ cursed, MARINKOVIĆ testified, he heard a “rifle shot” nearby.⁵⁹⁷

269. In the morning, MARINKOVIĆ testified, MARINKOVIĆ was yanked up into a sitting position. The head of VUJIČIĆ was placed in his lap, MARINKOVIĆ said. The POW noticed that the head bore a gunshot to the right temple.⁵⁹⁸

270. As of 22 May 2006, Gojko VUJIČIĆ was still listed as missing by the RS Government.⁵⁹⁹

(b) At the Time of his Death, Gojko VUJIČIĆ had been Placed
Hors de Combat by Detention.

271. As explained above, witnesses testified that Gojko VUJIČIĆ was laying on the ground blindfolded and bound when he was shot in the head. The Trial Chamber **Exhibit 547a, a still from a video depicting the EMD “Kamenica Camp”. The marks, placed on the still by Velibor TRIVIČEVIĆ, indicate the location of a “weeping willow” (7), the house in which the POW were detained (8) and the “second house” in the camp (9).**

heard no testimony to contradict these facts. The Prosecution has proven, beyond a reasonable doubt, that Gojko VUJIČIĆ was taking no active part in the hostilities when he was murdered.

(c) VUJIČIĆ was killed intentionally.

272. The evidence shows that the man who killed VUJIČIĆ walked deliberately to where the POW was laying on the ground, cocked a rifle on the way and shot VUJIČIĆ once in the head. It shows further that the man left the body to retrieve a sabre, which he used to decapitate Gojko VUJIČIĆ. From this evidence, the Trial Chamber can properly infer, and the Prosecution has proven, that Gojko VUJIČIĆ was killed intentionally.

⁵⁹⁶ Marinković, T.3537:12, 3-10-07 (open session)

⁵⁹⁷ Marinković, T.3537, 3-10-07 (open session)

⁵⁹⁸ Marinković, T.3539, 3-10-07 (open session)

⁵⁹⁹ Exh.1191 (public), p.7.

(d) VUJIČIĆ was killed by a member of the EMD.

273. The Trial Chamber can properly infer that the man who killed Gojko VUJIČIĆ, as well as the men who beat him and the other POW, were members of the EMD. These crimes occurred on the grounds of the Kamenica Camp, which was the

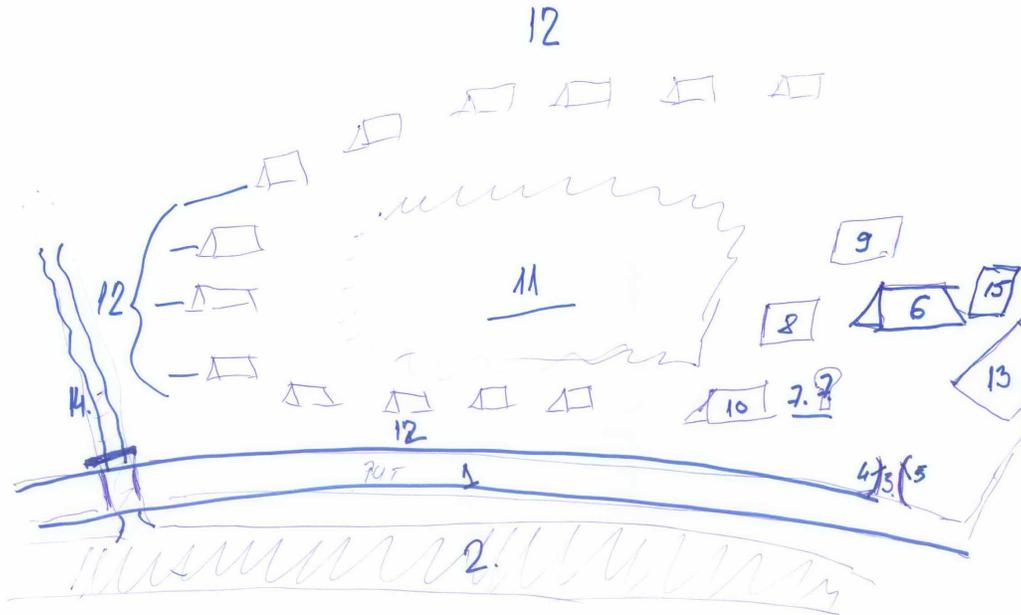


Exhibit 549, Velibor TRIVIČEVIĆ's sketch of the Kamenica Camp. The marks indicate the following: 1: the road near the camp; 2: the river near the camp (described as the Gostović River during his testimony); 3: the entrance to the camp; 4: the location of the black flag with the round coat of arms in the middle; 5: the location of the other flag containing Arabic writing; 6: the location of the large tent where the Mujahedin said their prayers; 7: the location of the "weeping willow"; 8: the house in which the POW were detained; 9: the other house in the camp; 10: location adjacent to the commander's tent; 11: the Football Field; 12: location adjacent to the other tents in the camp; 13: location of "a wooden shack" where there were "two or three bathrooms inside"; 14: small creek that flowed into the Gostović River and 15: the location of the killing of Gojko VUJIČIĆ.

"emir".⁶⁰³ MARINKOVIĆ agreed, on cross-examination, that he "only saw both foreign and local Mujahedin members staying at the camp."⁶⁰⁴ This is consistent with

⁶⁰⁰ Exh.434 (public), p.2.

⁶⁰¹ Exh.1055 (public).

⁶⁰² Šljuka, T.4328, 22-10-07 (open session); [REDACTED]

⁶⁰³ Begović, T.537, 13-07-07 (open session).

⁶⁰⁴ Marinković, T.3559, 3-10-07 (open session).

the testimony of the former EMD member Sinan BEGOVIĆ, who described the camp as “a place we [EMD members] slept occasionally” and where the unit “would assemble ... before any action” to be “issued with weapons”⁶⁰⁵ and to be “assigned to ... combat groups.”⁶⁰⁶ From this evidence, the Trial Chamber can infer that the men who committed Murder and Cruel Treatment in the Kamenica Camp were members of the EMD, a unit over which **Rasim DELIĆ** exercised command and effective control in July and August 1995.

2. Momir MITROVIĆ and Predrag KNEŽEVIĆ were Decapitated by ARBiH Soldiers in Livade on 21 July 1995.

276. The heads of Momir MITROVIĆ and Predrag KNEŽEVIĆ, members of the



25.

Exh.1174: When Predrag KNEŽEVIĆ was exhumed in May 2006, investigators found that he had been bound with electrical wire.

same VRS unit as the other POW, were brought, dripping with blood, into the house in Livade on 21 July 1995 and displayed to the POW held there. Though none of the men who testified witnessed the murder of these men, each POW provided the Trial Chamber with evidence that can lead to only one logical

inference: that these men were murdered in Livade well after the day’s combat had concluded.

⁶⁰⁵ Begović, T.443, 11-07-07 (open session)

⁶⁰⁶ Begović, T.450, 11-07-07 (open session)

277. First, the men were bound when they were killed. Examinations of the bodies of both Predrag KNEŽEVIĆ⁶⁰⁷ and Momir MITROVIĆ,⁶⁰⁸ exhumed in Božići in May 2006, revealed that the legs and hands of each had been bound, respectively, with “thin electrical cables”⁶⁰⁹ and “a green rope”.⁶¹⁰ The Trial Chamber can properly infer from this that the men were detained prior to their deaths; logically, there would be no need to bind the hands and feet of men who are already dead.

278. Second, the Trial Chamber heard evidence that the battle that morning commenced at around 0400⁶¹¹ and that no combat operations were taking place in the vicinity of Livade by the time Dr. Branko ŠIKANIĆ and Velibor TRIVIČEVIĆ, arrived there at around 0700.⁶¹² ŠIKANIĆ and TRIVIČEVIĆ testified they were captured together by the ARBiH near a VRS medical station near Krčevine and escorted by their captors to the house in Livade.⁶¹³ The two men’s descriptions of this journey are remarkably consistent, replete with accounts of beatings and psychological terror.⁶¹⁴ Also consistent in these accounts is the lack of any mention of combat activities around Livade after their early-morning surrender. This fact is confirmed in the testimony of ARBiH soldiers Izudin HAJDERHODŽIĆ and Fadil IMAMOVIĆ. The accounts of both men show that they had a relative freedom of movement in and around Livade on 21 July 1995, and that the ARBiH was in control

⁶⁰⁷ Exh.1174 (public), pp.6-8 is the “Record of the Forensic Medical and Criminal Examination of a Body” marked “DNK-BL-878.” DNA testing later confirmed that this is the body of Predreg Knežević. See Krčmar, 92bis statement, Exh.644 (public) (B/C/S), pp.104-106 (confirming that DNA tests proved the body “BL-878” is KNEŽEVIĆ).

⁶⁰⁸ Exh.1174 (public), pp.12-15 is the “Record of the Forensic Medical and Criminal Examination of a Body” marked “DNK-BL-877.” DNA testing later confirmed that this is the body of Momir MITROVIĆ. See Krčmar, 92bis statement, Exh.644 (public) (B/C/S), pp.107-108 (confirming that DNA tests proved the body “BL-877” is MITROVIĆ).

⁶⁰⁹ Exh.1174 (public), p.7;

⁶¹⁰ Exh.1174 (public), p.13.

⁶¹¹ Šikanić, 92bis statement, Exh.927 (public), p.4 (0091-1498); Trivičević, T.3604, 4-10-07 (open session); Exh.364 (public), p.8; Exh.1048 (public), p.6.

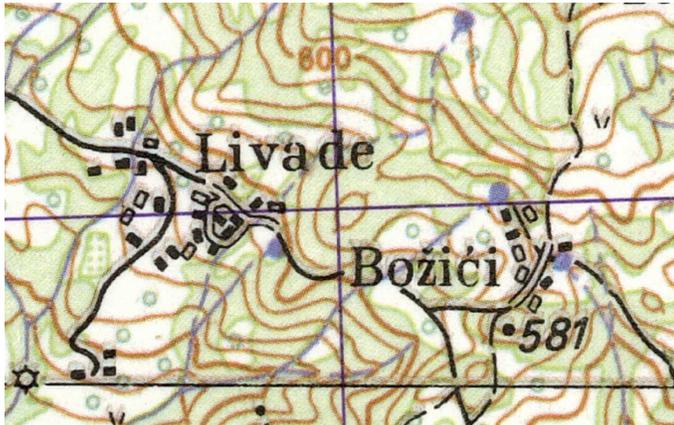
⁶¹² Trivičević, T.3609, 4-10-07 (open session)

⁶¹³ See Šikanić, 92bis statement, Exh.927 (public), p.6 (0091-1500)

⁶¹⁴ Compare Šikanić, 92bis statement, Exh.927 (public), pp.5-6 (0091-1500 – 0091-1501) with Trivičević, T.3607-3609, 4-10-07 (open session)

of the village and immediate vicinity, to the point of having a “Reception Centre” there for POW.⁶¹⁵

279. Third, the Trial Chamber heard evidence that KNEŽEVIĆ and MITROVIĆ were killed during the evening of 21 July 1995 in close vicinity to the house in Livade



Detail from Map 15 of the “Delić Court Binder”, ERN 0618-6710.

in which the other POW were being detained. ŠIKANIĆ noted that he saw his captors bring the heads into the house “during the evening, sometime before dusk”.⁶¹⁶ ŠIKANIĆ, a medical doctor, also noted that “there was fresh blood dripping from the heads.”⁶¹⁷ This fact is

confirmed by TRIVIČEVIĆ, a trained medic. He testified that the heads had “fresh blood” pouring from them.⁶¹⁸ TRIVIČEVIĆ elaborated on this point further during cross examination, explaining that this detail showed that the men were decapitated nearby:

The heads that were brought into that room were still gushing blood all over the ground, all over our legs. If this had been done somewhere along the front line, and it had taken them 15 to 20 minutes to get me there from the front line, if they had arrived all the way from the front line, I don't know how much blood would have still been left in those heads to gush forth like that.⁶¹⁹

280. Challenged by the Defence counsel, TRIVIČEVIĆ continued:

⁶¹⁵ See Hajderhodžić, T.3716, 8-10-07 (open session); Imamović, T.3987, 11-10-07 (open session)

⁶¹⁶ Šikanić, 92bis statement, Exh.927 (public), p.8 (0091-1502)

⁶¹⁷ Šikanić, 92bis statement, Exh.927 (public), p.8 (0091-1502)

⁶¹⁸ Trivičević, T.3613, 4-10-07 (open session)

⁶¹⁹ Trivičević, T.3673, 4-10-07 (open session)

The fair thing to say would be this: I'm certain that they had not been killed at the front line and then brought over. As I said, there was blood dripping from those severed heads, and those heads had obviously been freshly severed.⁶²⁰

281. Further, immediately before the guard came in holding the head of Momir MITROVIĆ, TRIVIČEVIĆ testified that he heard a commotion outside. He said he heard a shout of “Allahu Ekber” from in front of the house and the guard in the room ran out. Immediately after that, TRIVIČEVIĆ said, the guard returned to the room with the bloody head of Momir MITROVIĆ.⁶²¹ According to a forensic report, one of MITROVIĆ’s vertebrae had been “smoothly split with a sharp object.”⁶²²

282. Lastly, the bodies of Predrag KNEŽEVIĆ⁶²³ and Momir MITROVIĆ⁶²⁴ were exhumed in a common grave along a road in the hamlet of Božići, Zavidovići Municipality, on 16 May 2006. As illustrated on Map 15 of the Court Binder, Božići is closely adjacent to Livade.

283. From these facts, the Trial Chamber can infer that Momir MITROVIĆ and Predrag KNEŽEVIĆ were decapitated in front of the house in Livade in which the other VRS POW were kept, in an area that was then firmly under the control of the ARBiH and in which no active combat operations were taking place. It can further infer that the men were bound when they were killed and were thus protected persons within the meaning of the Geneva Conventions. Finally, the Trial Chamber can infer from the method of the killing, decapitation, and from the shouting that occurred immediately before it that the killings were intentional.

⁶²⁰ Trivičević, T.3613, 4-10-07 (open session)

⁶²¹ Trivičević, T.3674, 4-10-07 (open session)

⁶²² Exh.1174 (public), p.15. Though an examination of the body of KNEŽEVIĆ is less conclusive on the question of decapitation, the report notes that “four cervical vertebrae” were not found with the body. *See* Exh.1174 (public), p.7

⁶²³ Exh.1174 (public), pp.6-8 is the “Record of the Forensic Medical and Criminal Examination of a Body” marked “DNK-BL-878.” DNA testing later confirmed that this is the body of Predrag Knežević. *See* Krčmar, 92*bis* statement, Exh.644 (public) (B/C/S), pp.104-106 (confirming that DNA tests proved the body “BL-878” is KNEŽEVIĆ).

⁶²⁴ Exh.1174 (public), pp.12-15 is the “Record of the Forensic Medical and Criminal Examination of a Body” marked “DNK-BL-87.” DNA testing later confirmed that this is the body of Predrag Knežević. *See* Krčmar, 92*bis* statement, Exh.644 (public) (B/C/S), pp.107-108 (confirming that DNA tests proved the body “BL-877” is MITROVIĆ).

D. Cruel Treatment

1. EMD members beat, shocked and otherwise mistreated POW in Livade and at the Kamenica Camp.

284. Krstan MARINKOVIĆ, Velibor TRIVIČEVIĆ, Branko ŠIKANIĆ and the other 11 POW taken into custody on 21 July 1995 were beaten and mistreated by EMD members almost from the moment of their capture. The beatings and mistreatment, which left the men with lasting injuries, that began with the act of surrender continued throughout the time they were in the custody of the EMD, first in Livade and then in the Kamenica Camp.

(i) Capture

285. ARBiH soldiers, including men he identified as “mujahedin”, beat VRS soldiers Krstan MARINKOVIĆ, Petko MARIĆ and Velibor TOŠIĆ, immediately after the three men stepped from their hiding place in the woods near Krčevine at around 1900 on 21 July 1995.⁶²⁵ The men were surrounded by a group that included “Bosnian Muslims and the Mujahedin”, who began “hitting us immediately”.⁶²⁶ MARINKOVIĆ testified that one of the men “cracked me over the head with a rifle, the tip of the rifle”, leaving a scar on the back of his head.⁶²⁷

286. TRIVIČEVIĆ and ŠIKANIĆ were captured at the VRS medical station in Krčevine around 0400 on 21 July 1995, shortly after the ARBiH attack began.⁶²⁸ The ARBiH soldiers bound the hands of the men, then escorted them to a larger group of ARBiH soldiers who “beat and kicked” the two POW.⁶²⁹

(ii) Livade

⁶²⁵ Marinković, T.3510, 3-10-07 (open session)

⁶²⁶ Marinković, T.3516, 3-10-07 (open session)

⁶²⁷ Marinković, T.3517-3518, 3-10-07 (open session)

⁶²⁸ Trivičević, T.3604, 4-10-07 (open session)

⁶²⁹ Šikanić, 92bis statement, Exh.927 (public), p.5 (0091-1499)

287. MARINKOVIĆ testified that he, Petko MARIĆ and Velibor TOŠIĆ were “beaten a lot” *en route* to Livade, including by a soldier who hit MARINKOVIĆ with the butt of his rifle, resulting in a cut lip.⁶³⁰ When he reached Livade under the escort of “two Mujahedin and one Bosnian”⁶³¹, MARINKOVIĆ was forced to bend down so that a boy of “10 or 11 years old” could hit him, breaking his nose.⁶³² Once they arrived at Livade, MARINKOVIĆ testified, the men’s hands and feet were bound and their eyes covered with a blindfold.⁶³³ Though a soldier stood guard at the door to the house in which they were held,⁶³⁴ women from the village were allowed to come into the room and hit the bound and blindfolded POW.⁶³⁵

288. As TRIVIČEVIĆ and ŠIKANIĆ were being escorted to Livade, one of the “Mujahedin” threw the POW to the ground and cut off their hair to, as he put it, “distinguish a dog from one of their brethren.”⁶³⁶ The soldiers escorting TRIVIČEVIĆ burned his military ID and driving license, telling the POW that he would “burn in hell for ... standing against Allah.”⁶³⁷ At one point during the journey, the group came upon the decapitated body of a VRS soldier. The Mujahedin shoved TRIVIČEVIĆ and ŠIKANIĆ to the ground next to the body and swung an axe into the ground near the men’s heads.⁶³⁸ The soldiers told the two men that “they would end [in] the same situation.”⁶³⁹ ŠIKANIĆ cried out in terror.⁶⁴⁰

⁶³⁰ Marinković, T.3521, 3-10-07 (open session)

⁶³¹ Marinković, T.3517-3520, 3-10-07 (open session)

⁶³² Marinković, T.3522, 3-10-07 (open session)

⁶³³ Marinković, T.3523, 3-10-07 (open session)

⁶³⁴ Marinković, T.3523, 3-10-07 (open session)

⁶³⁵ Marinković, T.3524-3525, 3-10-07 (open session)

⁶³⁶ Trivičević, T.3605, 4-10-07 (open session)

⁶³⁷ Trivičević, T.3605, 4-10-07 (open session)

⁶³⁸ Šikanić, 92*bis* statement, Exh.927 (public), p.5 (0091-1499), Trivičević, T.3607, 4-10-07 (open session)

⁶³⁹ Šikanić, 92*bis* statement, Exh.927 (public), p.5 (0091-1499)

⁶⁴⁰ Šikanić, 92*bis* statement, Exh.927 (public), p.5 (0091-1499)

289. Once they arrived at the house in Livade, TRIVIČEVIĆ testified, the men were bound in uncomfortable positions in which they were left until their hands started swelling from lack of circulation.⁶⁴¹ During their stay in the house, the heads of Momir MITROVIĆ and KNEŽEVIĆ, were brought in and shown to the POW. The heads were dripping with blood, TRIVIČEVIĆ testified.⁶⁴²

290. At one point during his captivity in the house in Livade, ŠIKANIĆ was handed a “medical knife” and told that, if he did not decapitate MARINKOVIĆ, his own head would be cut off.⁶⁴³ ŠIKANIĆ refused, and a Mujahedin pulled the dull edge of the knife across the neck of ŠIKANIĆ.⁶⁴⁴



On another occasion, one of the Mujahedin bit the toes of POW Vinko AKSENTIĆ.⁶⁴⁵

Exh.547a. The boy who cut TRIVIČEVIĆ's ears with a pocket knife during his captivity in the house in Livade.

291. During their first night in Livade, a boy whom EMD members said was a 12-year-old Saudi, was permitted to come into the room in which the POW were detained. The boy asked TRIVIČEVIĆ: “Do you want to give me your head?” TRIVIČEVIĆ answered: “I don't know”, and the boy cut one of TRIVIČEVIĆ's ears with a small knife. The boy repeated his question; when TRIVIČEVIĆ did not

⁶⁴¹ Trivičević, T.3612, 4-10-07 (open session); Šikanić, 92bis statement, Exh.927 (public), p.7 (0091-1501)

⁶⁴² Trivičević, T.3613-3614, 4-10-07 (open session)

⁶⁴³ Šikanić, 92bis statement, Exh.927 (public), p.8 (0091-1502)

⁶⁴⁴ Šikanić, 92bis statement, Exh.927 (public), p.8 (0091-1502)

⁶⁴⁵ Šikanić, 92bis statement, Exh.927 (public), p.8 (0091-1502); Trivičević, T.3618, 4-10-07 (open session)

answer, the boy cut his other ear.⁶⁴⁶ During his testimony, TRIVIČEVIĆ identified the boy from a video that had been shot in the Kamenica Camp.

292. The conditions in which the EMD held the POW in Livade were sufficiently alarming that other ARBiH soldiers were concerned about them. Izudin HAJDERHODŽIĆ, 35Div Assistant Commander for Intelligence, testified that he saw ŠIKANIĆ “tied to a pole with some wire” whose “hands were all blue.”⁶⁴⁷ “It was a nasty sight” and he “wanted to get out of there as soon as possible”,⁶⁴⁸ he told the Trial Chamber.⁶⁴⁹ Fadil IMAMOVIĆ, 35Div Assistant Commander for Security, testified that the POW looked “very, very scared” when he saw them in Livade 21 July 1995.⁶⁵⁰

293. POW arrived to the house throughout the day. By nightfall, the following VRS POW were detained at the house in Livade: Gojko VUJIČIĆ, Krstan MARINKOVIĆ, Branko ŠIKANIĆ, Petko MARIĆ, Velibor TOŠIĆ, Velibor TRIVIČEVIĆ, Igor GULJEVATEJ, Goran STOKANOVIĆ, Vlado ČUČIĆ, Duško PEJČIĆ, Vinko AKSENTIĆ and Miodrag SAMAC.⁶⁵¹

(iii) Kamenica Camp

294. After two days in Livade, the 12 VRS POW were thrown into a truck and driven to the Kamenica Camp, where they were subjected over the next month to additional beatings, assaults and other attacks on their dignity. Throughout their stay at the camp, the POW were held in substandard conditions and not provided sufficient water.

295. On the first or second night the POW were held at the camp, and EMD member murdered Gojko VUJIČIĆ following a night in which he and the other POW

⁶⁴⁶ Šikanić, 92bis statement, Exh.927 (public), p.8 (0091-1502); Trivičević, T.3635-3636, 4-10-07 (open session); Exh.547 (public)d

⁶⁴⁷ Hajderhodžić, T.3717-3718, 8-10-07 (open session).

⁶⁴⁸ Hajderhodžić, T.3717-3719, 8-10-07 (open session).

⁶⁴⁹ Hajderhodžić, T.3717-3718, 8-10-07 (open session).

⁶⁵⁰ Imamović, T.3990, 10-10-07 (open session).

⁶⁵¹ Exh.543 (public), Exh.542 (public); Trivičević, T.3617, 4-10-07 (open session).

were blindfolded, bound, left to the elements out-of-doors and subjected to cruel assaults. For example, MARINKOVIĆ and ŠIKANIĆ describe having their legs bound with a cord that became alternately tight and loose that caused “terrible pain”⁶⁵² as if “somebody was slightly cutting my feet off slowly with some object”⁶⁵³ EMD members then forced the surviving POW to kiss the head of Gojko VUJIČIĆ, which was then hung on a butcher’s hook on a wall in the room where the POW were detained. EMD members told the POW that “Tomorrow, your heads will be in the Gostovići [sic] River.”⁶⁵⁴

296. Shortly after the murder of VUJIČIĆ, the POW were taken into the football field in the camp and paraded, their legs and hands bound, before “about 400 Mujahedin”.⁶⁵⁵ Some of the Mujahedin “were trying to hit us with knives, sabres or whatever else they had,” according to ŠIKANIĆ.⁶⁵⁶ At other times, the POW were lined up so that soldiers returning from the front could spit at them, to the point that the POW were “dripping with their drivel.”⁶⁵⁷

297. Another time, ŠIKANIĆ was taken to a different room in the house in which the POW were held. As “three BiH army officers” asked him questions, “electrical devices they were using to cause muscular cramps” were placed on his chest and stomach.⁶⁵⁸

298. After a while, ŠIKANIĆ, said, a routine of mistreatment was established at the Kamenica Camp. The POW, who were chained together on one long chain, would be made to lay down in the football field of the camp while EMD members walked on

⁶⁵² Šikanić, 92bis statement, Exh.927 (public), p.9 (0091-1503)

⁶⁵³ Šikanić, 92bis statement, Exh.927 (public), p.9 (0091-1503). *See also* Marinković, T.3537, 3-10-07 (open session) (“It was so tight – the restraint was so tight that I thought my feet would just fall off.”).

⁶⁵⁴ Šikanić, 92bis statement, Exh.927 (public), p.9 (0091-1503)

⁶⁵⁵ Šikanić, 92bis statement, Exh.927 (public), p.9 (0091-1503)

⁶⁵⁶ Šikanić, 92bis statement, Exh.927 (public), p.9 (0091-1503)

⁶⁵⁷ Marinković, T.3566, 3-10-07 (open session).

⁶⁵⁸ Šikanić, 92bis statement, Exh.927 (public), p.10 (0091-1504)

their stomachs.⁶⁵⁹ EMD members would also place objects, like pieces of wood and slippers, into the mouths of the POW and sometimes make them “imitate different animals.”⁶⁶⁰

299. The POW were transferred by the 3K military police from the Kamenica Camp to KP Dom Zenica on 24 August 1995.⁶⁶¹ During their final morning in the camp, the POW were beaten with rifles and kicked⁶⁶² by two EMD members and made to make sounds like pigs, horses and dogs.⁶⁶³

2. The abuse of these men was intentional and caused serious mental and/or physical suffering.

300. MARINKOVIĆ testified that his leg still bears an open wound, which he showed to the Trial Chamber at the request of the Presiding Judge, caused by the chains used to bound him to the other POW.⁶⁶⁴ ŠIKANIĆ noted in his 92 *bis* statement that he continues to suffer post-traumatic stress disorder as a result of the ill treatment he received at the hands of the EMD. The doctor said that he continues to have difficulty sleeping at night and that he often dreams he is still in the camp. ŠIKANIĆ also noted that he has continuing medical problems as a result of his time in the camp and the lack of food and water he received there, including problems with his kidneys and thyroid gland.⁶⁶⁵ That these symptoms, and the wound caused to the leg of MARINKOVIĆ, persist 12 years later is testament to the seriousness of the suffering of these men.

301. The Trial Chamber can also properly infer from the testimony of these men that the abuse they and the other POW suffered at the hands of the EMD was intentional. Each man described a consistent pattern of violence and humiliation that

⁶⁵⁹ Šikanić, 92*bis* statement, Exh.927 (public), p.10 (0091-1504)

⁶⁶⁰ Šikanić, 92*bis* statement, Exh.927 (public), p.11 (0091-1505)

⁶⁶¹ Exh.499 (public), Exh.542 (public), Exh.543 (public).

⁶⁶² Šikanić, 92*bis* statement, Exh.927 (public), p.11 (0091-1505)

⁶⁶³ Marinković, T.3542, 03-10-07 (open session).

⁶⁶⁴ Marinković, T.3570, 03-10-07 (open session).

⁶⁶⁵ Šikanić, 92*bis* statement, Exh.927 (public), p.12 (0091-1506)

began on 21 July 1995 and continued throughout their stay in the custody of the EMD until 24 August 1995.

E. Rasim DELIĆ had reason to know these crimes were about to occur or had occurred.

302. In the two years before July 1995, **Rasim DELIĆ** was repeatedly informed of the EMD's propensity toward violent criminal behaviour. He knew that men who formed this unit murdered Bosnian Croat civilians and POW in Bikoši on 8 June 1993 and he knew EMD members were implicated in the abduction and murder of a UNHCR aid worker in early 1994. He also had reason to know of other instances of the EMD's violent criminal behaviour, which were often reported in security Bulletins at his disposal.

1. EMD had a history of misconduct.

(a) Maline.

303. As explained more fully elsewhere in this brief, **Rasim DELIĆ** knew that the men who murdered 24 HVO civilians and POW in Bikoši on 8 June 1993 were among the first members of the EMD, a unit **DELIĆ** personally authorized in August 1993. This information put the commander on notice that these men had a propensity to commit violent acts against persons protected by the Geneva Conventions.

(b) [REDACTED].

304. [REDACTED]⁶⁶⁶ [REDACTED]⁶⁶⁷ This information appeared in an ARBiH Security Administration Bulletin two days later, along with "unverified information" that the attackers were "5 uniformed individuals, of dark complexion, wearing beards, who were probably members of the 'Mujahedeen' unit of the 6th Corps."⁶⁶⁸ [REDACTED]⁶⁶⁹ [REDACTED]⁶⁷⁰ and by 1 February 1994, three members of the

⁶⁶⁶ [REDACTED]

⁶⁶⁷ [REDACTED]

⁶⁶⁸ Exh.714 (public), p.2; Exh.57 (public).

⁶⁶⁹ [REDACTED]

EMD had been arrested and charged, by civilian authorities⁶⁷¹, in relation to the crime.⁶⁷²

305. This incident illustrates that **Rasim DELIĆ** knew members of the EMD had a capacity to commit violent acts against civilians, protected by the Geneva Conventions. It also illustrates that **Rasim DELIĆ** had the material ability investigate and see members of the EMD brought to justice.

(c) Other incidents of EMD criminality

306. Throughout the existence of the EMD, SVB security Bulletins, which were sent to **Rasim DELIĆ**, made constant reference to acts of EMD criminality. The Trial Chamber heard evidence that distribution of these bulletins was limited and strictly proscribed, with **Rasim DELIĆ** assigned number 2 on the five-copy distribution list.⁶⁷³ The information contained in the bulletins was considered so sensitive that when Delić was not in Sarajevo, the Bulletin would be sent to IKM Kakanj for delivery to him.⁶⁷⁴

307. Incidents of violent EMD criminality featured in many of these Bulletins, including (among others):

- **19 December 1994:** the 7K SVB reports that EMD members kidnapped Safet ŠABIĆ, his wife and his son from their home in Travnik, and ordered them to drive to Mehurići. Along the way, the EMD members “stripped him off, then beat him.”⁶⁷⁵

⁶⁷⁰ [REDACTED]

⁶⁷¹ Exh.887 (public).

⁶⁷² Exh.659 (public), Exh.716 (public).

⁶⁷³ Exh.376 (public). The other copies were distributed to the President of the Presidency (1), the Vice President of the Government of RBiH (3), the Chiefs of the Departments for Counter-Intelligence Matters and the Independent Section for Staff and Security Matters (4) and the archives (5).

⁶⁷⁴ Berbić, T.2426, 14-09-07 (open session); Exh.377 (public).

⁶⁷⁵ Exh.724 (public), p.3.

- **11 February 1995:** The 3K SVB reports that two EMD members “physically abused” a young couple who were strolling in Zenica.”⁶⁷⁶
- **4 March 1995:** The 3K SVB reports that six EMD members “took Jadranko BOŠNJAK, a war invalid, away from the Orijent bar in Zenica” and “badly maltreated him” to the point that he was unconscious by the time he was taken to the Zenica hospital “following the intervention of the 3K SVB. The Bulletin continues: “Bearing in mind the ever-increasing number of incidents caused by certain members of the El Mujahid detachment and the consequent protests of the citizens on this territory, the 3K SVB suggests that the higher competent organs undertake measures to curb such and similar cases.”⁶⁷⁷
- **21 March 1995:** Three members of the EMD abducted a man from his Travnik home and took him to their camp in Orašac and to their barracks in the Vatrostalna building in Zenica, where EMD members “physically abused him and tortured him.”⁶⁷⁸
- **3 July 1995:** EMD members go to the AoR of the 1st Battalion of the 328MB and threaten to “slaughter all Croats and Serbs” serving in the battalion.⁶⁷⁹

308. These incidents illustrate that **Rasim DELIĆ** had reason to know that the EMD had a propensity to commit violent crimes, especially against non-Muslims and civilians.

2. **Rasim DELIĆ** had “information available to him” that put him on notice of offences committed by the EMD.

309. The ARBiH military security apparatus knew the VRS POW were being held by the EMD, and that EMD leaders did not provide them full access to the POW. Both facts were reported up the chain of command and appear in a top-secret Security Bulletin. Armed with this knowledge, and aware of the history of the EMD to commit violence against civilians and POW, **Rasim DELIĆ** had reason to know the POW in the custody of the EMD would be subjected to Cruel Treatment and Murder,

⁶⁷⁶ Exh.725 (public), p.4.

⁶⁷⁷ Exh.727 (public), p.3.

⁶⁷⁸ Exh.733 (public), p.3-4

⁶⁷⁹ Exh.736 (public), p.7

but failed inquire further. Rather, his subordinates added to the misery of the VRS POW by going to the camp and torturing one of them for information.

310. Here, the evidence shows that the ARBiH SVB was informed about the POW on the same day they were captured, 21 July 1995. Izudin HAJDERHODŽIĆ, 35Div Assistant Commander for Intelligence, and Fadil IMAMOVIĆ, 35Div Assistant Commander for Security, visited at least three of the POW while the men were still detained in Livade. On 22 July 1995, the SVK SVB was informed that the “[a]ll the captured persons are under control of the ‘El Mudžahedin’ Detachment, who do not allow any access.”⁶⁸⁰

311. This information was included in SVB Bulletin 137 of 22 July 1995, which reported that “[f]ifty aggressor soldiers have been eliminated and around forty have been captured, including two doctors and one nurse.”⁶⁸¹ Further, it reports, “All the captured aggressor soldiers are being held by the ‘El Mudžahid’ Detachment members and so far they do not allow anyone access to these prisoners.”⁶⁸²

312. This particular bulletin was sent, by Jusuf JAŠAREVIĆ, head of the SVB, to IKM Kakanj on 22 July 1995 with the following instruction: “You are required to forward the Bulletin to the GŠA commander, Army General **Rasim DELIĆ**, for his information.”⁶⁸³ The information in the bulletins was sufficiently sensitive that **Rasim DELIĆ** was to return them to the SVB (Military Security Administration) after “becoming familiar with their contents”.⁶⁸⁴ These copies were kept in an “iron” or “steel” cabinet at IKM Kakanj, for which an SVB member held the key.⁶⁸⁵

313. Further, the evidence shows that **Rasim DELIĆ** was in the 3K AoR both around the time of the capture and shortly afterward. Delić visited the 3K

⁶⁸⁰ Exh.364 (public), p.9.

⁶⁸¹ Exh.582 (public), p.4.

⁶⁸² Exh.582 (public), p.5.

⁶⁸³ Exh.377 (public), p.87

⁶⁸⁴ Exh.368 (public); Berbić, T.2368-2369, 2372, 14-09-07 (open session).

⁶⁸⁵ Berbić, T.2368-2369, 14-09-07 (open session)

headquarters around 21 July 1995⁶⁸⁶ and attended a 29 July 1995 meeting at IKM Kakanj,⁶⁸⁷ where he maintained an office adjacent to the office of his Chief of Staff.⁶⁸⁸ The commander also attended a meeting at the 35Div headquarters in Zavidovići on 2 August 1995, while the 11 remaining POW were held in the Kamenica Camp just 13 km away.⁶⁸⁹ The Trial Chamber heard evidence that members of the EMD leadership were even present in the building where the meeting occurred.⁶⁹⁰ Nevertheless, the POW were detained for an additional 22 days.

314. As explained above, the evidence also shows that on two occasions in which **Rasim DELIĆ**'s subordinates gained access to the POW, they were concerned exclusively with gathering intelligence from them – including through torture – rather than protecting them from abuse.

315. Thus, the evidence shows that by 22 July 1995, the day before Gojko VUJIČIĆ was murdered by an EMD member in the Kamenica Camp, **Rasim DELIĆ** had available to him information that the EMD was keeping VRS POW hidden from inspection by even his own security apparatus. He also knew the EMD had a reputation for committing crimes against POW and other persons protected by the Geneva Conventions, such as humanitarian aid worker Paul Goodall. This constitutes the sort of “sufficiently alarming” information that would put him on notice that further inquiry was necessary in order to make certain no harm would come to the POW.

⁶⁸⁶ Exh.364 (public), p.10

⁶⁸⁷ Exh.601 (public)

⁶⁸⁸ Alija, T.4112, 15-10-07, (open session)

⁶⁸⁹ Exh.460 (public), p.4

⁶⁹⁰ Hasanagić, T.3007, 25-09-07 (open session)

VIII. KAMENICA: SEPTEMBER 1995

A. Overview

316. The ARBiH launched a combat offensive against the VRS on 10 September 1995, called “Operation FARZ”⁶⁹¹. The so-called “Vozuća Pocket”, which had been held by the VRS since the beginning of the war, fell into ARBiH control, sending Serbs fleeing into the woods as their lines collapsed for the final time during the conflict. A number of VRS soldiers and Serb civilians were captured during this operation. **Rasim DELIĆ** has been charged with Murder and Cruel Treatment with respect to the EMD’s actions toward three district groups of POW: those captured on 11 September 1995 (“the Group of 51”), those captured on 17 September 1995 (“the Group of Ten”, listed in Annex D to the Amended Indictment) and three Serb civilian women (“the Three Women”).

1. The Group of 51⁶⁹²

317. Following their capture on 11 September 1995, these VRS POW were taken to the Youth Hall in the hamlet of Kesten, Zavidovići Municipality. As the Prosecution will explain below, they were then taken into the custody of the EMD, who took them to the Kamenica Camp along the Gostivić River. Here, the POW were murdered over the course of about a month. The remains of seven of these men were exhumed near the Kamenica Camp; each of the others is listed as missing, having last been seen on 11 September 1995.

2. The Three Women

318. [REDACTED]

⁶⁹¹ See Section V, above, for an explanation of the EMD role in Operation FARZ.

⁶⁹² As discussed in greater detail below, Exh.646 (public) lists 51 names while Annex C to the Amended Indictment lists 52. The Prosecution believes Number 52 from Annex C of the indictment is Marko MARIĆ, who could however, according to his year of birth and place of birth/or residence be the same person as MARIČIĆ Mirko, number 46 on Exh.646 (public). The year of birth of both missing person MARIĆ Marko and number 46, MARIČIĆ Mirko are 1946 and the place of birth for both is Podvolujak.

3. The Group of Ten

319. Captured on 17 September 1995 near Vozuća, the Group of Ten, including Nebojša BANJAC, Drago GAJIĆ, Boro GLAVIĆ, Mile GOJIĆ, Gojko MACANOVIĆ, Milorad PANIĆ, Nedjeljko PEČANAC, Radivoje RAČIĆ, Nedeljko VUČKOVIĆ and Ljubomir ŠIKIMIĆ⁶⁹³, was first held in a building in Brezik, Zavidovići Municipality, then taken to the Kamenica Camp and detained on the ground floor of a partly demolished house. There, they were subjected to beatings and shocks with electricity before being transferred to KP Dom Zenica by the 3K on 29 September 1995.⁶⁹⁴ They also briefly crossed paths with the few surviving members of the Group of 51.⁶⁹⁵

B. Article 3 of the Statute Applies

1. When these alleged crimes occurred (10 September 1995 until 15 November 1995), a state of Armed Conflict existed in BiH.

320. As stated above, the parties agree that “[a]t all times relevant to this Indictment, an armed conflict existed in the territory of Bosnia and Herzegovina.”⁶⁹⁶

2. There was a “close nexus” between this armed conflict and the criminal acts or omissions.

321. The Trial Chamber heard testimony that each of the people who were murdered and/or ill-treated in September 1995 was a member of the VRS, which both parties agree was then engaged in an armed conflict with the ARBiH,⁶⁹⁷ or captured by the ARBiH during the course of armed combat.

⁶⁹³ See Amended Indictment, Annex D.

⁶⁹⁴ [REDACTED] See also PW9, T.5719-5720, 16-11-07 (open session); [REDACTED]

⁶⁹⁵ [REDACTED] PW12, T.6585-6586, 6595-6596, 05-12-07 (open session); [REDACTED]

⁶⁹⁶ AF37.

⁶⁹⁷ AF35.

3. Each of the victims of Cruel Treatment and Murder was taking no active part in the hostilities: each had laid down his arms and been placed *hors de combat* by being detained.

(a) The Group of 51 and the Three Women

322. The 328MB reported to the 3K that on 11 September 1995, “two companies of the 5 Battalion of the 328 bbr Mountain Brigade captured 61 hostiles and three Serbian women in the Kesten village sector. Soldiers of the EMD took charge of all the captives except two, while the two were turned over to the 328 bbr VP /Military Police.”⁶⁹⁸

323. [REDACTED]⁶⁹⁹ [REDACTED]⁷⁰⁰ [REDACTED]⁷⁰¹

324. [REDACTED]⁷⁰² [REDACTED]⁷⁰³ [REDACTED]⁷⁰⁴ [REDACTED]⁷⁰⁵
[REDACTED]⁷⁰⁶ [REDACTED]⁷⁰⁷ [REDACTED]⁷⁰⁸

325. Shortly after the POW arrived inside the Kesten hall, the three women, [REDACTED], were taken out by ARBiH soldiers and forced to walk to an unknown location.⁷⁰⁹ [REDACTED]⁷¹⁰

⁶⁹⁸ Exh.480 (public)

⁶⁹⁹ [REDACTED]

⁷⁰⁰ [REDACTED]

⁷⁰¹ [REDACTED]

⁷⁰² [REDACTED] Šehić, T.5099-5100, 05-11-07 (open session)

⁷⁰³ [REDACTED] Karahasanović, T. 8032-8033, 03-04-08 (open session).

⁷⁰⁴ [REDACTED]

⁷⁰⁵ [REDACTED]

⁷⁰⁶ [REDACTED]

⁷⁰⁷ [REDACTED]

⁷⁰⁸ [REDACTED]

326. Sometime prior to 3 p.m., Ismet KARAHASANOVIĆ, the Assistant Commander of Security for the 5th Battalion of the 328MB, arrived at the Kesten Hall after receiving a call from the 328MB 2nd Company Commander, Ismet ŠOGOLJ, telling him that some enemy soldiers had been captured.⁷¹¹ At the hall, KARAHASANOVIĆ made a list of the 51 prisoners, writing down each prisoner's name, year of birth and place of residence, based on information provided by the prisoners.⁷¹² Ahmet ŠEHIC later added the line "three women...." to the list. He had learned from KARAHASANOVIĆ that these three women had been captured.⁷¹³

327. As soon as KARAHASANOVIĆ finished making the list of POW in Kesten, "about 15-20 Arabs" demanded that the prisoners be turned over to them.⁷¹⁴ [REDACTED]⁷¹⁵ [REDACTED]⁷¹⁶

328. [REDACTED]⁷¹⁷ [REDACTED]⁷¹⁸ [REDACTED]⁷¹⁹ [REDACTED]⁷²⁰

329. [REDACTED]⁷²¹ [REDACTED]⁷²²

⁷⁰⁹ Omerašević, 92bis statement, Exh.970 (public), para.79 of statement from 24-10-06 and para. 22,42 of statement from 08-05-07

⁷¹⁰ [REDACTED]

⁷¹¹ Karahasanovic, T.8014-8015, 03-04-08 (open session)

⁷¹² Exh.646 (public); Karahasanović, T8122-8123, 04-04-07 (open session).

⁷¹³ Šehić, T.5059-5061, 05-11-07 (open session)

⁷¹⁴ Karahasanović, T.8022-8025, 03-04-07 (open session).

⁷¹⁵ Karahasanovic, T.8027, 03-04-07 (open session); [REDACTED]

⁷¹⁶ [REDACTED]

⁷¹⁷ [REDACTED]

⁷¹⁸ [REDACTED]

⁷¹⁹ [REDACTED]

⁷²⁰ [REDACTED]

⁷²¹ [REDACTED]

⁷²² [REDACTED]

330. The evidence shows that this is the group that was taken to a hall in Kesten, where they were disarmed,⁷²³ placed under ARBiH guard⁷²⁴ and transferred to the Kamenica Camp. The only logical inference to be drawn from this evidence is that the POW were taking no active part in the hostilities during the alleged crimes.

(b) The Group of 10

331. The VRS POW who were subjected to Murder and Cruel Treatment in the Kamenica Camp were similarly taking no active part in the hostilities at the time of the alleged offences. [REDACTED]⁷²⁵ Further, several ARBiH documents show that the ten VRS soldiers were taken as prisoners and held in the Kamenica Camp. For example, a 5 October 1995 report from the 3K SVB to the 2K SVB lists all 10 VRS soldiers as captured on the Ozren-Vozuća battlefield by units of the 3K.⁷²⁶ A 29 September 1995 "Transfer List" lists the same ten soldiers and indicates that they were handed over to the 3K MP.⁷²⁷

C. Murder

1. The Group of 51 that were captured by the ARBiH and turned over to the EMD on 11 September 1995 were taken to the Kamenica detention camp and murdered.

(a) The Group of 51 were killed.

(i) Transport of 51 POW and three females to the EMD Detention Camp at Kamenica

332. [REDACTED]⁷²⁸

⁷²³ Karahasanović, T.8020, 4-04-08 (open session).

⁷²⁴ Karahasanović, T.8021, 4-04-08 (open session).

⁷²⁵ [REDACTED]

⁷²⁶ Exh.412 (public).

⁷²⁷ Exh.875 (public).

⁷²⁸ [REDACTED]

333. According to the evidence of Muhamed OMERAŠEVIĆ, after leaving the hall in Kesten, he saw the EMD and the POW about 50 metres on the right side of the road in the field in Krčevine. They were lined up and were forced by the EMD to shout the *tekbir*: “Allah U Ekber!” When OMERAŠEVIĆ drove through Krčevine, he saw two trucks and a jeep. That was the last time that OMERAŠEVIĆ saw the group of POW that had been taken by the EMD.⁷²⁹

334. [REDACTED]⁷³⁰ [REDACTED]⁷³¹

335. [REDACTED]⁷³² [REDACTED]⁷³³ [REDACTED]⁷³⁴ [REDACTED]⁷³⁵

336. [REDACTED]⁷³⁶ [REDACTED]⁷³⁷ [REDACTED]⁷³⁸

337. Enes MALIĆBEGOVIĆ heard that the EMD had a center at the 13th Kilometer (or Kamenica Camp) and that POW were taken there.⁷³⁹ According to MALIĆBEGOVIĆ, ARBiH officers and soldiers, spoke about the incident involving the capture of POW by the EMD.⁷⁴⁰ [REDACTED]⁷⁴¹

⁷²⁹ Omerašević, 92*bis* statement, Exh.970 (public), p.21 (0608-5746), para 45; Omerašević, T.6746-6747, 10-12-07 (open session)

⁷³⁰ [REDACTED]

⁷³¹ [REDACTED]

⁷³² [REDACTED]

⁷³³ [REDACTED]

⁷³⁴ [REDACTED]

⁷³⁵ [REDACTED]

⁷³⁶ [REDACTED]

⁷³⁷ [REDACTED]

⁷³⁸ [REDACTED]

⁷³⁹ Malicbegović, 92*bis* statement, Exh.931 (public), p.7-8, paras.36-41; Exh.480 (public).

⁷⁴⁰ Malicbegović, 92 *bis* statement, Exh.931 (public), p.8, para.41; Exh.480 (public).

⁷⁴¹ [REDACTED]

(b) The Group of 51 was murdered by the EMD at Kamenica

338. As described below, beginning on the evening of 11 September 1995, soldiers from the EMD beat and otherwise mistreated the 51 POW and the three women. Between 11 and 17 September, EMD soldiers murdered the VRS soldiers, who had the protected status of POW.

339. [REDACTED]⁷⁴² [REDACTED]⁷⁴³ [REDACTED]⁷⁴⁴ [REDACTED]⁷⁴⁵
[REDACTED]⁷⁴⁶

340. [REDACTED]⁷⁴⁷ [REDACTED]⁷⁴⁸

341. [REDACTED]⁷⁴⁹ [REDACTED]⁷⁵⁰ [REDACTED]⁷⁵¹

342. [REDACTED]⁷⁵² [REDACTED]⁷⁵³

343. [REDACTED]⁷⁵⁴ [REDACTED]⁷⁵⁵ [REDACTED]⁷⁵⁶

⁷⁴² [REDACTED]

⁷⁴³ [REDACTED]

⁷⁴⁴ [REDACTED]

⁷⁴⁵ [REDACTED]

⁷⁴⁶ [REDACTED]

⁷⁴⁷ [REDACTED]

⁷⁴⁸ [REDACTED]

⁷⁴⁹ [REDACTED]

⁷⁵⁰ [REDACTED]

⁷⁵¹ [REDACTED]

⁷⁵² [REDACTED]

⁷⁵³ [REDACTED]

⁷⁵⁴ [REDACTED]

⁷⁵⁵ [REDACTED]

344. [REDACTED]⁷⁵⁷

345. The EMD left no survivors among the Group of 51 whose names appear in Annex C to the Indictment, nor did they

11. 09. 1995 g. - 13^o

1.	JOVIĆ	NEĐO	1949 g.	ŽELEČA
2.	GLIČIĆ	NEHAĐ	1941 g.	VOZUČA
3.	TODORVIĆ	SLAVKO	1940 g.	VOZUČA
4.	MARKOVIĆ	SLOBODAN	1931 g.	VOZUČA
5.	LUKIĆ	DRAGUTIN	1964 g.	VOZUČA
6.	KAUBIN	CVJETKO	1946 g.	HR. GRAD
7.	ČUPEGIĆ	MIRKO	1954 g.	SKN
8.	JOVIĆ	MITAR	1940 g.	VOZUČA
9.	RADOVIĆ	RADOVAN	1942 g.	VOZUČA
10.	TODORVIĆ	BOŽIDAR	1974 g.	DOBOS
11.	ILIĆ	MILIVOJE	1944 g.	VOZUČA
12.	VASIĆ	JOVAN	1949 g.	HR. GRAD
13.	PIJARIĆ	VLADO	1957 g.	B. LUKA
14.	RAJKOVIĆ	NEDOKO	1959 g.	B. LUKA
15.	KAPORŃA	NEĐO	1966 g.	M. GRAD
16.	DABIĆ	ČEĐO	1952 g.	VOZUČA
17.	VARIČEVIĆ	VEŠKO	1944 g.	M. GRAD
18.	PETROVIĆ	OBRAĐ	1954 g.	K. VAROŠ
19.	RISTIĆ	SVETO	1960 g.	B. LUKA
20.	MARKOVIĆ	DRAGO	1956 g.	VOZUČA
21.	PIRO	SIMON	1949 g.	KIKINDA

leave any eye-witnesses who might later testify as to the circumstances surrounding their murders. The story of the final days of these men emerges from other evidence, however. Specifically, the fate of these men can be traced through the official documents of the ARBiH security apparatus, the testimony of survivors whose ears told them what their eyes could not, through the forensic evidence of the six men whose remains have been exhumed and identified and, finally, through the confirmation of their family members that none of these men has been seen alive since 11 September 1995.

(i) Exhibit 646: The KARAHASANOVIĆ list.

346. The Group of 51 men were last seen alive at the Kesten hall on 11 September 1995. Sometime prior to 3 p.m. on that day, Izet KARAHASANOVIĆ, arrived at the Youth Hall after receiving a call from the 2nd Company Commander, Ismet ŠOGOLJ, telling him that some enemy soldiers had been captured.⁷⁵⁸ At the hall, KARAHASANOVIĆ made a list of the prisoners, writing down each prisoner's name, date of birth and place of birth as he was told by the prisoners.⁷⁵⁹ The total number of POW was 51; among the names were Radomir BLAGOJEVIĆ, Božidar

⁷⁵⁶ [REDACTED]

⁷⁵⁷ [REDACTED]

⁷⁵⁸ Karahasanović, T.8017-8018, 03-04-08 (open session).

⁷⁵⁹ Exh.646 (public).

TODORIĆ, Drago STJEPANOVIĆ, Čedo DABIĆ, Radovan RADOJČIĆ and Slavko TODOROVIĆ. [REDACTED]⁷⁶⁰

(ii) Group of Ten

347. On 17 September 10 additional POW arrived at the EMD camp in Kamenica. These POW were also subjected to cruel treatment. The acts of murder and cruel treatment against this group of POW are discussed in more depth below. However, their arrival at the EMD camp provides additional evidence that the 51 POW were all killed and therefore, the relevant evidence is discussed here.

348. [REDACTED]⁷⁶¹ [REDACTED]⁷⁶² [REDACTED]⁷⁶³ [REDACTED]⁷⁶⁴
[REDACTED]⁷⁶⁵

349. [REDACTED]⁷⁶⁶ [REDACTED]⁷⁶⁷ [REDACTED]⁷⁶⁸

350. [REDACTED]⁷⁶⁹ [REDACTED]⁷⁷⁰

351. [REDACTED]⁷⁷¹ [REDACTED]⁷⁷² [REDACTED]⁷⁷³

⁷⁶⁰ [REDACTED]

⁷⁶¹ [REDACTED]

⁷⁶² [REDACTED]

⁷⁶³ [REDACTED]

⁷⁶⁴ [REDACTED]

⁷⁶⁵ [REDACTED]

⁷⁶⁶ [REDACTED]

⁷⁶⁷ [REDACTED]

⁷⁶⁸ [REDACTED]

⁷⁶⁹ [REDACTED]

⁷⁷⁰ [REDACTED]

⁷⁷¹ [REDACTED]

⁷⁷² [REDACTED]

352. [REDACTED]⁷⁷⁴ [REDACTED]⁷⁷⁵

353. [REDACTED] This is consistent with all of the other evidence which leads to the inference that the group of prisoners who were detained in Kesten and subsequently transported and detained at the EMD Kamenica Camp. were killed by the EMD.

354. The bodies of six of VRS soldiers among the Group of 51 were later exhumed from a grave near the Kamenica Camp in June 2006:

1. **Radomir BLAGOJEVIĆ** (ICMP⁷⁷⁶ ID 14464) ICMP ID 14464; skeletal remains 1/3 and skull B⁷⁷⁷
2. **Božidar TODORIĆ** (ICMP ID 10758) ICMP ID 10758; skeletal remains 1/4, 1/7 and 1/7A(skull)⁷⁷⁸
3. **Čedo DABIĆ** (ICMP ID 5815) ICMP ID 5815; skeletal remains 1/8⁷⁷⁹
4. **Drago STJEPANOVIĆ** (ICMP ID 9337) ICMP ID 9337; skeletal remains 1/6⁷⁸⁰
5. **Radovan RADOJČIĆ** (ICMP ID 9349) ICMP ID 9349; skull C⁷⁸¹
6. **Slavko TODOROVIĆ** (ICMP ID 18132) ICMP ID 18132; skull D⁷⁸².

⁷⁷³ [REDACTED]

⁷⁷⁴ [REDACTED]

⁷⁷⁵ [REDACTED]

⁷⁷⁶ International Commission for Missing Persons.

⁷⁷⁷ Exh.649 (public), p.1,7; Krčmar, 92ter statement, Exh.644 (public), p.59-60, 101-103.

⁷⁷⁸ Exh.649 (public), p.2,4-5; Krčmar, 92ter statement, Exh.644 (public), p.98-100.

⁷⁷⁹ Exh.649 (public), p.6; Krčmar, 92ter statement, Exh.644 (public), p.92-94; Exh.645 (public).

⁷⁸⁰ Exh.649 (public), p.3; Krčmar, 92ter statement, Exh.644 (public), p.45-46, 95-97; Exh.645 (public).

⁷⁸¹ Exh.649 (public), p.8; Krčmar, 92ter statement, Exh.644 (public), , p.89-91; Exh.645 (public).

355. Dr. SILAJDŽIĆ-BRKIĆ testified that the ICMP DNA reports contain the following information relating to these six victims: the exhumed person's name, the person's ICMP ID number, the person's Kamenica exhumation number and a DNA analysis relating to the exhumed human remains.⁷⁸³

356. The remains of another man on the KARAHASANOVIĆ list, Obrad PETRUŠIĆ, was discovered in a stone quarry near the camp.⁷⁸⁴

357. As to the other men on the KARAHASANOVIĆ list, each, other than "Miodrag ČUPELJIĆ", is listed as missing and last seen in Kesten on 11 September 1995. The RS Office for Tracing Missing Persons ("RS Office"), previously named RS State Commission for Missing Persons, keeps a database of index cards indicating all persons reported as missing and registered as such with the ICRC. Goran KRČMAR, who works for the RS Office testified that he compared the names from the list of Captured VRS soldiers that was produced by KARAHASANOVIĆ⁷⁸⁵ with the names that are contained on the index cards of missing persons from the territory of Ozren Mountain available to the RS Office.⁷⁸⁶

358. KRČMAR testified that the primary two sources for the index cards of missing or captured persons are reports from the unit to which the missing person belonged to and any information received from the family members of the missing person.⁷⁸⁷ These records track each of the names on the KARAHASANOVIĆ list and show that

⁷⁸² Krčmar, 92ter statement, Exh.644 (public), p.86-88; Exh.645 (public).

⁷⁸³ Exh.649 (public); Silajdžić-Brkić, T.4683-4684, 29-10-07 (open session).

⁷⁸⁴ Krčmar, 92ter statement, Exh.644 (public), p.8, para.44; Exh.646 (public), (*see* no.18). Though name "Obrad PETROVIĆ" appears as number 18 on KARAHASANOVIĆ's list, the Trial Chamber can infer that this entry actually refers to "Obrad PETRUŠIĆ". The ICRC book of missing persons on the territory of Bosnia and Herzegovina from 2004 and the RS Office database list "Obrad PETRUŠIĆ" as having gone missing on 10 September 1995 from Vozuća in Zavidovići Municipality. His year of birth is 1954 and he was born in Kotor Varoš, Maslovare. On the KARAHASANOVIĆ list, "Obrad PETROVIĆ" is listed as having been born in 1954 in "K. Varoš". *See* Exh.646.

⁷⁸⁵ Exh.646 (public).

⁷⁸⁶ Krčmar, 92ter statement, Exh.644 (public), p.7; Exh.646 (public).

⁷⁸⁷ Krčmar, T.4548-4548, 25-10-07 (open session).

none of the people listed on Exhibit 646 has ever been found alive.⁷⁸⁸ See Annex A, Table 5: The Men Named in the KARAHASANOVIĆ List Are Listed as Missing or have been Exhumed. This evidence leads to only one reasonable inference: that the men listed in Annex C were killed.

(c) Each of the Group of 51 was killed by the EMD.

359. The only reasonable inference from the evidence is that the men listed in Annex C in the Amended Indictment were killed by members of the EMD. First, the evidence shows that these men were last seen in the custody of the EMD in the village of Kesten. Second, the evidence shows that these men were taken to the Kamenica Camp, an EMD facility over which the unit exerted considerable control.

(i) The EMD took custody of the POW in Kesten

360. From the totality of the evidence, the Trial Chamber can properly draw an inference that soldiers from the EMD were present in Kesten on 11 September 1995, and that these soldiers took custody of the 51 POW and three women whom they subsequently transported to the Kamenica Camp.

361. First, the EMD was engaged in combat around the village of Kesten on 10-11 September.⁷⁸⁹ HASANAGIĆ confirmed that he issued an order to the EMD at midnight on 10 September 1995 instructing that part of the forces of the EMD “be kept for intervention [...] along the defence line **in the sector of Kesten village, Kosa village and Prokop [...].**”⁷⁹⁰ EMD soldiers therefore had reason to be present in Kesten on 11 September 1995.

362. [REDACTED]

363. Third, seven of the men on the KARAHASANOVIĆ list were exhumed and the rest have never been seen alive since that day.

⁷⁸⁸ Krčmar, T.4545-4545, 25-10-07 (open session).

⁷⁸⁹ See Section V, above.

⁷⁹⁰ Exh.466 (public) [**emphasis added**]; Hasanagić, T.3035, 25-09-07, (open session).

364. Fourth, in Exhibit 669, a telefax intercepted by the Zenica State Security Service, the EMD reported that they had captured “60 prisoners”.⁷⁹¹ It is clear that this telefax was prepared by the EMD because it bears the title “Battle of 'Bedr Al-Bosne',⁷⁹² which AWAD confirmed was a name that the EMD’s press service attached to Operation FARZ⁷⁹³. [REDACTED]⁷⁹⁴ [REDACTED]⁷⁹⁵.

(ii) The POW were killed in EMD custody at an EMD facility.

365. The skeletal remains of the seven men on the KARAHASANOVIĆ list were exhumed near the Kamenica camp,⁷⁹⁶ which was the near-exclusive domain of the unit. The Kamenica Camp was an EMD facility that had been established and built by the ARBiH for the purposes of providing the EMD with a place to rest and train.⁷⁹⁷ [REDACTED]⁷⁹⁸ Though members of other units were granted access, Hamdija ŠLJUKA and Witness PW4 both testified that the access to the camp was controlled by two armed members.⁷⁹⁹

(d) The Killing were Intentional, or the result of Indirect Intent.

366. The Trial Chamber can properly infer that the final days of the VRS POW were marked by intentional violence, resulting in death. First, as described above, the evidence shows the POW were beaten in the camp during their first days of detention. Second, the forensic evidence shows that, for some of the bodies, “death was probably

⁷⁹¹ Exh.669 (public); [REDACTED]

⁷⁹² Exh.669 (public).

⁷⁹³ Awad, T.115-116, 9-2-08, (open session).

⁷⁹⁴ [REDACTED]

⁷⁹⁵ PW2, T.901, 19-7-07, (open session); Begović, T.440, 11-7-07, (open session); Exh.1133 (public).

⁷⁹⁶ Exh.645 (public), Exh.646 (public), Exh.647 (public), Exh.649 (public), Exh.857 (public), Exh.1090 (public).

⁷⁹⁷ Exh.434 (public), p.2

⁷⁹⁸ [REDACTED]

⁷⁹⁹ Šljuka, T.4328, 22-10-07 (open session); PW4, T.4826, 30-10-07.

violent and caused by multiple traumas”⁸⁰⁰ and that some of the bodies were exhumed with wire tied around their wrists and/or ankles.⁸⁰¹ Considering that these men were all unarmed and in the custody of the EMD, the only reasonable inference available is that their deaths were intentional or the result of an indirect intent to kill.

D. Cruel Treatment

1. [REDACTED].

(a) [REDACTED]

367. [REDACTED]⁸⁰² [REDACTED]⁸⁰³

368. [REDACTED]⁸⁰⁴ [REDACTED]⁸⁰⁵ [REDACTED]⁸⁰⁶

(b) [REDACTED]

369. [REDACTED]⁸⁰⁷

370. [REDACTED]⁸⁰⁸

371. [REDACTED]⁸⁰⁹

372. [REDACTED]⁸¹⁰

⁸⁰⁰ Silajdžić-Brkić, T.4696-4696 (open session) (TODOROVIĆ, STJEPANOVIĆ), 29-10-07; Silajdžić-Brkić, 92bis statement, Exh.857 (public), p.4 (DABIĆ).

⁸⁰¹ Silajdžić-Brkić, 92bis statement, Exh.654 (public), p.8 (TODORIĆ), p.12 (STJEPANOVIĆ).

⁸⁰² [REDACTED]

⁸⁰³ [REDACTED]

⁸⁰⁴ [REDACTED]

⁸⁰⁵ [REDACTED]

⁸⁰⁶ [REDACTED]

⁸⁰⁷ [REDACTED]

⁸⁰⁸ [REDACTED]

373. [REDACTED]⁸¹¹

374. [REDACTED] They were met at the gate of the Kamenica Camp Zakir ALISPAHIĆ, a member of the 3K MP Battalion, who transported them to Zenica.⁸¹² ALISPAHIĆ was instructed to do so by the 3K Commander, Sakib MAHLUKJIN.⁸¹³ [REDACTED]⁸¹⁴ [REDACTED]⁸¹⁵

2. The abuse inflicted was intentional and caused serious mental and/or physical suffering.

(a) The Group of Ten

375. The abuse of these men was intentional and caused serious mental and/or physical suffering. [REDACTED] The Trial Chamber can also infer from the testimony of these men that the abuse they and the other POW suffered at the hands of the EMD was intentional. Each man described a consistent pattern of violence and humiliation, including but not limited to heavy beatings, infliction of electric shocks and spitting, that began on 17 September 1995 and continued throughout their stay in the custody of the EMD until 29 September 1995.

(b) [REDACTED]

376. [REDACTED]⁸¹⁶ [REDACTED]⁸¹⁷

⁸⁰⁹ [REDACTED]

⁸¹⁰ [REDACTED]

⁸¹¹ [REDACTED]

⁸¹² [REDACTED] Alispahić, 92bis statement, Exh.926 (public), p.6 (04662116), paras.32-37.

⁸¹³ Alispahić, 92bis statement, Exh.926, p.6 (04662116), para.27

⁸¹⁴ [REDACTED]

⁸¹⁵ [REDACTED]

⁸¹⁶ [REDACTED]

E. Rasim DELIĆ knew or had reason to know these crimes were about to occur or had occurred.

1. The EMD's history of misconduct.

377. As set out above⁸¹⁸, in the two years before July 1995, **Rasim DELIĆ** was repeatedly informed of the EMD's propensity toward violent criminal behaviour. Such information continued to reach **Rasim DELIĆ** between July and September 1995 through the SVB's security bulletins.

- **11 August 1995:** The EMD "started abusing" students at a school in Zavidovići. A teacher at the school was "hit [...] with the stick in the back" by an EMD member.⁸¹⁹
- **19 August 1995:** "The 3rd Corps SVB reports that because the Command of the '*El Mujahid*' Detachment has refused to cooperate, it is unable to shed any light on a number of serious crimes and other misdemeanours for which there are indications that they might have been perpetrated by members of the Detachment."⁸²⁰
- **26 August 1995:** "The 3rd Corps SVB reports that in Kakanj, on 21 August 1995, Ramo DURMIŠ and Ferid JUSUFOVIĆ, members of the *El Mujahid* Detachment, physically abused Nijaz MUJAGIĆ [...]."⁸²¹
- **3 September 1995:** "On 1 September 1995 members of the *El Mudžahid* detachment surrounded the Dva Lovca /Two Hunters/ restaurant in the village of Pode, municipality of Travnik, fired from infantry weapons, demolished the building and maltreated the people present [...] the commander of 7th corps immediately informed the commander of the GŠA /Main Staff Army/ [...]."⁸²²

⁸¹⁷ [REDACTED]

⁸¹⁸ See Section V.

⁸¹⁹ Exh.741 (public), pp. 5-6.

⁸²⁰ Exh.710 (public), p. 3.

⁸²¹ Exh.744 (public), p. 3.

⁸²² Exh.745 (public), p. 6.

- **4 September 1995:** The “Military Security Service of the 7th Corps reports on four volunteers of the ‘El Mujahideen’ Detachment coming to the SJB Travnik in Han Bila on 14th August 1995 and warning the police officers that they would not tolerate visits of Croat nationality to the convent in Guča Gora and the village of Radojčići, adding that they would shoot at the police officers protecting these people during their movements in these locations.”⁸²³

2. **Rasim DELIĆ** had “information available to him” that put him on notice of the offences committed by the EMD.

378. Information concerning both the capture of and crimes committed against POW and civilians by the EMD in September 1995 was available to **Rasim DELIĆ**. However, given his awareness of the EMD’s propensity to commit violent criminal acts, information relating solely to the *capture* of civilians and POW by the EMD was sufficiently alarming as to place **Rasim DELIĆ** on notice of the Cruel Treatment and Murder to which these persons were or were about to be subjected.

(a) Publicly available information concerning the capture of POW and civilians by the EMD in September 1995.

379. Information relating to the capture of prisoners by the EMD in September 1995 was so widely disseminated within the ARBiH that it appeared in individual editions of two ARBiH publications — Prva Linija and Patriotski List — that were issued in October 1995.⁸²⁴ The edition of Prva Linija in which this information appeared was publicly available as early as 1 October 1995.⁸²⁵ This alone would allow the Trial Chamber to properly draw the inference that **Rasim DELIĆ** had available to him, information that gave him reason to know that the EMD had subjected the POW and civilians captured in September 1995 to Cruel Treatment and Murder. Such information was however available to **Rasim DELIĆ** through other means as well.

⁸²³ Exh.746 (public), p. 2.

⁸²⁴ Exh.1194 (public), p. 4; Exh.1195, p. 5 (public); Ribo, T.7140, 7146, 6-3-08 (open session).

⁸²⁵ Exh.1194 (public).

(b) Information from the 3K concerning the capture of and crimes committed against POW and civilians in September 1995.

380. An inference can be drawn that **Rasim DELIĆ** knew or had reason to know of the Murder and Cruel Treatment to which the civilians and POW captured in September 1995 were or were about to be subjected from the control which he exerted over Operation FARZ. **Rasim DELIĆ** spoke about the control that he had over this combat operation in a television interview which subsequently appeared in print in the 1 October 1995 edition of Prva Linija.⁸²⁶ During that interview, **Rasim DELIĆ** proclaimed that this operation was,

[P]erformed under my immediate supervision because the system of command and control functions, although one is not physically present at the site, because **I was in continuous contact** and secured that all that kept functioning.⁸²⁷

True to his own words that he was in control over Operation FARZ, **Rasim DELIĆ** visited the Zavidovići area on 22 September 1995, in doing so he “toured units and inspected commands of the 3rd Corps.”⁸²⁸

381. It is clear that within the 3K it was widely known that prisoners had been captured by the EMD, and that serious crimes were being committed against them. Exhibit 669 for example, which, as noted above is a telefax that was prepared by the EMD, specifically refers to the capture of “60 prisoners” by the unit.⁸²⁹ This document was ultimately transmitted to the SVB of the GŠ by the 3K SVB.⁸³⁰ Therefore, the reference in the 3K’s Operation FARZ war diary for 11 September 1995 to “some 60 Chetniks were killed and 57 captured”,⁸³¹ clearly relates to the information in exhibit 669. According to Safet SIVRO, who was responsible for

⁸²⁶ This is the same edition of Prva Linija which contains the reference to the EMD having captured prisoners during Operation Farz.

⁸²⁷ Exh.622 (public); Exh.1170 (public), p. 7; Alija T.4268, 17-10-07 (open session) [**emphasis added**].

⁸²⁸ Exh.514 (public), p. 2.

⁸²⁹ Exh.669 (public).

⁸³⁰ Vučković, T.5113, 7-11-07 (open session).

⁸³¹ Exh.512 (public), p. 13.

maintaining that diary, the purpose of a war diary was to set out the most important events that were taking place within the AoR of the 3K.⁸³² [REDACTED]⁸³³ [REDACTED]⁸³⁴ [REDACTED]⁸³⁵ [REDACTED]⁸³⁶. [REDACTED]⁸³⁷

382. In light of **Rasim DELIĆ**'s admission concerning his role during Operation FARZ, the Trial Chamber can properly draw the inference that information which existed within the 3K concerning the capture of and crimes committed against civilians and POW in September 1995 was known to **Rasim DELIĆ**. In the alternative, an inference can also be drawn that this information was available to him such that he had reason to know that those who were captured in September 1995 were or were about to be subjected to Cruel Treatment and Murder.

(c) Information from the GŠ SVB concerning the capture of POW and civilians by the EMD on 11 September 1995.

383. **Rasim DELIĆ** also had reason to know, through the SVB of the GŠ, that incidents of Cruel Treatment and Murder were or were about to be committed specifically against the POW and civilians captured on 11 September 1995 by the EMD. As noted above, Exhibit 669 was transmitted to the SVB of the GŠ by the 3K's SVB. The document reached the SVB of the GŠ on 16 September 1995.⁸³⁸

384. Džemal VUČKOVIĆ, the former Chief of the Information and Analysis Department qualified the information in exhibit 669 about captured prisoners as the type of information that "should have been reported to the top level the same or next day."⁸³⁹ In line with VUČKOVIĆ's assertion, the document was actively processed

⁸³² Šivro, T.3330, 1-10-07 (open session).

⁸³³ [REDACTED]

⁸³⁴ [REDACTED]

⁸³⁵ [REDACTED]

⁸³⁶ [REDACTED]

⁸³⁷ [REDACTED]

⁸³⁸ Exh.669 (public).

⁸³⁹ Vučković, *92ter* statement, Exh.706 (public), p. 12 (para.57).

within the SVB of the GŠ. It was first logged in a file within the SVB of the GŠ that belonged to Operation VAZAL.⁸⁴⁰ [REDACTED].⁸⁴¹ Thereafter, it went from the Information and Analysis Department within the SVB of the GŠ,⁸⁴² to its Counter-Intelligence Department,⁸⁴³ [REDACTED]⁸⁴⁴ [REDACTED]⁸⁴⁵. Exhibit 669 was ultimately deposited in the Operation VRANDUK file⁸⁴⁶ within the SVB of the GŠ⁸⁴⁷. **Rasim DELIĆ** not only personally authorized Operation VRANDUK,⁸⁴⁸ he also insisted that the chief of the SVB of the GŠ, Jusuf JAŠAREVIĆ, make it a priority for the administration.⁸⁴⁹

⁸⁴⁰ Vučković, T.5117-5119, 7-11-07 (open session); Exh.708 (public), Exh.669 (public).

⁸⁴¹ [REDACTED]

⁸⁴² Vučković, T.5114, 7-11-07,(open session); Vučković, *92ter* statement, Exh.706 (public), pp. 11-12 (para.57); Exh.707 (public).

⁸⁴³ Vučković, T.5115, 7-11-07 (open session); Vučković, *92ter* statement, Exh.706 (public), p.12 (para.57); [REDACTED] Exh.669 (public).

⁸⁴⁴ [REDACTED]

⁸⁴⁵ [REDACTED]

⁸⁴⁶ Vučković, *92ter* statement, Exh.706 (public), pp. 11-12 (para.57); PW13, T.6610, 6-12-07 (open session):

Q. "Vranduk" is in handwriting on this document. What significance do you attribute to this? What is the destiny of this document once "Vranduk" is written in handwriting on it?

A. Sir, I am not sure who put this word there, who wrote the word "Vranduk" here, but in principle I can say what I would do had I done that. I can say this in principle.

Q. Go ahead.

A. When I received a document that, in my opinion, deserved attention and the approval of Vranduk procedures, I would entrust the chief of the first sector to carry out the activities that were planned, in accordance with his purview of duties. And then if I also happened to have some additional observations or requests of my own, then I would put that in my handwriting in the document.

Q. And what -- where would Section 1 in your office store that document?

A. At the time, the control file of operations that were approved for processing were maintained by Izet Mustafić at the time. He was entrusted with maintaining this file.

⁸⁴⁷ Exh.964 (public), p.2.

⁸⁴⁸ Exh.964 (public), Exh.1035 (public).

⁸⁴⁹ Vučković, T.5177, 7-11-07 (open session):

385. It is clear that Jusuf JAŠAREVIĆ was aware of the information contained in exhibit 669 because he authored a report addressed to the RBiH Ministry of Interior Security Service, in which he stated that the “Military Security Service of the 3rd Corps has information that members of the 'El Mujahedin' Detachment Command constantly report in writing to their contacts abroad [...]. In one such report [...] it was stated that Mujahedins advanced a lot after killing a large number of Serb soldiers and imprisoning over 60 Chetniks [...].”⁸⁵⁰ JAŠAREVIĆ was one of **Rasim DELIĆ**'s immediate subordinates within the GŠ,⁸⁵¹ a person with whom **Rasim DELIĆ** had direct contacts⁸⁵². Given the significance of the information contained in exhibit 669, and its treatment within the SVB of the GŠ, it is implausible that it would not have been communicated to **Rasim DELIĆ**.

386. Furthermore, though **Rasim DELIĆ** left BiH on 8 September 1995 to attend a conference in Malaysia,⁸⁵³ as early as the evening of the 14th of September 1995 he proved to be accessible by making contact with the 3K to inquire about the situation at the frontline.⁸⁵⁴ Based upon these facts therefore, the Trial Chamber can properly draw the inference that the information contained in exhibit 669 was available to **Rasim DELIĆ**, and as a consequence, that **Rasim DELIĆ** had reason to know that the civilians and POW captured on 11 September 1995 by the EMD were or were about to be subjected to the crimes committed against them.

[...] General Jasarević would convey to us during the morning briefings we had similar instructions that he had received from General Delić, such as, for instance, when the implementation of operative action Vranduk was discussed, we were told that this should be the priority of the Military Security Service. Therefore, General Delić insisted that this action, or, rather that the implementation of the measures arising from this action, be the priority task of the Military Security Service.

⁸⁵⁰ Exh.709 (public).

⁸⁵¹ Exh.419 (public), pp.2-3, (*see* Art. IV, paras.2, 5).

⁸⁵² Buljubašić, *92ter* statement, Exh.816 (public), p. 12 (para.35); Vučković, *92ter* statement, Exh.706 (public), p.7 (para.33); Vučković, T.5128-5129, 7-11-07, (open session).

⁸⁵³ Exh.622 (public); Exh.1170 (public), p.7; Alija T.4268, 17-10-07, (open session).

⁸⁵⁴ Exh.1078 (public).

F. Rasim DELIĆ Failed to take the Reasonable and Necessary Measures to Prevent and Punish the Perpetrators of these Crimes

387. **Rasim DELIĆ** had a responsibility to prevent and punish the criminal activity of his subordinates, and the means at his disposal to fulfil this obligation. This responsibility was triggered once he had notice of the Murder and Cruel Treatment committed in Kesten, the Kamenica Camp and the Vatrostalna facility in Zenica.

388. A search of the archives and individual case files of the relevant prosecutors' offices (both military and civilian, including those that handled both serious and less-serious crimes) during the relevant time period shows that that the ARBiH never submitted any reports or referrals relating to these incidents to any prosecutor, including the District Military Prosecutor's Office in Zenica.⁸⁵⁵ The evidence shows that no proceedings were ever instituted against any perpetrators from the EMD in relation to these crimes and no referrals were ever made from any ARBiH unit to the Zenica District Military Prosecutor's office in relation to these crimes.⁸⁵⁶ Likewise, the High Public Prosecutor in Zenica received no referrals for these crimes from any ARBiH unit.⁸⁵⁷ Additionally, witness testimony confirms that no investigation was launched by the SVB of the GŠ, the SVB of the 3K, or its subordinated units operating within the Zavidovići AoR concerning the events in September 1995.⁸⁵⁸

G. At the time the ARBiH soldiers, including EMD members, committed these acts, they were under the command and effective control of Rasim DELIĆ.

389. *See* Section V above.

⁸⁵⁵ Exh.885; Hadžiselimović, T.6150, 27-11-07 (open session).

⁸⁵⁶ Exh.881 (public), Exh.885 (public), Exh.1098 (public), Exh.1099 (public), Exh.1102 (public), Exh.1103 (public), Exh.1105 (public), Exh.1109 (public), Exh.1106 (public), Exh.1110 (public), Exh.1114 (public), Exh.1113 (public), Exh.1115 (public), Exh.1172 (public), Exh.1173 (public), Exh.1111 (public).

⁸⁵⁷ Exh.881 (public).

⁸⁵⁸ Vučković, *92ter* statement, Exh.706 (public), p. 10 (para.49); [REDACTED] Sljuka T.4320, 4323-4324, 22-10-07, (open session); Maličbegović, *92bis* statement, Exh.931 (public), p. 15 (paras.116, 118).

IX. THE ACCUSED

390. **General Rasim DELIĆ** had a military career that spanned three decades and he had undergone extensive military training in the JNA. After attending the JNA Military Academy for Land Forces from 1 October 1967 through 31 July 1971,⁸⁵⁹ **General Rasim DELIĆ** served in a JNA Artillery Division in Sarajevo for eight years⁸⁶⁰ before commanding that Artillery Division from 15 October 1980 through 20 September 1984.⁸⁶¹ For nearly one year was the Chief of Staff and Deputy Commander of the Joint Artillery Regiment,⁸⁶² before assuming command of that regiment, a position that he held for four years over a five-year period,⁸⁶³ with an 11-month break in that service while attending the JNA Command Staff School.⁸⁶⁴ Before leaving the JNA on 13 April 1992,⁸⁶⁵ **Rasim DELIĆ** held the rank of Lieutenant Colonel⁸⁶⁶ and held the position of Assistant Chief of the Department for Operational and Training Services of the JNA 4th Corps, based in Sarajevo.⁸⁶⁷

391. Shortly after 13 April 1992, **Rasim DELIĆ** was appointed Head of the Training and Operations Organ of the TO of Bosnia and Herzegovina.⁸⁶⁸ On 19 April 1992, **Rasim DELIĆ** arrived in Visoko, where he worked with a group of TO officers on the formation of TO units in Central Bosnia.⁸⁶⁹ Eventually, the Visoko Tactical Group was formed with **Rasim DELIĆ** at its head.⁸⁷⁰ By 12 May 1992, **Rasim**

⁸⁵⁹ AF4.

⁸⁶⁰ AF5.

⁸⁶¹ AF6.

⁸⁶² AF7.

⁸⁶³ AF8.

⁸⁶⁴ AF11.

⁸⁶⁵ AF12.

⁸⁶⁶ AF10.

⁸⁶⁷ AF9.

⁸⁶⁸ AF13.

⁸⁶⁹ AF14.

⁸⁷⁰ AF15.

DELIĆ was also a member of the Main Staff of the TO, and on that date he was officially tasked with organising and commanding armed combat activities in the territory of the municipalities of Fojnica, Kreševo, Kiseljak, Visoko, Ilijaš, Vogošća, Breza, Vareš and Olovo.⁸⁷¹ On 20 May 1992, the forces of the TO became the ARBiH and on 17 October 1992 Sefer Halilović, then the Chief of the Main Staff, ordered the appointment of **Rasim DELIĆ** as Acting Head of the Department for Operations Planning and Training of the ARBiH, within the Main Staff.⁸⁷² On 27 April 1993, Sefer Halilović appointed the ARBiH members of the Joint Command of the ARBiH and HVO, with **Rasim DELIĆ**, Mustafa Hajrulahović, Stjepan Šiber and Vehbija Karić representing the ARBiH.⁸⁷³

392. On 8 June 1993, the Presidency of Bosnia and Herzegovina issued a decision on the restructuring of the ARBiH Supreme Command Headquarters to include establishing the post of Commander of Main Staff of ARBiH.⁸⁷⁴ By the same decision, **Rasim DELIĆ** was appointed Commander of the Main Staff of the ARBiH (“Main Staff”, also referred to as “Supreme Command Staff” and, later, the “General Staff”); Sefer HALILOVIĆ was appointed Chief of the Main Staff, but was subordinate to **Rasim DELIĆ**.⁸⁷⁵

393. **Rasim DELIĆ**, as the Main Staff Commander became a member of the extended RBiH Presidency.⁸⁷⁶ In his capacity as a member of that body, his expertise would have been crucial to providing the President of the Presidency, Alija Izetbegović, with the information necessary to make informed decisions.⁸⁷⁷

394. On 29 February 2000, the Chairman of the Presidency of Bosnia and Herzegovina, Alija IZETBEGOVIĆ, announced that **Rasim DELIĆ** would be retired

⁸⁷¹ AF16.

⁸⁷² AF17.

⁸⁷³ AF18.

⁸⁷⁴ AF21.

⁸⁷⁵ AF22.

⁸⁷⁶ AF23.

⁸⁷⁷ Cornish, T.8588-8589, 15-04-08 (open).

as Commander of the Joint Command of the Army of the Federation of Bosnia and Herzegovina⁸⁷⁸ and **Rasim DELIĆ**'s retired on 1 September 2000.⁸⁷⁹

395. Based on this military record, including command at various levels over a period of nearly 30 years, combined with his membership in the extended RBiH Presidency, it is clear that **General Rasim DELIĆ** exercised significant complete over the ARBiH and had unfettered access to President IZETBEGOVIĆ.

X. SENTENCING CONSIDERATIONS

396. Penalties before the International Tribunal are limited to imprisonment⁸⁸⁰ for a term of up to and including the remainder of the convicted person's life.⁸⁸¹ In determining the terms of imprisonment, the Trial Chamber shall take into account⁸⁸² such factors as the gravity of the offence and the individual circumstances of the convicted person⁸⁸³ as well as any aggravating circumstances,⁸⁸⁴ any mitigating circumstances⁸⁸⁵ and "the general practice regarding prison sentences in the former Yugoslavia."⁸⁸⁶

⁸⁷⁸ AF19.

⁸⁷⁹ AF20.

⁸⁸⁰ Article 24 of the Statute of the International Tribunal.

⁸⁸¹ Rule 101(A) of the Rules of Procedure and Evidence.

⁸⁸² Rule 101(B) of the Rules of Procedure and Evidence

⁸⁸³ Article 24 of the Statute of the International Tribunal, para.2.

⁸⁸⁴ Rule 101(B)(i) of the Rules of Procedure and Evidence.

⁸⁸⁵ Rule 101(B)(ii) of the Rules of Procedure and Evidence.

⁸⁸⁶ Rule 101(B)(iii) of the Rules of Procedure and Evidence. Per Exh. 5 (public), the SFRY Criminal Code, Exh.3 (public) in this case, is the relevant applicable law from the former Yugoslavia. Pursuant to Article 41(1) of the SFRY Criminal Code, which entered into force on 1 July 1977, states that "[t]he court shall determine the sentence for the perpetrator of a given crime *within the limits prescribed by the law* for this crime, bearing in mind the purpose of the punishment and taking into account all the circumstances that could lead to this sentence being more or less severe [...]" Under Chapter 16 of the SFRY Criminal Code, persons convicted under Article 144 (War Crimes Against Prisoners of War) and/or Article 142 (War Crimes Against the Civilian Population), would face a minimum penalty of "no less than 5 years in prison" and a maximum penalty of death. Therefore, **Rasim DELIĆ**, if charged in the former SFRY of the crimes that are alleged in the Amended Indictment in the present case would be facing a minimum sentence of 5 years in prison.

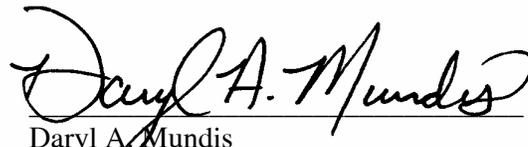
397. **Rasim DELIĆ** held the highest military position in the ARBiH, a fact which must be considered an aggravating circumstance. As the Chief of the ARBiH Main Staff, ultimate responsibility for the conduct of army soldiers rested with **Rasim DELIĆ**. He, more than any other person in the ARBiH hierarchy, had the power to make sure his subordinates, especially members of an increasingly notorious EMD, were punished for their misdeeds and prevented from perpetrating others. His failures to prevent and punish these men sent a tacit signal to each and every one of the men in his command: You may act with impunity. When a commander fails to act in the face of Murder and Cruel Treatment, he makes an indelible impression on his troops that can never be washed away even by the issuance of repeated written reminders to honour the Geneva Conventions.

398. The criminal acts exposed during the course of this trial took place over a span of more than two years, a fact which must be considered an aggravating circumstance. **Rasim DELIĆ**'s first day as ARBiH commander was marred by the murder of more than 20 POW and civilians in Bikoši, a stain on his record that deepened with each continuing misdeed of the EMD, culminating in the murders of the men in the Kamenica Camp in 1995. His continuing failure to act resulted in the deaths of more than 50 others in September 1995. The perpetrators of these crimes went unpunished, while the EMD was praised.

XI. CONCLUSION

399. The evidence adduced at trial supports the allegations in the Amended Indictment and the Prosecution has proven its case beyond a reasonable doubt. For the foregoing reasons, the Prosecution urges the Trial Chamber to return guilty verdicts on counts 1, 2 and 4 of the Amended Indictment and to sentence **Rasim DELIĆ** to 15 years' imprisonment.

Word Count: 54,399



Daryl A. Mundis
Senior Trial Attorney

Dated this 13th day of June 2008
At The Hague,
The Netherlands

Annex A: Tables

Table 1: EMD Subordination

Date	Order(s)	EMD ordered subordinated to:	Indication of EMD subordination
06-09-93	Exh.1010	OG BK	EMD participates in joint combat in: 1. Dotline Kuće on 10-09-95 ⁸⁸⁷ and 2. Princip, Kruščića on 21-09-95 ⁸⁸⁸
05-04-94	Exh.846 ⁸⁸⁹	OG North	EMD participates in joint combat on the Teslić/Šerići battlefield in: 1. Pisana Jelika and Visoka Glava on 28-08-1994 ⁸⁹⁰ and 2. Kajin Sapot, Brdo and Previja on 04-10-1994 ⁸⁹¹
31-03-95	Exh.431, Exh.1030	35Div ⁸⁹²	EMD participates in operations 1. SABUR ⁸⁹³ and 2. PROLJEĆE-1 ⁸⁹⁴
02-06-95	Exh.396	35Div	EMD participates in operations 1. PROLJEĆE-2 ⁸⁹⁵ and 2. FARZ ⁸⁹⁶

⁸⁸⁷ Exh.262 (public), Exh.834 (public), p.2; [REDACTED]

⁸⁸⁸ Exh.1207 (public); Begović, T.415-416, 11-07-07 (open session).

⁸⁸⁹ Exh.846 (public) (*see no.1*; Exh.848; Awad, T.75/76, 08-02-08 (open session).

⁸⁹⁰ Exh. 838 (public), p.2; Exh.1016 (public),p.2; Exh.837 (public); PW9, T.5597, 15-11-07, (open session).

⁸⁹¹ Exh.839 (public).

⁸⁹² Zilkić, T.5445/5446, 13-11-07 (open session); Hasanagić, T.2939, 2966-2967, 2974-2975, 24-09-07 (open session).

⁸⁹³ Hasanagić T.2935-2936, 24-09-07 (open session); Exh.430 (public) (*see no.7*); Zilkić, T.5343-5344, 09-11-07 (open session), Exh.1025 (public), Exh.432 (public), Exh.433 (public).

⁸⁹⁴ Exh.1037 (public), Exh.1038 (public).

⁸⁹⁵ Exh.789 (public), Exh.455 (public), Exh.530 (public), Exh.457 (public), Exh.1046 (public), Exh.459 (public), Exh.1049 (public), Exh.452 (public).

⁸⁹⁶ Exh.462 (public), Exh.461 (public), Exh.1060 (public), Exh.1063 (public).

Table 2: EMD Compliance with ARBiH Attack Orders

Date	Order to EMD to attack	Compliance by EMD
06-09-93	HADZIHASANOVIC re-subordinated the EMD to the OGBK "for the forthcoming combat activities, in accordance with the plan of OGBK".	The EMD participated in several combat operations in the AoR of OGBK: 1. 10-09-1993 in Dotline Kuć ⁸⁹⁷ 2. 21-09-1993 in Princip, Kruščića near Vitez ⁸⁹⁸ 3. at the beginning of October 1993, in Zubići near Novi Travnik ⁸⁹⁹ , and 4. [REDACTED]
20-08-94	MAHMULJIN ordered the EMD to attack the Pišana Jelika and Visoka Glava features. ⁹⁰⁰	EMD carried out the attack. ⁹⁰¹
April '95	HASANAGIĆ ordered the EMD to attack (Operation SABUR). ⁹⁰²	The combat activities were carried out as planned, but were not successful. ⁹⁰³
24-05-95	HASANAGIĆ ordered the EMD to attack features in Podsjelovo (Operation PROLJEĆE-1). ⁹⁰⁴	EMD carried out the attack on 27 May 1995. ⁹⁰⁵
18-07-95	HASANAGIĆ ordered the EMD to attack features in Podsjelovo (Kvrge, Markovića Vis, Đurića Vis (operation PROLJEĆE-1). ⁹⁰⁶	From 21 until at least 27 July 1995, the EMD attacked and took Markovića Vis, Krčevine and Kesten followed by VRS counterattacks. ⁹⁰⁷
25-08-95	HASANAGIĆ ordered the EMD to attack Paljenik. ⁹⁰⁸	On 10 September 1995, the EMD took Paljenik. ⁹⁰⁹

⁸⁹⁷ Together with the 325th and 306MB Exh. 262 (public); [REDACTED]

⁸⁹⁸ Exh. 1207 (public); BEGOVIĆ, T.415/416, 11-07-07 (open session); HUSIĆ, T.7445/7446, 12-03-08; PW2, T.751, 17-07-07; AWAD: T.188/189, 10-02-08 and T.64, 08-02-08 (open session)

⁸⁹⁹ AWAD: T.64, 08-02-08 (open session); [REDACTED]

⁹⁰⁰ Exh.837 (public), section 2.

⁹⁰¹ PW9, T.5596-5598, 15-11-07 (open session).

⁹⁰² Exh.432 (public) (section 5.2, see p.6), 433 (public), 1025 (public).

⁹⁰³ Hasanagić T.3123, line 7, 26-09-07 (open session) and T.2935/2936, 24-09-07 (open session), Nr. 7 on Exh.430 (public); Zilkić, T.5343/5344, 09-11-07 (open session), Exh.1025 (public), Exh. 432 (public), Exh. 433 (public)

⁹⁰⁴ Exh. 435 (public) (section 5.2, page 7), Exh. 1036 (public), Exh. 436 (public).

⁹⁰⁵ Exh. 1037 (public) (p.2), Exh. 1038 (public).

⁹⁰⁶ Exh. 444 (public), section 5.2, page 11.

⁹⁰⁷ Exh. 789 (public), p.6.

⁹⁰⁸ Exh. 505 (public), Exh.461 (public), Exh.1060 (public), Exh.463 (public).

⁹⁰⁹ Exh.394 (public), pp. 5-6.

Date	Order to EMD to attack	Compliance by EMD
07-09-95	In a supplement order for attack HASANAGIĆ ordered the 3 rd ManBAT to carry out tasks upon request of the EMD during operation FARZ. ⁹¹⁰	On 10 September 1995 MUATEZ, the military commander of the EMD, requested from the 3K that the 3 rd ManBAT commander coordinates with him “in the course of combat activities”. ⁹¹¹
10-09-1995, 12 p.m.	HASANAGIĆ requests from the EMD to act as “intervention unit” in the area of Kesten, Kosa, Prokop where the 328MB is located. ⁹¹²	On 11 September 1995 EMD soldiers showed up in Kesten, after approximately 60 Serb POW’s were seen by the 328 MB. The EMD took over and transferred the 60 Serb POW’s.
11-09-1995, 11:30 a.m.	HASANAGIĆ ordered the EMD to attack Kvrge from direction of Đurića Vis and Podsjelovo together with the 2 nd and 4 th ManBAT. ⁹¹³	On 11 September 1995 the EMD attacked from Đurića Vis the Kvrge feature together with the 4 th ManBAT. ⁹¹⁴
11-09-1995 5:30 p.m.	HASANAGIĆ ordered the EMD to carry out offensive combat towards Radulovo Brdo and Karačić. ⁹¹⁵	On 12 September 1995 the EMD and other ARBiH units took Radulovo Brdo and Karačić. ⁹¹⁶
15-09-1995	HASANAGIĆ ordered the EMD to carry out offensive combat from Zboriste towards Mramor and Smrečje ⁹¹⁷	The EMD went to Zboriste and conquered Mlinska kosa with other ARBiH units. ⁹¹⁸

⁹¹⁰ Exh.465 (public).

⁹¹¹ At 1720 hours on 10 September 1995, MUATEZ requested from 3K that the Commanders of the 3rd, 4th and 5th ManBAT be positioned with him “in the course of combat activities” (Exh. 394 (public), p.20).

⁹¹² Exh. 466 (public), (*see* section 8).

⁹¹³ Exh. 467 (public), (*see* section 2).

⁹¹⁴ Hasanagić, T.3039, 25-09-07 (open session). Exh. 469 (public), (*see* nos.4, 6, 7).

⁹¹⁵ Exh. 468 (public), section 5

⁹¹⁶ Exhs.481 (public), p.3; Exh.566 (public), (*see* section 1.1.5). *See also* Hajderhodžić, T.3825, 09-10-07 (open session).

⁹¹⁷ Exh. 478 (public), section 2.

⁹¹⁸ Hasanagić, T.3066/3067, 25-09-07 (open session). The troops successfully conquered Mramor and Smrečje, some target of the attack.” (Exh.481 (public), p.4).

Table 3: EMD Compliance with ARBiH Orders Issued to the EMD and Other ARBiH Units

Exh.	Date	Description	Addressees	Compliance
846	05-94	3K order creating OG North.	303rd Mountain Brigade, 319th Mountain Brigade, 314th Brigade, 330th Mountain Brigade, 7MMB, OG JUG, OG Bosna, EMD	- Under OG North several combat activities were carried out in 1994 - Exh.361, 08-10-1994: Regular Combat Reports 06/04-31/12 and 02/1-337 from the binder K-3K related to the combat activities in the area of responsibility of the Operations Group - Sjever and OGJug. In the AOR of Operations Group - Sjever, the EMD and the 330 LBR try to link their defence lines.
1128	16-09-94	3K Order to subordinate the 3K Pioneer squad to the EMD.	OG North, Engineering Battalion and EMD	AWAD testified that the pioneer squad demined for the EMD (T.76-77, 08-02-08, open session).
432	April '95	HASANAGIĆ order for attack for Operation SABUR.	3K 35DIV EMD 4 th ManBAT 329MB	EMD conducted reconnaissance. The combat activities were carried out as planned. ⁹¹⁹
435	24-05-1995	HASANAGIĆ ordered Operation PROLJEĆE-1.	3K, 328MB, 329MB, EMD, 2 nd ManBAT, 3 rd ManBATand 4 th ManBAT	The combat operation was carried out by all units (<i>see</i> Exh.1037, 1038).
447	15-07-1995	HASANAGIĆ order for engineering support during operation PROLJEĆE-2.	<i>El Mujahedin</i> Detachment 327MB 328MB 329MB 3 rd Independent Engineers Battalion/ 35 th Engineers Compa	The 329MB sent several soldiers as work platoons for engineering support to the EMD for operation PROLJEĆE-2. ⁹²⁰
444	18-07-1995	HASANAGIĆ order for attack for Operation PROLJEĆE-2	3K 35DIV 327MB 328MB EMD 5 th ManBAT	3K combat report regarding Operation PROLJEĆE-2, details how EMD forces and the 328MB successfully moved the main line of resistance in Nikoline Brdo and Ravne regions in the direction of

⁹¹⁹ Exh.362 (public), p.3; Hasanagić T.3123, 26-09-07 (open session) and T.2935-2936, 24-09-07 (open session); Exh.430 (public) (*see* no.7); Zilkić, T.5343-5344, 09-11-07 (open session), Exh.1025 (public), Exh.432 (public), Exh.433 (public).

⁹²⁰ Exh.459 (public), p.2: A 24 July 1995 report from the 35Div mentions "150 fighters from the 329th Mountain Brigade, who have been used along the planned axes as carriers of the wounded and as the manpower to carry out engineering works at the newly reached line".

Exh.	Date	Description	Addressees	Compliance
				Cevaljuša, Nikolino Brdo, Ravne, Podsijelovo, and advanced and secured Podsijelovo. ⁹²¹
505	25-08-1995	HASANAGIĆ order for attack for Operation FARZ	3K 35DIV 327MB 328MB 329MB EMD 2 nd ManBAT 3 rd ManBAT 4 th ManBAT 5 th ManBAT 3 rd tank company	The combat took place with the units involved.
465	07-09-1995	HASANAGIĆ supplemental order to FARZ attack order. The 35DIV commander ordered the 3 rd ManBAT to carry out tasks upon request of the EMD during operation FARZ.	3 rd ManBAT EMD	On 10 September 1995 MUATEZ, the military commander of the EMD, requested from the 3K that the 3 rd ManBAT commander co-ordinates with him “in the course of combat activities”. ⁹²²
466	10-09-1995	HASANAGIĆ order for deployment of several ARBiH units. He requests for example from the EMD to act as “intervention unit” in the area of Kesten, Kosa, Prokop where the 328MB is located	328MB 4 th ManBAT 2 nd ManBAT EMD	On 11 September 1995 EMD soldiers showed up in Kesten, after approximately 60 Serb POW’s were seen by the 328 MB. The EMD took over and transferred the 60 Serb POW’s.
467	11-09-1995	HASANAGIĆ order for deployment of several ARBiH units. He orders attacks on the Kvrge feature from the direction of Đurića Vis and Podsijelovo by the	3K 2K 328MB 2 nd ManBAT 4 th ManBAT EMD	On 11 September 1995 the EMD, the 2 nd and 4 th ManBAT’s attacked the Kvrge feature along the axis assigned. ⁹²³

⁹²¹ Exh.1046 (public).

⁹²² Exh.394 (public), p.20 (*see* no.39): At 1720 hours on 10 September 1995 MUATEZ requested from 3K that the Commanders of the 3rd, 4th and 5th ManBAT be positioned with him “in the course of combat activities”.

⁹²³ Hasanagić, T.3039, 25-09-07 (open session); Exh. 469 (public), (*see* nos. 4, 6, 7).

Exh.	Date	Description	Addressees	Compliance
		EMD, the 2 nd and 4 th ManBAT.		
474	11-09-1995	HASANAGIĆ order for deployment of troops. Mentions among others that several units should deploy troops for a ceremonial review (by IZETBEGOVIĆ)	328MB 329MB EMD 2 nd , 3 rd , 4 th and 5 th ManBAT's	The ceremonial review occurred on 12 September 1995 in Vozuća with IZETBEGOVIĆ. Soldiers from several troops, including the units mentioned in the order participated. ⁹²⁴
468	11-09-1995 4:30	HASANAGIĆ order sent to several units to carry out several actions including offensive combat towards Radulovo Brdo and Karačić. ⁹²⁵	328MB 329MB 3 rd , 4 th and 5 th ManBAT's EMD Anti-Terrorist Platoon	On 12 September 1995 the EMD and other ARBiH units took Radulovo Brdo and Karačić. ⁹²⁶
478	15-09-1995	HASANAGIĆ order to several ARBiH units for continuation of combat activities	3K 2 nd ManBAT, EMD, 328MB, 2 nd ManBAT, 3 rd ManBAT, 4 th ManBAT, 5 th ManBAT, 327 th MB	The EMD went to Zboriste and conquered Mramor and Smrečje with other ARBiH units. ⁹²⁷
1082	11-10-1995	Order re cease fire in the BH combat zone; Documents from the binder: K - 3K; ObO; Commander, Orders, 05/01-31/12: order by the ABiH 3K Command to all units (EMD also received the document) dated 11/10/1995, reference number 02/3-2-652 related to the cease fire		Sead DELIĆ testified that the ceasefire order was complied with (T.2913, 24-09-07, open session).

⁹²⁴ Hasanagić, T.3060, 25-09-07 (open session).

⁹²⁵ Exh. 468 (public), (see section 5)

⁹²⁶ Exh.481 (public), p.3; Exh.566 (public), (see section 1.1.5). See also Hajderhodžić, T.3825, 09-10-07 (open session).

⁹²⁷ Hasanagić, T.3066-3067, 25-09-07 (open session). The troops successfully conquered Mramor and Smrečje, some target of the attack." (Exh.481 (public), p.4).

Exh.	Date	Description	Addressees	Compliance
		on the Bosnia and Hercegovina fronts. Document signed on behalf of Sakib MAHMULJIN.		

Table 4: EMD Compliance with ARBiH Orders Issued to the EMD and Other ARBiH Units

Order date	Donor unit ⁹²⁸	EMD admission date	Soldier's name found:	
			On transfer order	On Exh.97
25-10-94	303 rd Mountain Brigade ⁹²⁹	25-10-94	1. Amir SKOMORAC, 2. Hasan MUJAKOVIĆ 3. Izudin BISIĆ 4. Izudin BISIĆ 5. Semir CAJLAKOVIĆ	1. 0602-4320, no.1575 2. 0602-4316, no.1255 3. 0602-4304, no.408 4. 0602-4304, no.408 5. 0602-4304, no.461
25-10-94	319th Brigade ⁹³⁰	25-10-94	Ismet HALILOVIĆ	0602-4308, no.754
16-08-95	2 nd ManBat ⁹³¹	16-08-95	Alija KOZLIĆ	0602-4313, no.1081
16-08-95	3 rd Lard PVO ⁹³²	16-08-95	Nermin KOZLIĆ	0602-4313, no.1093
16-08-95	7MMB ⁹³³	16-08-95	Rifat NEIMARLIJA	0602-4316, no.1309 - 16 August 1995

⁹²⁸ Unit from which the soldier is ordered to be transferred.

⁹²⁹ Exh.1146 (public).

⁹³⁰ Exh.1148 (public).

⁹³¹ Exh.1165 (public).

⁹³² Exh.1167 (public).

⁹³³ Exh.1169 (public).

Table 5: The Men Named in the KARAHASANOVIĆ List Are Listed as Missing or have been Exhumed

#	KARAHASANOVIĆ list ⁹³⁴	Identification details ⁹³⁵
1.	JOVIĆ Nedo, 1949, Želeća <i>1. JOVIĆ NEDO 1949g ŽELEĆA</i>	Nedo JOVIĆ, DOB 24-10-1950, POB Žepče, Želeća, BAZ917749 ⁹³⁶ . VRS soldier who went missing on 10 September 1995 from Ozren - Banovići, Lozna. ⁹³⁷
2.	GLIGORIĆ Nenad, 1941, Vozuća <i>2. GLIGORIĆ NENAD 1941g VOZUĆA</i>	Nenad GLIGORIĆ, DOB 01-05-1941, POB Zavidovići, Vozuća, BAZ917650. VRS soldier who went missing on 10 September 1995 from Ozren - Banovići, Lozna. ⁹³⁸
3.	TODOROVIĆ Slavko, 1940, Vozuća <i>3. TODOROVIĆ SLAVKO 1940g VOZUĆA</i>	Savo TODOROVIĆ, DOB 02-01-1940, POB Zavidovići, Vozuća, BAZ917794. VRS soldier who went missing on 10 September 1995 from Ozren - Banovići, Lozna. His disappearance was witnessed by Danilo PAŠALIĆ. ⁹³⁹ Savo TODOROVIĆ was exhumed, identified through DNA analysis and given ICMP ID 18132. ⁹⁴⁰
4.	MARKOVIĆ Slobodan, 1937, Vozuća <i>4. MARKOVIĆ SLOBODAN 1937g VOZUĆA</i>	Slobodan MARKOVIĆ, DOB 02-04-1937, POB Zavidovići, Vozuća, BAZ917664. VRS soldier who went missing on 10 September 1995 from Ozren - Banovići, Lozna. ⁹⁴¹

⁹³⁴ Exh.646 (public). The handwritten text in each box is the name as it appears on Exh.646 (public).

⁹³⁵ Compiled through the research of Krčmar and the RS Office.

⁹³⁶ The “BAZ” number is the unique number that the ICRC assigns to each reported missing person.

⁹³⁷ Exh.647 (public), p.1-2

⁹³⁸ Exh.647 (public), p.3-4

⁹³⁹ Exh.647 (public), p.5-6; Exh.1090, p.336

⁹⁴⁰ Krčmar, T.4531-4533, 25-10-07 (open session); Krčmar, 92^{ter} statement, Exh.644 (public), p.7 (0609-9484), paras.28, 30; Krčmar, 92^{ter} statement, Exh.644 (public), p.86-88; Exh.1090 (public), p.336.

⁹⁴¹ Exh.647 (public), p.7-8.

#	KARAHASANOVIĆ list ⁹³⁴	Identification details ⁹³⁵
5.	LUKIĆ Dragutin, 1964, Vozuća <i>5. LUKIĆ DRAGUTIN 1964g. VOZUĆA</i>	Dragutin LUKIĆ, DOB 08-05-1964, POB Zavidovići, Stog, BAZ917673. VRS soldier who went missing on 10 September 1995 from Ozren - Banovići, Lozna. ⁹⁴² Dragan LUKIĆ was identified by his family on a photograph that was taken on 17 September 1995 in Gostovići in the camp of the Mujahedin, the Kamenica Camp. ⁹⁴³
6.	KAURIN Cvjetko, 1946, Mr. Grad <i>6. KAURIN CVJETKO 1946g. Mr. GRAD</i>	Svetko KAURIN, DOB 05-11-1946, POB Mrkonjić, Barači, BAZ917430. VRS soldier who went missing on 11 September 1995 from Ozren - Zavidovići, Vozuća. His disappearance was witnessed by Dragan JAKOVLJEVIĆ. ⁹⁴⁴
7.	ČUPELJIĆ Mirko, 1954, 6 KM <i>7. ČUPELJIĆ MIRKO 1954g. 6KM</i>	Mirko ČUPELJIĆ, DOB 15-01-1954, POB Zavidovići, Gostovići, BAZ917824. VRS soldier who went missing on 10 September 1995 from Ozren - Banovići, Lozna. ⁹⁴⁵
8.	JOVIĆ Mitar, 1940, Vozuća <i>8. JOVIĆ MITAR 1940g. VOZUĆA</i>	Mitar JOVIĆ, DOB 20-09-1940, POB Zavidovići, BAZ966667. VRS soldier who went missing on 10 September 1995 from Ozren - Banovići, Lozna. ⁹⁴⁶
9.	RADOJČIĆ Radovan, 1942, Vozuća <i>9. RADOJČIĆ RADOVAN 1942g. VOZUĆA</i>	Radovan RADOJČIĆ, DOB 27-10-1942, POB Zavidovići, BAZ917683. VRS soldier who went missing on 10 September 1995 from Ozren - Banovići, Lozna. ⁹⁴⁷ Radovan RADOJČIĆ was exhumed, identified through DNA analysis and given ICMP ID 9349. ⁹⁴⁸
10.	TODOROVIĆ Božidar, 1974, Dobož <i>10. TODOROVIĆ BOŽIDAR 1974g. DOBOŽ</i>	Božidar TODORIĆ, DOB 14-01-1973, POB Dobož, Raškovci, BAZ917785. VRS soldier who went missing on 10 September 1995 from Ozren - Banovići, Lozna. ⁹⁴⁹ Božidar TODORIĆ was exhumed, identified through DNA analysis and given ICMP ID 10758 as described in paragraph XX. ⁹⁵⁰

⁹⁴² Exh.647 (public), p.9-10.

⁹⁴³ Krčmar, T.4566-4570, 25-10-07 (open session); Exh.648 (public).

⁹⁴⁴ Exh.647 (public), p.11-12.

⁹⁴⁵ Exh.647 (public), p.13-14, 101-102.

⁹⁴⁶ Exh.647 (public), p.15-16.

⁹⁴⁷ Exh.647 (public), p.17-18; Exh.1090 (public), p.9

⁹⁴⁸ Silajdžić-Brkić, 92bis statement, Exh.857 (public), p.8; Krčmar, T.4531-4533, 25-10-07 (open session); Krčmar, Exh.644 (public), 92ter statement, p.7 (06099484), para.28,30; Krčmar, 92ter statement, Exh.644 (public), p.89-91; Exh.1090 (public), p.9; Exh.649 (public), p.8; Exh.645 (public).

⁹⁴⁹ Exh.647 (public), p.19-20; Exh.1090 (public), p.9

⁹⁵⁰ Silajdžić-Brkić, 92bis statement, Exh.857 (public), p.8; Krčmar, T.4531-4533, 25-10-07 (open session); Krčmar, 92ter statement, Exh.644 (public), p.7 (0609-9484), para.28,30; Krčmar,

#	KARAHASANOVIĆ list ⁹³⁴	Identification details ⁹³⁵
11.	ILIĆ Milivoje, 1944, Vožuća <i>11. ILIĆ MILIVOJE 1944g. VOŽUĆA</i>	Milivoje ILIĆ, DOB 25-10-1944, POB Zavidovići, Vožuća, BAZ917672. VRS soldier who went missing on 10 September 1995 from Ozren - Banovići, Lozna. ⁹⁵¹
12.	VASIĆ Jovan, 1949, Mr. Grad <i>12. VASIĆ JOVAN 1949g. MR. GRAD</i>	Jovan VASIĆ, DOB 04-09-1947, POB Mrkonjić, Podgorja, BAZ917504. VRS soldier who went missing on 10 September 1995 from Ozren - Zavidovići, Vožuća. ⁹⁵²
13.	PILJAGIĆ Vlado, 1957, B. Luka <i>13. PILJAGIĆ VLADO 1957g. B. LUKA</i>	Vlado PILJAGIĆ, DOB 26-08-1957, POB Zavidovići, BAZ966667. VRS soldier who went missing on 9 September 1995 from Ozren - Zavidovići, Vožuća. ⁹⁵³
14.	RANKOVIĆ Nedeljko, 1959, B. Luka <i>14. RANKOVIĆ NEDELJKO 1959g. B. LUKA</i>	Nedeljko RAUKOVIĆ, DOB 28-06-1959, POB Dobož, Jelanjska, BAZ917681. VRS soldier who went missing on 10 September 1995 from Ozren - Banovići, Lozna. ⁹⁵⁴
15.	KAPONJA Nedo, 1966, M. Grad <i>15. KAPONJA NEDO 1966g. M. GRAD</i>	Nedo KOPANJA, DOB 13-05-1966, POB Mrkonjić, Graci, BAZ917435. VRS soldier who went missing on 10 September 1995 from Ozren - Zavidovići, Vožuća. ⁹⁵⁵
16.	DABIĆ Čedo, 1952, Vožuća <i>16. DABIĆ ČEDO 1952g. VOŽUĆA</i>	Čedo DABIĆ, DOB 26-10-1952, POB Zavidovići, Vožuća, BAZ966036. VRS soldier who went missing on 10 September 1995 from Ozren - Banovići, Lozna. ⁹⁵⁶ Čedo DABIĆ was exhumed, identified through DNA analysis and given ICMP ID 5815. ⁹⁵⁷
17.	VASILJEVIĆ Veljko, 1944, M. Grad <i>17. VASILJEVIĆ VELJKO 1944g. M. GRAD</i>	Veljko VASILIĆ, DOB 05-04-1944, POB Mrkonjić, Barači, BAZ105310. VRS soldier who went missing on 10 September 1995 from Ozren - Zavidovići, Vožuća. ⁹⁵⁸

92^{ter} statement, Exh.644 (public), p.89-91; Exh.1090 (public), p.9; Exh.649 (public), p.8; Exh.645 (public).

⁹⁵¹ Exh.647 (public), p.21-22.

⁹⁵² Exh.647 (public), p.23-24.

⁹⁵³ Exh.647 (public), p.25-26.

⁹⁵⁴ Exh.647 (public), p.27-28.

⁹⁵⁵ Exh.647 (public), p.29-30.

⁹⁵⁶ Exh.647 (public), p.31-32; Exh.1090 (public), p.8.

⁹⁵⁷ Silajdžić-Brkić, 92^{bis} statement, Exh.857 (public), p.4; Krčmar, T.4531-4533, 25-10-07 (open session); Krčmar, 92^{ter} statement, Exh.644 (public), p.7 (0609-9484), paras.28, 30; Krčmar, 92^{ter} statement, Exh.644 (public), p.92-94; Exh.1090 (public), p.8; Exh.649 (public), p.6; Exh.645 (public).

⁹⁵⁸ Exh.647 (public), p.33-34.

#	KARAHASANOVIĆ list ⁹³⁴	Identification details ⁹³⁵
18.	PETROVIĆ Obrad, 1954, K. Varoš <i>18. PETROVIC' OBRAD 1954g. K. VAROS'</i>	Obrad PETRUŠIĆ, DOB 29-03-1954, POB Kotor Varoš, Maslovarc, BAZ105304. VRS soldier who went missing on 10 September 1995 from Ozren - Zavidovići, Vožuća. ⁹⁵⁹ Obrad PETRUŠIĆ was exhumed, identified through DNA analysis. ⁹⁶⁰
19.	RISTIĆ Sveto, 1960, B. Luka <i>19. RISTIC' SVETO 1960g. B. LUKA</i>	Sveto RISTIĆ, DOB 26-10-1960, POB Banja Luka, Krupa, BAZ106207. VRS soldier who went missing on 10 September 1995 from Ozren - Zavidovići, Vožuća. ⁹⁶¹
20.	MARKOVIĆ Drago, 1956, Vožuća <i>20. MARKOVIC' DRAŠO 1956g. VOZUCA</i>	Drago MARKOVIĆ, DOB 11-04-1956, POB Mrkonjić, Barači, BAZ917822. VRS soldier who went missing on 10 September 1995 from Ozren - Banovići, Ložna. ⁹⁶²
21.	PIRC Simon, 1949, Kikinda <i>21. PIRC SIMON 1949g. KIKINDA</i>	Simon PIRC, DOB 19-09-1949, POB Kikinda. VRS soldier who went missing on 10 September 1995 from Ozren - Banovići, Ložna. ⁹⁶³
22.	VUČIĆ Nedeljko, 1949, B. Luka <i>22. VUCIC' NEDELJKO 1949g. B. LUKA</i>	Nedeljko VUČIĆ, DOB 08-05-1949, POB Banja Luka, Goleć, BAZ917428. VRS soldier who went missing on 10 September 1995 from Ozren - Zavidovići, Vožuća. ⁹⁶⁴
23.	ĐAKOVIĆ Miodrag, 1972, M. Grad <i>23. ĐAKOVIC' MIODRAG 1972g. M. GRAD</i>	Miodrag ĐAKOVIĆ, DOB 14-08-1972, POB Mrkonjić Grad, BAZ917423. VRS soldier who went missing on 10 September 1995 from Ozren - Zavidovići, Vožuća. ⁹⁶⁵
24.	ŠALIĆ Zoran, 1970, B. Luka <i>24. ŠALIC' ZORAN 1970g. B. LUKA</i>	Zoran ŠALIĆ, DOB 15-12-1970, POB Banja Luka, BAZ917433. VRS soldier who went missing on 12 September 1995 from Ozren - Zavidovići, Vožuća. ⁹⁶⁶
25.	PETROVIĆ Slobodan, 1974, Maglaj <i>25. PETROVIC' SLOBODAN 1974g. MAGLAJ</i>	Slobodan PETROVIĆ, DOB 22-05-1974, POB Maglaj, Brezovi Dani, BAZ917748. VRS soldier who went missing on 10 September 1995 from Ozren - Banovići, Ložna. ⁹⁶⁷

⁹⁵⁹ Exh.647 (public), p.35-36; Exh.1090 (public), p.335.

⁹⁶⁰ Krčmar, 92^{ter} statement, Exh.644 (public), p.8, para.44.

⁹⁶¹ Exh.647 (public), pp.37-38.

⁹⁶² Exh.647 (public), pp.39-40.

⁹⁶³ Exh.647 (public), pp.41-42.

⁹⁶⁴ Exh.647 (public), pp.43-44.

⁹⁶⁵ Exh.647 (public), pp.45-46.

⁹⁶⁶ Exh.647 (public), pp.47-48.

⁹⁶⁷ Exh.647 (public), pp.49-50.

#	KARAHASANOVIĆ list ⁹³⁴	Identification details ⁹³⁵
26.	JOTIĆ Radojica, 1972, Doboj <i>26. JOTIĆ RADOJICA 1972g. DOBOJ</i>	Radojica JOTIĆ, DOB 03-01-1972, POB Doboj, Cerovica, BAZ917747. VRS soldier who went missing on 10 September 1995 from Ozren – Banovići, Lozna. ⁹⁶⁸
27.	LAZAREVIĆ Milenko, 1966, Doboj <i>27. LAZAREVIĆ MILENKO 1966g. DOBOJ</i>	Milanko LAZAREVIĆ, DOB 26-08-1966, POB Doboj, Cerovica, BAZ917755. VRS soldier who went missing on 10 September 1995 from Ozren – Banovići, Lozna. His disappearance was witnessed by Ratko MARIĆ. ⁹⁶⁹
28.	VUČANOVIĆ Milan, 1955, M. Grad <i>28. VUČANOVIĆ MILAN 1955g. M. GRAD</i>	Milan VUČANOVIĆ, DOB 17-09-1955, POB Mrkonjić Grad, BAZ917425. VRS soldier who went missing on 10 September 1995 from Ozren – Zavidovići, Vožuća. ⁹⁷⁰
29.	KADŽO Radenko, 1966, M. Grad <i>29. KADŽO RADENKO 1966g. M. GRAD</i>	Radenko KODŽO, DOB 04-01-1966, POB Banja Luka, Piskavica, BAZ917436. VRS soldier who went missing on 9 September 1995 from Ozren – Zavidovići, Vožuća. His disappearance was witnessed by Branislav LUKIĆ. ⁹⁷¹
30.	MATIČIĆ Mirko, 1975, Vožuća <i>30. MATIČIĆ MIRKO 1975g. VOŽUĆA</i>	Miodrag MATIČIĆ, DOB 05-04-1975, POB Zavidovići, BAZ917801. VRS soldier who went missing on 10 September 1995 from Ozren – Banovići, Lozna. ⁹⁷²
31.	DOJAK Stevo, 1943, M. Grad <i>31. DOJAK STEVO 1943g. M. GRAD</i>	Stevo RAJAK, DOB 20-11-1943, POB Mrkonjić, Medina, BAZ917421. VRS soldier who went missing on 10 September 1995 from Ozren – Zavidovići, Vožuća. ⁹⁷³
32.	VASIĆ Borislav, 1964, Sarajevo <i>32. VASIĆ BORISLAV 1964g. SARAJEVO</i>	Borislav VASIĆ, DOB 16-05-1964, POB Laktaši, BAZ917211. VRS soldier who went missing on 10 September 1995 from Ozren – Banovići, Lozna. ⁹⁷⁴

⁹⁶⁸ Exh.647 (public), pp.51-52

⁹⁶⁹ Exh.647 (public), pp.53-54

⁹⁷⁰ Exh.647 (public), pp.55-56

⁹⁷¹ Exh.647 (public), pp.57-58

⁹⁷² Exh.647 (public), pp.59-60

⁹⁷³ Exh.647 (public), pp.61-62

⁹⁷⁴ Exh.647 (public), pp.63-64

#	KARAHASANOVIĆ list ⁹³⁴	Identification details ⁹³⁵
33.	STJEPANOVIĆ Drago, 1940, Maglaj <i>33. STJEPANOVIĆ DRAGO 1940g. MAGLAJ</i>	Drago STJEPANOVIĆ, DOB 23-04-1940, POB Maglaj, Striježe, BAZ917687. VRS soldier who went missing on 10 September 1995 from Ozren – Banovići, Lozna. His disappearance was witnessed by Slavko LAZIĆ. ⁹⁷⁵ Drago STJEPANOVIĆ was exhumed, identified through DNA analysis and given ICMP ID 9337. ⁹⁷⁶
34.	TODOROVIĆ Branko, 1947, Maglaj <i>34. TODOROVIC BRANKO 1947g. MAGLAJ</i>	Branko TODOROVIĆ, DOB 20-10-1947, POB Maglaj, Ošve, BAZ917653. VRS soldier who went missing on 10 September 1995 from Ozren – Banovići, Lozna. His disappearance was witnessed by his brother Todor TODOROVIĆ. ⁹⁷⁷
35.	JOVIĆ Miloš, 1935, Stošnica <i>35. JOVIC MILOS 1935g. STOSNICA</i>	Miloš JOVIĆ, DOB 17-10-1935, POB Zavidovići, Milje, BAZ917807. VRS soldier who went missing on 10 September 1995 from Ozren – Banovići, Lozna. He disappeared with his brother Mitar JOVIĆ. ⁹⁷⁸
36.	KREKA Borislav, 1948, M. Grad <i>36. KREKA BORISLAV 1948g. M. GRAD</i>	Borislav KREKA, DOB 14-09-1948, POB Mrkonjić Grad, BAZ917426. VRS soldier who went missing on 10 September 1995 from Ozren – Zavidovići, Vožuća. ⁹⁷⁹
37.	ĐURIĆ Ranko, 1945, Stošnica <i>37. ĐURIC RANKO 1945g. STOSNICA</i>	Ranko ĐURIĆ, DOB 21-03-1941, POB Banovići, Miljevići, BAZ917709. VRS soldier who went missing on 10 September 1995 from Ozren – Banovići, Lozna. ⁹⁸⁰
38.	ŽARIĆ Nedeljko, 1949, Čelinac <i>38. ŽARIC NEDELJKO 1949g. ČELINAC</i>	Nevenko ŽARIĆ, DOB 12-09-1949, POB Čelinac, BAZ917429. VRS soldier who went missing on 10 September 1995 from Ozren – Zavidovići, Vožuća. ⁹⁸¹
39.	PEJIĆ Dejan, 1947, Vožuća <i>39. PEJIC DEJAN 1947g. VOZUCA</i>	Dejan PEJIĆ, DOB 07-09-1939, POB Zavidovići, Vožuća, BAZ917827. VRS soldier who went missing on 10 September 1995 from Ozren – Banovići, Lozna. ⁹⁸²

⁹⁷⁵ Exh.647 (public), pp.65-66; Exh.1090 (public), p.9

⁹⁷⁶ Silajdžić-Brkić, T.4696-4696, 29-10-07 (open session); Silajdžić-Brkić, 92bis statement, Exh.857 (public), p.8; Krčmar, T.4531-4533, 4556-4557, 25-10-07 (open session); Krčmar, 92ter statement, Exh.644 (public), p.7 (0609-9484), paras.28, 30; Krčmar, 92ter statement, Exh.644(public), p.45-46, 95-97; Exh.1090 (public), p.9; Exh.649 (public), p.3; Exh.645 (public), p.23; Exh.647 (public), pp.65-66.

⁹⁷⁷ Exh.647 (public), pp.67-68.

⁹⁷⁸ Exh.647 (public), pp.69-70

⁹⁷⁹ Exh.647 (public), pp.71-72

⁹⁸⁰ Exh.647 (public), pp.73-74

⁹⁸¹ Exh.647 (public), pp.75-76

⁹⁸² Exh.647 (public), pp.77-78

#	KARAHASANOVIĆ list ⁹³⁴	Identification details ⁹³⁵
40.	BLAGOJEVIĆ Radenko, 1965, Vozuća <i>40. BLAGOJEVIĆ RADENKO 1965g. VOZUĆA</i>	Radomir BLAGOJEVIĆ, DOB 22-11-1965, POB Zavidovići, Vozuća, BAZ917893. VRS soldier who went missing on 10 September 1995 from Ozren – Banovići, Lozna. ⁹⁸³ Radomir BLAGOJEVIĆ was exhumed, identified through DNA analysis and given ICMP ID 14464. ⁹⁸⁴
41.	ILIĆ Novak, 1974, Doboj <i>41. ILIĆ NOVAK 1974g. DOBOJ</i>	Novak ILIĆ, DOB 11-03-1974, POB Doboj, Cvrtkovci, BAZ917671. VRS soldier who went missing on 10 September 1995 from Ozren – Banovići, Lozna. ⁹⁸⁵
42.	PAVLOVIĆ Sladan, 1974, Vozuća <i>42. PAVLOVIĆ SLADAN 1974g. VOZUĆA</i>	Sladan PAVLOVIĆ, DOB 19-11-1974, POB Zavidovići, BAZ917830. VRS soldier who went missing on 10 September 1995 from Ozren – Banovići, Lozna. ⁹⁸⁶
43.	ĐUKIĆ Jovica, 1947, Vozuća <i>43. ĐUKIĆ JOVICA 1947g. VOZUĆA</i>	Jovica ĐUKIĆ, DOB 10-05-1957, POB Modriča, Riječani, BAZ917644. VRS soldier who went missing on 10 September 1995 from Ozren – Banovići, Lozna. His disappearance was witnessed by Milorad PANIĆ. ⁹⁸⁷
44.	SAVIĆ Milovan, 1956, Vozuća <i>44. SAVIĆ MILOVAN 1956g. VOZUĆA</i>	Milovan SAVIĆ, DOB 21-06-1956, POB Zavidovići, Vozuća, BAZ917692. VRS soldier who went missing on 10 September 1995 from Ozren – Banovići, Lozna. ⁹⁸⁸
45.	NANIĆ Zdravko, 1968, Doboj <i>45. NANIĆ ZDRAVKO 1968g. DOBOJ</i>	Zdravko MARIĆ, DOB 08-08-1968, POB Doboj, Glogovica, BAZ917696. VRS soldier who went missing on 10 September 1995 from Ozren – Banovići, Lozna. ⁹⁸⁹
46.	MARIČIĆ Mirko, 1946, Podvolujak <i>46. MARIČIĆ MIRKO 1946g. PODVOLUJAK</i>	Marko MARIĆ, DOB 27-06-1946, POB Banovići, Podvol. VRS soldier who went missing on 10 September 1995 from Banovići, Lozna. Address is Banovići, Podvolujak [REDACTED] Marko MARIĆ was identified by his family on a photograph that was taken on 17 September 1995 in Gostovići in the camp of the Mujahedin, the Kamenica Camp. ⁹⁹⁰

⁹⁸³ Exh.647 (public), pp.79-80

⁹⁸⁴ Silajdžić-Brkić, T.4688-4689, 29-10-07 (open session); Krčmar, T.4531-4534, 4541-4543, 4548-4550, 25-10-07 (open session); Krčmar, 92^{ter} statement, Exh.644 (public), p.7, paras.28, 30, pp.59-60, 101-103; Exh.1090 (public), p.8; Exh.649 (public), pp.1, 7; Exh.645 (public), pp.4-5; Exh.647 (public), pp.31-32.

⁹⁸⁵ Exh.647 (public), pp.81-82

⁹⁸⁶ Exh.647 (public), pp.83-84

⁹⁸⁷ Exh.647 (public), pp.85-86

⁹⁸⁸ Exh.647 (public), pp.87-88

⁹⁸⁹ Exh.647 (public), pp.89-90

⁹⁹⁰ Krčmar, T.4566-4570, 25-10-07 (open session); Exh.648 (public)

#	KARAHASANOVIĆ list ⁹³⁴	Identification details ⁹³⁵
47.	JORGIC Dalibor, 1974, B. Luka <i>47. JORGIC DALIBOR 1974g. B. LUKA</i>	Dalibor JORGIC, DOB 05-04-1974, POB Banja Luka, Piskavica, BAZ917503. VRS soldier who went missing on 10 September 1995 from Ozren - Zavidovići, Vozuća. ⁹⁹¹
48.	PANIC Zdravko, 1939, Vozuća <i>48. PANIC ZDRAVKO 1939g. VOZUCA</i>	Zdravko PANIC, DOB 29-08-1939, POB Zavidovići, Vozuća, BAZ917819. VRS soldier who went missing on 10 September 1995 from Ozren - Banovići, Lozna. ⁹⁹²
49.	PEJIC Miloš, 1946, Vozuća <i>49. PEJIC MILOŠ 1946g. VOZUCA</i>	Miloš PEJIC, DOB 12-02-1945, POB Zavidovići, Vozuća, BAZ917689. VRS soldier who went missing on 10 September 1995 from Ozren - Banovići, Lozna. ⁹⁹³
50.	LAZIC Ranko, 1937, Vozuća <i>50. LAZIC RANKO 1937g. VOZUCA</i>	Ranko LAZIC, DOB 28-04-1932, POB Zavidovići, Vozuća, BAZ917818. VRS soldier who went missing on 10 September 1995 from Ozren - Banovići, Lozna. ⁹⁹⁴
51.	ČUPELJIC (M) Miodrag, 1975, 6 KM <i>51. ČUPELJIC (M) MIODRAG 1975g. 6 KM</i>	No information available that a person with resembling personal details has been reported missing.

⁹⁹¹ Exh.647 (public), pp.93-94

⁹⁹² Exh.647 (public), pp.95-96

⁹⁹³ Exh.647 (public), pp.97-98

⁹⁹⁴ Exh.647 (public), pp.99-100

Table 6: Incidents of EMD Criminality Reported in SVB Bulletins

Exh.	Date	Information regarding EMD criminality	Page
712	29-09-93	ABU HAMZA opened fire in Guća Gora.	2
713	2-12-93	Mentions criminal behaviour of foreigners, including Gerila, "Mudžahedin" and EMD.	2-3
714	29-01-94	Abduction and murder of humanitarian aid worker Paul GOODAL.	2
715	30-01-94	Three foreigners arrested in relation to killing of Paul GOODAL, questioned by civilian authorities.	2
716	31-01-94	Mentions measures of civilian authorities in relation to killing of Paul GOODAL.	2
659	2-02-94	Mentions that a criminal report against suspects of killing of Paul GOODAL have been filed by the civilian authorities (CSB Zenica) – two suspects are members of the EMD.	1
718	12-02-94	Interview of ABU HARIS, the emir of the EMD. Details are provided about persons leaving the EMD. HARIS indicated he will discuss issues with the ŠVK.	N/A
719	13-02-94	Mentions combat of EMD in Vitez municipality and a request by commander of ŠVK to ABU HARIS. Also mentions list of ABU HARIS about foreigners leaving the EMD.	2
721	14-08-94	EMD members harass civilians in Guća Gora.	2
722	15-08-94	EMD harass civilians and commit other violations of public law "in the whole territory of Central Bosnia".	3
723	15-10-94	EMD members beat a girl who was wearing a mini skirt in Krpeljići.	4
724	10-01-95	EMD members assault a man in Travnik.	3
725	20-02-95	EMD members assault a couple in Zenica.	4
727	12-03-95	EMD members "badly maltreated" a war invalid in Orijent bar in Zenica.	3
730	12-04-95	Mentions meeting of working group of Joint Staff at which a request was filed by the HVO to visit "a mass grave allegedly located in the vicinity of the village of Malina". ARBiH representatives deny the request, but HVO allegedly intends to gather information on EMD and to find out whether there was "really a mass grave in the village of Maline in which the Croats had allegedly been buried".	4
731	15-05-95	Three "Arabs" from EMD desecate, with axes and automatic rifles, 21 tombstones at the Catholic cemetery Ovnak with axes and an automatic rifles. Mentions also an explosion in Starina near Železno Polje where the EMD has a base. Mentions first measures taken by civilian and military authorities.	4
732	18-05-95	Oonsite inspection of the demolished Catholic cemetery Ovnak reveals that 30 stones and 26 wooden crosses had been damaged/destroyed. Efforts of civilian and military authorities to establish the perpetrators ongoing. Mentions also that aim of Operation TREBEVIĆ-4 action plan is "cut illegal channels in the territory under HVO control".	5
733	23-05-95	EMD members abduct a man in Travnik, abuse and torture him and take him to Orašac.	3-4
735	4-07-95	EMD members instigate argument during joint training with 328MB; commanders of 35Div and EMD held a meeting to calm the situation.	4
736	10-07-95	EMD soldiers threatened to slaughter non-Muslims in battalion of 328MB; indicates that measures will be taken.	7
737	15-07-95	EMD members threatened to blow up a house of a video shop owner, others. Mentions that measures will be taken.	2-3
738	19-07-95	EMD members harassed girls on Savći-Krivaja road, forcibly taking them towards Paljenik and forcing them to cut their hair. Indicates that measures were taken.	2

Exh.	Date	Information regarding EMD criminality	Page
582	22-07-95	Following combat in Vozuća battlefield, and that EMD does not allow access to POW taken by the unit.	4
739	01-08-95	HDZ requested the 3K commander to relocate the EMD from Podbrežje; mentions violations of the EMD members (exerted pressure on Croats) in the villages of Čajdrač, Luke and Tetovo.	3
740	04-08-95	EMD members physically assaulted members of the 328M. Rumours circulate in 35Div AOR of EMD withdrawal and possible betrayal of officers of the 328MB.	3
741	11-08-95	EMD members mistreat students at Zavidovići Technical School. Mentions that 3K SVB suggested measures	5-6
710	19-08-95	Command of EMD refuses to co-operate in investigations into crime committed by their soldiers.	3
744	26-08-95	Ramo DURMIŠ and others in Kakanj committed crimes (extortion, abduction, etc.) against several victims.	3
745	3-09-95	Mentions desecration of gravestones at orthodox cemetery in Gornji Pečuj; incident in Poda where EMD members blocked the road and threatened a person. Mentions that 7K commander has informed Rasim DELIĆ about the incident and that the unit is part of the 3K.	6
746	4-09-95	EMD members warned police officers they would not tolerate visits of Croats to Guča Gora; mentions involvement of EMD in desecration of cemetery in Ovnak and in looting in Grahovčići.	2
747	16-09-95	EMD and Rekić unit clashed over war booty; POW Milenko PETROVIĆ was abducted by EMD members from custody of the 35Div MP.	3
749	22-09-95	EMD member driving carelessly kills a child.	4
751	30-10-95	EMD member abducted a minor; 3K SVB informed Corps Command about "unauthorized acts" of EMD.	2
753	20-11-95	HDZ and others protest against EMD members forcibly squatting abandoned Croatian houses in Tetovo and Podbrežje; Croatian Army could resolve this problem, if the 3K MP failed to act.	2

PROSECUTION'S GLOSSARY

Legal authority

Short Citation used in Brief	Full Citation
<i>Aleksovski</i> AJ	<i>Prosecutor v. Zlatko Aleksovski</i> , Case No. IT-95-14/1-A, App.Ch., Judgement, 24 March 2000.
<i>Aleksovski</i> TJ	<i>Prosecutor v. Zlatko Aleksovski</i> , Case No. IT-95-14/1-T, T.Ch., Judgement, 25 June 1999.
<i>Bagilishema</i> TJ	<i>Prosecutor v. Ignace Bagilishema</i> , Case No. ICTR-95-1A-T, T.Ch., Judgement, 7 June 2001.
<i>Blaškić</i> AJ	<i>Prosecutor v. Tihomir Blaškić</i> , Case No. IT-95-14-A, App.Ch., Judgement, 29 July 2004.
<i>Blaškić</i> TJ	<i>Prosecutor v. Tihomir Blaškić</i> , Case No. IT-95-14-T, T.Ch., Judgement, 3 March 2000.
<i>Blagojević</i> TJ	<i>Prosecutor v. Vidoje Blagojević & Dragan Jokić</i> , Case No. IT-02-60-T, T.Ch., Judgement, 17 January 2005.
<i>Brdanin</i> TJ	<i>Prosecutor v Radoslav Brdanin</i> , Case No. IT-99-36-T, T. Ch., Judgement, 1 September 2004.
<i>Čelebići</i> AJ	<i>Prosecutor v. Zejnil Delalić, Zdravko Mucić, a.k.a. "Pavo", Hazim Delić and Esad Landžo, a.k.a. "Zenga"</i> , Case No. IT-96-21-A, App.Ch., Judgement, 20 February 2001.
<i>Čelebići</i> TJ	<i>Prosecutor v. Zejnil Delalić, Zdravko Mucić, a.k.a. "Pavo", Hazim Delić and Esad Landžo, a.k.a. "Zenga"</i> , Case No. IT-96-21-T, T.Ch., Judgement, 16 November 1998.
<i>Galić</i> TJ	<i>Prosecutor v. Stanislav Galić</i> , Case No. IT-98-29-T, T.Ch., Judgement, 5 December 2003.
<i>Hadžihasanović</i> AJ	<i>Prosecutor v. Enver Hadžihasanović and Amir Kubura</i> , Case No. IT-01-47-A, App.Ch., Judgement, 22 April 2008.
<i>Hadžihasanović</i> Jurisdiction TD	<i>Prosecutor v. Enver Hadžihasanović, Mehmed Alagić and Amir Kubura</i> , Case No. IT-01-47-A, App.Ch., Decision on Interlocutory Appeal Challenging Jurisdiction in Relation to Command Responsibility, 16 July 2003.
<i>Hadžihasanović 98bis</i> TD	<i>Prosecutor v. Enver Hadžihasanović and Amir Kubura</i> , Case No. IT-01-47-T, T.Ch., Decision on Motions for Acquittal Pursuant to Rule 98 bis of the Rules of Procedure and Evidence, 27 September 2004.
<i>Hadžihasanović</i> TJ	<i>Prosecutor v. Enver Hadzihasanovic and Amir Kubura</i> , Case No. IT-01-47-T, T.Ch., Judgement, 15 March 2006.
<i>Halilović</i> TJ	<i>Prosecutor v. Sefer Halilović</i> , Case No. IT-01-48-T, T.Ch., Judgement, 16 November 2005.
<i>Kajelijeli</i> TJ	<i>Prosecutor v. Juvénal Kajelijeli</i> , Case No. ICTR-98-44A-T, T.Ch., Trial Judgement and Sentence, 1 December 2003.
<i>Kordić</i> TJ	<i>Prosecutor v. Dario Kordić & Mario Čerkez</i> , Case No. IT-95-14/2-T, T.Ch., Judgement, 26 February 2001.
<i>Krnojelac</i> AJ	<i>Prosecutor v. Milorad Krnojelac</i> , Case No. IT-97-25-A, App.Ch., Judgement, 17 September 2003.

Short Citation used in Brief	Full Citation
<i>Krnojelac</i> TJ	<i>Prosecutor v. Milorad Krnojelac</i> , Case No. IT-97-25-T, T.Ch., Judgement, 15 March 2002.
<i>Krnojelac</i> Indictment TD	<i>Prosecutor v. Milorad Krnojelac</i> , Case No. IT-97-25-PT, T.Ch., Decision on Defence Preliminary Motion on the Form of the Indictment, 24 February 1999.
<i>Kunarac</i> AJ	<i>Prosecutor v. Dragoljub Kunarac, Radomir Kovač and Zoran Vuković</i> , Case No. IT-96-23 and IT-96-23/1-A, App.Ch., Judgement, 12 June 2002.
<i>Kvočka</i> AJ	<i>Prosecutor v. Miroslav Kvočka, Mlado Radić, Zoran Zigić, and Dragoljub Prcać</i> , Case No. IT-98-30/1-A, App.Ch., Judgement, 28 February 2005.
<i>Martić</i> TJ	<i>Prosecutor v. Milan Martić</i> , Case No. IT-95-11-T, T.Ch., Judgement, 12 June 2007.
<i>Naletilić</i> TJ	<i>Prosecutor v. Mladen Naletilić and Vinko Martinović</i> , Case No. IT-98-34-T, T.Ch., Judgement, 31 March 2003.
<i>Orić</i> PB	<i>Prosecutor v. Naser Orić</i> , Case No. IT-03-68-A, The Prosecution's Appeal Brief, 16 October 2006.
<i>Orić</i> TO	<i>Prosecutor v. Naser Orić</i> , Case No. IT-03-68-A, App.Ch., Scheduling Order for Delivery of Judgement, 23 May 2008.
<i>Orić</i> TJ	<i>Prosecutor v. Naser Orić</i> , Case No. IT-03-68-T, T.Ch., Judgement, 30 June 2006.
<i>Semanza</i> TJ	<i>Prosecutor v. Laurent Semanza</i> , Case No. ICTR-97-20-T, T.Ch., Judgement and Sentence, 15 May 2003.
<i>Stakić</i> TJ	<i>Prosecutor v. Milomir Stakić</i> , Case No. IT-97-24-T, T.Ch., Judgement, 31 July 2003.
<i>Strugar</i> TJ	<i>Prosecutor v. Pavle Strugar</i> , Case No. IT-01-42-T, T.Ch., Judgement, 31 January 2005.
<i>Tadić</i> Jurisdiction AD	<i>Prosecutor v. Duško Tadić a/k/a "Dule"</i> , Case No. IT-94-1-AR72, App.Ch., Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, 2 October 1995.
<i>Tadić</i> TJ	<i>Prosecutor v. Duško Tadić a/k/a "Dule"</i> , Case No. IT-94-1-T, T.Ch., Opinion and Judgement, 7 May 1997.

Other Abbreviations

Abbreviation used in Brief	Full citation
1K	ARBiH 1 st Corps
2K	ARBiH 2 nd Corps
328MB	ARBiH 328 th Mountain Brigade
329MB	ARBiH 329 th Mountain Brigade
35Div	35 th Division
3K	ARBiH 3 rd Corps
3ManBAT	ARBiH 4 rd Manoeuvre Battalion
4ManBAT	ARBiH 4 th Manoeuvre Battalion
5ManBAT	ARBiH 4 th Manoeuvre Battalion
7K	ARBiH 7 th Corps
7MMB	7 th Muslim Mountain Brigade
AoR	Area of Responsibility
ARBiH	Army of the Republic of Bosnia and Herzegovina
BiH	Bosnia and Herzegovina
BRITBAT	British Battalion (UNPROFOR)
ECMM	European Community Monitor Mission
EMD	ARBiH El Mujahed Detachment
FCMP	Federal Commission for Missing Persons
GŠ	ARBiH Main or General Staff
HVO	Croatian Defence Council
ICMP	International Commission for Missing Persons
ICRC	International Committee of the Red Cross
IKM	Forward Command Post
JNA	Yugoslav People's Army
KP Dom	Zenica Detention Facility
MANBAT	Manoeuvre Battalion
MB	Mountain Brigade
MP	Military Police
MS	Muslim Forces
MUP	Ministry of Internal Affairs
OG	Operations Group
OG BK	ARBiH Operations Group Bosanska Krajina
POW	Prisoner(s) of War
RBiH	Republic of Bosnia and Herzegovina
RS	Republika Srpska
SDB	State Security Service (civilian)
SFRY	Socialist Federal Republic of Yugoslavia
SVB	Military Security Service
ŠVK	Supreme Command Staff
TO	Territorial Defence
UNHCR	United Nations Human Rights Council
UNPROFOR	United Nations Protection Forces
VRS	Bosnian Serb Army

