UNITED NATIONS

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

Case No.: IT-95-5/18-T

Date: 24 March 2016

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IN THE TRIAL CHAMBER

Before: **Judge O-Gon Kwon, Presiding Judge**
Judge Howard Morrison
Judge Melville Baird
Judge Flavia Lattanzi, Reserve Judge

Registrar: **Mr. John Hocking**

Judgement of: **24 March 2016**

PROSECUTOR

v.

RADOVAN KARADŽIĆ

PUBLIC

PUBLIC REDACTED VERSION OF JUDGEMENT ISSUED ON 24 MARCH 2016

VOLUME I OF IV

Office of the Prosecutor

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The Accused

Mr. Radovan Karadžić

O.K.

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I. INTRODUCTION

A. THE ACCUSED AND THE CHARGES AGAINST HIM

1. This case relates to events alleged to have occurred from October 1991 to November 1995 in various locations in BiH, including Sarajevo, Srebrenica, and 20 municipalities of the ARK, the Sarajevo region, and eastern BiH ("Municipalities").

2. The Accused was born on 19 June 1945 in the municipality of Šavnik, Republic of Montenegro. He was a founding member of the SDS and served as its President from 12 July 1990 to 19 July 1996.[1] The Accused also acted as President of the National Security Council of SerBiH, which was created on 27 March 1992 and held sessions until around May 1992.[2] On 12 May 1992, the Accused was elected as the President of the three-member Presidency of SerBiH.[3] At the beginning of June 1992, the Presidency increased to five members, and the Accused continued as President of that Presidency.[4] From 17 December 1992, he was sole President of the RS and Supreme Commander of the RS armed forces.[5]

3. In the Indictment, the Accused is charged under Article 7(1) of the Statute for his alleged participation in four related JCEs in BiH. The Prosecution alleges the following:

i) From at least October 1991 to 30 November 1995, the Accused participated in an "overarching" JCE, the objective of which was to permanently remove

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1 Patrick Treanor, T. 14000–14002 (1 June 2011); P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990–1992", 30 July 2002), para. 7; D255 (Radovan Karadžić's speech at the constituent SDS Assembly), p. 2; D269 (Article from NIN entitled "Serbs in Bosnia", 20 July 1990), p. 1; D4424 (Written agreement between Radovan Karadžić, Momčilo Krajišnik, Biljana Plavšić and Aleksa Buha, 18 July 1996). *See also* Section II.B.1: Serbian Democratic Party (SDS).

2 P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990–1992", 30 July 2002), paras. 236, 255–256; Patrick Treanor, T. 14060 (1 June 2011) (erroneously referring to 27 March 1991); Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 8743. *See* paras. 89, 95. The Chamber notes that when it refers to a paragraph or a footnote number without specifying the source, it refers to a paragraph or footnote in this Judgement.

3 P3032 (Minutes of 1st constitutive session of "SerBiH" Presidency, 12 May 1992); Patrick Treanor, T. 14060 (1 June 2011); P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990–1992", 30 July 2002), paras. 236, 260; Momčilo Mandić, T. 5000 (13 July 2010). *See* para. 96.

4 Patrick Treanor, T. 14060–14061 (1 June 2011); P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990–1992", 30 July 2002), paras. 236, 261–264; D428 (Minutes of 4th expanded meeting of SerBiH War Presidency, 9 June 1992). *See* para. 97.

5 Patrick Treanor, T. 14060–14061 (1 June 2011); P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990–1992", 30 July 2002), paras. 236, 265–267; Dušan Kovačević, T. 39657, 39659–39660 (11 June 2013); Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 8618, 8633–8634, 9107–9110.

Bosnian Muslims and Bosnian Croats from Bosnian Serb claimed territory in BiH through the crimes charged therein ("Overarching JCE");[6]

ii) Between April 1992 and November 1995, the Accused participated in a JCE to establish and carry out a campaign of sniping and shelling against the civilian population of Sarajevo, the primary purpose of which was to spread terror among the civilian population ("Sarajevo JCE");[7]

iii) Between the days preceding 11 July 1995 and 1 November 1995, the Accused participated in a JCE to eliminate the Bosnian Muslims in Srebrenica by killing the men and boys of Srebrenica and forcibly removing the women, young children and some elderly men from Srebrenica ("Srebrenica JCE");[8] and

iv) Between approximately 26 May and 19 June 1995, the Accused participated in a JCE to take hostage over 200 UN peacekeepers and military observers in order to compel NATO to abstain from conducting air strikes against Bosnian Serb military targets ("Hostages JCE").[9]

4. In addition, the Accused is charged for having planned, instigated, ordered, and/or aided and abetted the crimes in the Indictment.[10] He is also charged as a superior pursuant to Article 7(3) of the Statute for these crimes.[11]

5. The Indictment charges the Accused with 11 Counts as follows:

i) Count 1: genocide (in relation to the Municipalities);

ii) Count 2: genocide (in relation to Srebrenica);

iii) Count 3: persecution, a crime against humanity (in relation to the Municipalities and Srebrenica);

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6 Indictment, paras. 9–14, 30–31. The Prosecution charges the Accused with the first and the third form of JCE in relation to the Overarching JCE. *See* Indictment, paras. 9–10.

7 Indictment, paras. 15–19. The Prosecution charges the Accused only with the first form of JCE in relation to the Sarajevo JCE. *See* Indictment, paras. 15–16.

8 Indictment, paras. 20–24. The Prosecution charges the Accused only with the first form of JCE in relation to the Srebrenica JCE. *See* Indictment, paras. 20–21.

9 Indictment, paras. 25–29. The Prosecution charges the Accused only with the first form of JCE in relation to the Hostages JCE. *See* Indictment, paras. 25–26.

10 Indictment, paras. 30–31.

11 Indictment, paras. 32–35.

iv) Count 4: extermination, a crime against humanity (in relation to the Municipalities and Srebrenica);

v) Count 5: murder, a crime against humanity (in relation to the Municipalities, Sarajevo, and Srebrenica);

vi) Count 6: murder, a violation of the laws or customs of war (in relation the Municipalities, Sarajevo, and Srebrenica);

vii) Count 7: deportation, a crime against humanity (in relation to the Municipalities);[12]

viii) Count 8: inhumane acts (forcible transfer), a crime against humanity (in relation to the Municipalities and Srebrenica);

ix) Count 9: acts of violence the primary purpose of which is to spread terror among the civilian population, a violation of the laws or customs of war (in relation to Sarajevo);

x) Count 10: unlawful attacks on civilians, a violation of the laws or customs of war (in relation to Sarajevo); and

xi) Count 11: taking of hostages, a violation of the laws or customs of war.[13]

6. The prodigious amount of evidence in this case included the testimony of 434 witnesses who appeared before the Chamber, the evidence in writing of 152 other witnesses and a total of 11,469 exhibits representing 191,040 pages. A total of 48,121 transcript pages recorded the daily proceedings and 94,917 pages of filings were submitted to the Chamber. The scope of the Indictment and the high profile of the Accused conjointly contributed to the unprecedented nature of this case.

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12 During closing arguments, the Prosecution specified that it does not seek a finding that the Accused is responsible for deportation, under Count 7, in relation to Srebrenica. *See* Closing arguments, T. 48034 (7 October 2014).

13 The Chamber notes that the Indictment used, in numerous instances, the open-ended term "including" in relation to the charges therein. As the Accused is entitled to be clearly informed of the charges against him, the Chamber has taken a restrictive approach of the term "including". For instance, in paragraph 60(a) and 60(k) of the Indictment, the Chamber has confined its analysis, respectively, to the Scheduled Killing Incidents listed in the Indictment and to the five specific restrictive and discriminatory measures identified. The same is true for instance for the acts of murder charged in relation to Sarajevo in paragraph 65 of the Indictment and the Chamber limited its findings to the Scheduled Sniping and Shelling Incidents. *See* Hearing, T. 5480 (19 July 2010). The Chamber further notes the Prosecution's statement that "it will not present evidence in order to secure a conviction in respect of any crime sties or incidents not listed in the Schedules to the Indictment". Rule 73 *bis* Submission, para. 16(b).

7. This Judgement is divided into four volumes. This Judgement starts by the Chamber's approach to evidence and its findings on contextual aspects of the case, it then sets out the Chamber's analysis of the evidence in relation to the crimes charged in the Indictment, its factual and legal findings in relation thereto, and its assessment of the Accused's alleged responsibility. The Chamber has divided the presentation of this analysis according to the four components identified in the Indictment: (i) the Municipalities component; (ii) the Sarajevo component; (iii) the Srebrenica component; and (iv) the Hostages component. Finally, the Judgement addresses matters related to cumulative convictions and sentencing.

B. GENERAL CONSIDERATIONS ON THE EVIDENCE

1. General evidentiary principles

8. The Chamber assessed the evidence adduced at trial in light of the entire trial record and in accordance with the Statute and the Rules. As provided for in Rule 89(B), where no guidance was given by the Rules, the evidence was evaluated in a way that would best favour a fair determination of the case and that is consistent with the spirit of the Statute and the general principles of law, including the principle of *in dubio pro reo*.[14]

9. At the outset of the proceedings, for the benefit of the smooth conduct of the trial, the Chamber issued orders which provided the parties with guidelines on the conduct of trial and the rules that would govern the admission or exclusion of evidence.[15] In accordance with the Rules, the Chamber adopted an approach that favoured the admissibility of evidence, provided it was relevant and had probative value,[16] and assessed the weight to be ascribed to each piece of evidence in its overall consideration of the entire trial record.[17]

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14 According to the principle of *in dubio pro reo*, any doubt as to the evidence must be resolved in favour of the accused. The Appeals Chamber stated in the *Limaj* case that the principle of *in dubio pro reo* "applies to findings required for conviction, such as those which make up the elements of the crime charged", but "is not applied to individual pieces of evidence and findings of fact on which the judgement does not rely". *Limaj et al.* Appeal Judgement, para. 21.

15 First Order on Conduct of Trial; Further Order on Conduct of Trial; Guidelines for Admission of Evidence.

16 Hearing, T. 1953 (6 May 2010) (the Chamber holding: "In addition to relevance and authenticity, the Chamber must be satisfied as to the probative value of a piece of proposed evidence, and this requires that the witness to whom it is shown is able to confirm its content or make some other positive comment about it"), as reaffirmed in Guidelines for Admission of Evidence, para. 11 (specifying that "it is desirable that a witness speak to the origins and/or content of a document to be tendered into evidence, to allow the Chamber to properly assess the relevance, authenticity, and reliability of that document, and thus its probative value, and, ultimately, be able to make use of that document in a meaningful way in its overall consideration of the evidence in the case").

17 Hearing, T. 10070 (13 January 2011), T. 17934 (25 August 2011). The Chamber notes that in the footnotes to this Judgement, it did not refer to all of the evidence it reviewed and considered in entering its findings but only to the most important pieces of evidence.

10. Article 21(3) of the Statute provides that the Accused shall be presumed innocent until proven guilty. The Prosecution bears the burden of establishing each element of the alleged crimes and of the mode of individual criminal responsibility with which the Accused is charged, as well as any fact which is indispensable for a conviction beyond reasonable doubt.[18] The Chamber has therefore determined whether the ultimate weight of all of the evidence is sufficient to establish beyond reasonable doubt the elements of the crimes charged in the Indictment, and ultimately, the responsibility of the Accused. When the Prosecution relied upon proof of a certain fact such as, for example, the state of mind of an Accused by inference, the Chamber considered whether that inference was the only reasonable inference that could have been made based on that evidence.[19] Where that inference was not the only reasonable inference, it found that the Prosecution had not proved its case. The Chamber further notes that while it has not always reiterated the phrase "beyond reasonable doubt" in all of its findings, this standard of proof was applied throughout the Judgement. The Chamber also notes that when it has made a negative finding in respect of the evidence of a witness it did not deem reliable, this does not entail that the Chamber made a positive finding to the contrary.

11. In its evaluation of witnesses testifying *viva voce* or pursuant to Rule 92 *ter*, the Chamber had regard to, *inter alia*, the demeanour of witnesses, as well as to the passage of time since the events charged in the Indictment and its possible impact on the reliability of the evidence. With regard to all witnesses, the Chamber also assessed the probability and the consistency of their evidence as well as the circumstances of the case and corroboration from other evidence.

12. The Appeals Chamber has held that the testimony of a single witness on a material fact does not, as a matter of law, require corroboration.[20] When such a situation occurred, the Chamber examined the evidence of the Prosecution witness with the utmost caution before accepting it as a sufficient basis for a finding of guilt. Insignificant discrepancies between the evidence of different

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18 *Šainović et al.* Appeal Judgement, para. 132; *Martić* Appeal Judgement, para. 55; *Halilović* Appeal Judgement, para. 125. *See also Ntagerura* Appeal Judgement, para. 174, fn. 356 (holding that "[e]ven if some of the material facts pleaded in the indictment are not established beyond reasonable doubt, a Chamber might enter a conviction provided that having applied the law to those material facts it accepted beyond reasonable doubt, all the elements of the crime charged and of the mode of responsibility are established by those facts" and considering that "the 'material facts' which have to be pleaded in the indictment to provide the accused with the information necessary to prepare his defence have to be distinguished from the facts which have to be proved beyond reasonable doubt").

19 *Vasiljević* Appeal Judgement, para. 120.

20 *Čelebići* Appeal Judgement, para. 506 ("[T]here is no legal requirement that the testimony of a single witness on a material fact be corroborated before it can be accepted as evidence. What matters is the reliability and credibility accorded to the testimony."). *But see* para. 24.

witnesses, or between the evidence of a particular witness in court and his prior statements, in general have not been regarded as discrediting such evidence.[21]

13. Hearsay evidence is any statement other than one made by a witness while giving evidence in the proceedings and which is offered to prove the truth of the matter asserted in the statement.[22] It is admissible under the case law of the Tribunal. The weight to be attributed to that evidence depends upon the specific circumstances and as such, the Chamber assessed hearsay evidence on a case-by-case basis.[23] The Appeals Chamber has held that

> Trial Chambers have a broad discretion under Rule 89(C) to admit relevant hearsay evidence. Since such evidence is admitted to prove the truth of its contents, a Trial Chamber must be satisfied that it is reliable for that purpose, in the sense of being voluntary, truthful and trustworthy, as appropriate; and for this purpose may consider both the content of the hearsay statement and the circumstances under which the evidence arose; or, as Judge Stephen described it, the probative value of a hearsay statement will depend upon the context and character of the evidence in question. The absence of the opportunity to cross-examine the person who made the statements, and whether the hearsay is "first-hand" or more removed, are also relevant to the probative value of the evidence. The fact that the evidence is hearsay does not necessarily deprive it of probative value, but it is acknowledged that the weight or probative value to be afforded to that evidence will usually be less than that given to the testimony of a witness who has given it under a form of oath and who has been cross-examined, although even this will depend upon the infinitely variable circumstances which surround hearsay evidence.[24]

14. Circumstantial evidence is evidence of a number of different circumstances surrounding an event from which a fact at issue may be reasonably inferred.[25] Where an inference is drawn from circumstantial evidence to establish a fact on which a conviction relies, that inference must be the only reasonable one that could be drawn from the evidence presented.[26]

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21 *See* for instance *Milutinović et al.* Trial Judgement, Vol. I, para. 49.

22 *See* Archbold, Criminal Pleading, Evidence & Practice § 11-1 (2010); Black's Law Dictionary 739 (8th ed. 2004); Fed. R. Evid. 801(c); Criminal Justice Act 2003 Ch. 2, Sec. 114(1). *See also Aleksovski* Appeal Decision on Admissibility, para. 15.

23 *See Aleksovski* Appeal Decision on Admissibility, para. 15. *See for instance* Hearing, T. 24908 (21 February 2012) (stating that the fact that evidence may be triple hearsay is a factor to consider when assessing the weight of the evidence).

24 *Aleksovski* Appeal Decision on Admissibility, para. 15 (footnotes omitted).

25 *See Čelebići* Appeal Judgement, para. 458.

26 *Kvočka et al.* Appeal Judgement, para. 237, as recalled in *Šainović et al.* Appeal Judgement, para. 995.

2. Specific evidentiary considerations

a. Certain categories of witnesses

i. Persons associated with the parties to the proceedings

15. The Chamber heard the evidence of a number of investigators associated with either the Prosecution or the Accused's defence team.[27] Their status as current or former investigators for one of the parties in this case does not in itself render their evidence unreliable. In determining the weight to be attributed to each witness of this category, the Chamber has taken into consideration, *inter alia*, their expertise and knowledge of the investigation that they were involved in, as well as other relevant evidence. It has, however, been mindful to exercise caution in evaluating their evidence in view of their association with a party to the proceedings.

ii. Individuals convicted of crimes arising from events charged in the Indictment

16. A large number of individuals who were convicted either by the Tribunal or by domestic courts for crimes arising from events which are alleged in the Indictment have testified as witnesses before the Chamber both for the Prosecution and the Defence.[28] In approaching the evidence of these witnesses, the Chamber considered the following guidance from the Appeals Chamber:

> [I]t is well established in the jurisprudence of both *ad hoc* Tribunals that nothing prohibits a Trial Chamber from relying on evidence given by a convicted person, including evidence of a partner in crime of the person being tried before the Trial Chamber. Indeed, accomplice evidence, and, more broadly, evidence of witnesses who might have motives or incentives to implicate the accused is not *per se* unreliable, especially where such a witness may be thoroughly cross-examined; therefore, reliance upon this evidence does not, as such, constitute a legal error. However, "considering that accomplice witnesses may have motives or incentives to implicate the accused person before the Tribunal, a Chamber, when weighing the probative value of such evidence, is bound to carefully consider the totality of the circumstances in which it was tendered". As a corollary, a Trial Chamber should at least briefly explain why it accepted the evidence of witnesses who may have had motives or incentives to implicate the accused; in this way, a Trial Chamber shows its cautious assessment of this evidence.[29]

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27 The Chamber heard the following Prosecution's investigators, either former or current: Jean-René Ruez, Dean Manning, Tomasz Blaszczyk, Dušan Janc, and Stefanie Frease. The Chamber also heard from Milomir Savčić who is an investigator on the Accused's defence team. The Chamber refers to its detailed analysis of Janc's evidence in the section on forensic, demographic, and DNA evidence in relation to the Srebrenica component of the case. *See* Section IV.C.1.h.F: Dušan Janc.

28 The following such witnesses appeared for the Prosecution: KDZ523, Momir Nikolić, Dražen Erdemović, KDZ122. In addition, the Chamber granted the Prosecution's request to admit the evidence of Milan Babić in writing pursuant to Rule 92 *quater*. The following such witnesses appeared for the Defence: Dragomir Milošević, Stanislav Galić, Milan Martić, Branko Grujić, Mendeljev Đurić, Franc Kos, Momčilo Krajišnik, Radoslav Brđanin, Željko Mejakić, KW679, Vidoje Blagojević, Milomir Stakić, Miroslav Kvočka, and Momčilo Gruban. In addition, the Chamber granted the Accused's request to admit the evidence of Milorad Krnojelac and Radislav Krstić in writing pursuant to Rule 92 *quater*.

29 *Krajišnik* Appeal Judgement, para. 146 (quoting *Niyitegeka* Appeal Judgement, para. 98) (footnotes omitted).

17. With the exception of Milan Babić, Miroslav Krnojelac, and Radislav Krstić, whose testimonies in prior proceedings were admitted pursuant to Rule 92 *bis* or *quater*, all of the witnesses in this category testified before the Chamber either live or pursuant to Rule 92 *ter*. The Chamber was thus able to observe their demeanour on direct and cross-examination. As with all witnesses, the Chamber ultimately weighed their evidence against the totality of the evidence. In conducting this individual assessment, it kept in mind the possibility that they may have had motives to implicate the Accused and thus reviewed their evidence with close scrutiny. The credibility of witnesses in this category will be explained further below in this Judgement where relevant.

iii. Individuals whose trial is currently ongoing, at trial or on appeal

18. A number of individuals whose proceedings before the Tribunal were currently ongoing, either at trial or on appeal, testified before the Chamber, including some who were subpoenaed to testify.[30] The issue of "whether an accused or appellant compelled by subpoena to testify in another case before the Tribunal is in effect exposed, in relation to his own case, to the possibility of compelled self-incrimination"[31] was highly litigated in this case.[32] The Appeals Chamber held that "an accused or appellant may be compelled to testify in other cases before the Tribunal due to the fact that any self-incriminating information elicited in those proceedings cannot be directly or derivatively used against him in his own case".[33] Since these witnesses testified before the Chamber, it was able to observe their demeanour while they were on the stand. In weighing their evidence against the totality of the evidence on the record, the Chamber reminded itself of the possibility that these witnesses may have had motives to distance themselves from the events in relation to which they were testifying.

iv. Expert witnesses

19. The Chamber heard the testimony of a large number of witnesses as experts called pursuant to Rule 94 *bis* both by the Prosecution and the Accused.[34] In weighing this evidence, the Chamber

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30 Ljubomir Borovčanin, Vojislav Šešelj, and Vujadin Popović testified voluntarily. Zdravko Tolimir, Ljubiša Beara, Ratko Mladić, and Mićo Stanišić were subpoenaed to testify. *See* para. 6163, fn. 20799.

31 Appeal Decision on Tolimir Subpoena, para. 34.

32 *See* Appeal Decision on Tolimir Subpoena. *See also* para. 6164.

33 Appeal Decision on Tolimir Subpoena, para. 50. This Chamber later noted that it considered that "[t]he terminology used by the Appeals Chamber indicates that the applicability of the [Appeal Decision on Tolimir Subpoena] is broader than Tolimir himself". Decision on Mladić Motion for Reconsideration, para. 15.

34 The following witnesses were called by the Prosecution under Rule 94 *bis*: Robert Donia. Richard Philipps, Patrick van der Weijden, Berko Zečević, Dorothea Hanson, András Riedlmayer, Richard Butler, Ewa Tabeau, Patrick Treanor, Christian Nielsen, Reynaud Theunens, Ewan Brown, Jose Baraybar, Christopher Lawrence, John Clark, Freddy Peccerelli, William Haglund, Thomas Parsons, Richard Wright, and Richard Philipps. The following witnesses were called by the Accused under Rule 94 *bis*: Mirjana Lukić-Anđeljković, Stevo Pašalić,

considered factors such as the professional competence of the expert, the methodologies used, and the reliability of the findings made in light of these factors and other evidence accepted by the Chamber.[35] The Chamber did not rely on the evidence given by witnesses called pursuant to Rule 94 *bis* which pertained to topics falling outside the realm of their expertise.

b. Certain categories of exhibits

i. Source documents

20. The Chamber did not admit the sources used by an expert in compiling his report as a matter of course.[36] It considered that the purpose of having an expert report is to assist the Chamber by providing an understandable compilation and analysis of technical material and, as such, should be complete and understandable in itself, such that there is no need to tender for admission the sources used by the expert. The Chamber allowed, however, the presenting party to request the admission of certain sources upon providing clear reasons as to why these sources should be admitted in addition to the expert report itself.[37] As the purpose of admitting source material was to enable the Chamber to verify, if necessary, the basis upon which the expert reached his conclusions as well as how the relevant analysis was conducted, source documents so accepted were thus not admitted for their substantive content.[38] However, if at a later date, a witness discussed the content of a document previously admitted as a source document in such a way that rendered that document admissible for its content, its status was changed to reflect its admission for all purposes.[39]

ii. Third-party statements

21. Throughout these proceedings, the Chamber considered that third-party statements produced for the purpose of current criminal proceedings may only be admitted pursuant to the modalities of Rules 92 *bis*, *ter*, *quater*, and *quinquies*. It held that the strict requirements of these rules, which are *lex specialis*, may not be circumvented by tendering such material pursuant to the

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Derek Allsop, Kosta Cavoški, Zorica Subotić, Mile Poparić, Dragomir Kešerović, Radovan Radinović, and Dušan Dunjić. The Chamber refers in particular to the detailed section on the forensic, demographic, and DNA evidence in relation to the Srebrenica component of the case. *See* Section IV.C.1.h: Forensic, demographic, and DNA evidence.

35 *Milutinović et al.* Trial Judgement, Vol. I, para. 40. *See also Martić* Trial Judgement, para. 29; *Blagojević and Jokić* Trial Judgement, para. 27; *Vasiljević* Trial Judgement, para. 20. In weighing the evidence from expert witnesses, the Chamber has, in particular, considered corroboratory evidence of a different nature.

36 First Order on Conduct of Trial, Appendix A, para. P.

37 Further Order on Conduct of Trial, para. 5.

38 Philipps Decision, para. 10, as applied in Hanson Bar Table Decision, paras. 15, 17–19.

39 Philipps Decision, para. 10. *See* P2913 (Letter from Zvornik's Interim Government, 6 June 1992); P2915 (Summary of conclusions of Prijedor's Executive Committee, 29 April–17 August 1992).

more general Rule 89.[40] In relation to any other third-party statement not prepared for the purposes of criminal proceedings, the Chamber followed the practice that they may only be admitted if they are commented upon, confirmed, or adopted by the witness on the stand.[41] A number of such statements were admitted in this manner and, as any evidence on the record, were attributed the appropriate weight in light of the totality of the trial record at the end of the proceedings.[42]

iii. Media reports

22. The Chamber considered that written media reports, whether they be reports, articles or interviews, were not admissible from the bar table as they would not meet the reliability and probative value requirements; they were admitted only when a witness testified to the accuracy of the information contained therein and attested that they had not been manipulated in any way. A number of such media reports were admitted in this manner and, as any evidence on the record, were attributed the appropriate weight in light of the totality of the trial record.

iv. Intercepts

23. Throughout the case, the Chamber treated intercepts as a "special category of evidence" given that they bear no indicia of authenticity or reliability on their face and accordingly, they may only be admitted into evidence after the Chamber has heard from the relevant intercept operators or the participants in the intercepted conversation.[43] Towards the end of the Defence case, however, it found that, based on the agreement between the parties as to the authenticity of some intercepts, its past admission of a number of intercepts through intercept operators and numerous interlocutors, and the Prosecution's possible authentication of those intercepts based upon its "evidence collection", it had a basis to establish the authenticity of these intercepted conversations and proceeded to admit them.[44] Once admitted, however, the Chamber treated intercepts as any other evidence and assessed their respective weight in light of the entire trial record.

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40 Hearing, T. 31199–31200 (11 December 2012).

41 Hearing, T. 31199–31200 (11 December 2012), as recalled in Defence Municipality Bar Table Decision, para. 59.

42 *See* D130 (Video footage of Mirko Šošić, with transcript); D3120 (Statement of Behadil Hodžić to Milići SJB, 11 May 1992).

43 Decision on the Prosecution's First Motion for Judicial Notice of Documentary Evidence Related to the Sarajevo Component, 31 March 2010, para. 9.

44 Hearing, T. 47255–47259 (18 February 2014). *See also* Decision on Accused's Motion to Admit Intercepts from Bosnia and Herzegovina Previously Marked for Identification or as Not Admitted, 26 February 2014, para. 1; Decision on Accused's Bar Table Motion for Admission of Intercepts, 7 April 2014, para. 16.

c. Evidence admitted in writing and the issue of corroboration.

24. On many occasions, the Chamber reminded the parties that it could not base a conviction on the uncorroborated evidence of a witness whose evidence was admitted pursuant to Rule 92 *quater*.[45] The Appeals Chamber in *Popović et al.* reaffirmed that "findings that are indispensable for a conviction must not rest solely or decisively on untested evidence" and that such findings must be sufficiently corroborated.[46]

d. Judicial notice of adjudicated facts

25. In the present case, the Chamber took judicial notice pursuant to Rule 94(B) of 2,379 adjudicated facts proposed by the Prosecution.[47] The Appeals Chamber has held that "by taking judicial notice of an adjudicated fact, a Chamber establishes a well-founded presumption for the accuracy of this fact, which therefore does not have to be proven again at trial, but which, subject to that presumption, may be challenged at that trial".[48]

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45 Babić Rule 92 *quater* Decision, paras. 30, 42.

46 *Popović et al.* Appeal Judgement, para. 1222 ("in order for a statement admitted pursuant to Rule 92 *quater* of the Rules to support a conviction, it must be corroborated"). *See also Popović et al.* Appeal Judgement, paras. 103, 104 (observing that evidence that demonstrates a pattern of conduct may be used as corroborative evidence), 1226, 1264; *Dordević* Appeal Judgement, para. 807; *Lukić and Lukić* Appeal Judgement, para. 570; *Haradinaj et al.* Appeal Judgement, para. 101, fn. 252; *Haraqija and Morina* Appeal Judgement, paras. 61–62, 64; *Blagojević and Jokić* Appeal Judgement, para. 316; *Prosecutor v. Prlić et al.*, Case No. IT-04-74-AR73.6, Decision on Appeals against Decision Admitting Transcript of Jadranko Prlić's Questioning into Evidence, 23 November 2007, paras. 53, 57–59; *Prosecutor v. Martić*, Case No. IT-95-11-AR73.2, Decision on Appeal against the Trial Chamber's Decision on the Evidence of Witness Milan Babić, 14 September 2006, para. 20; *Prosecutor v. Galić*, Decision on Interlocutory Appeal Concerning Rule 92*bis*(C), 7 June 2002, fn. 34. In *Popovic et al.*, two appellants challenged their convictions on the grounds that untested and uncorroborated evidence admitted pursuant to former Rule 92 *bis*(D) of the Rules was the only evidence in relation to a charge, *i.e*: the Kravica Supermarket killings. *Popović et al.* Appeal Judgement, paras. 97–102. The Appeals Chamber examined whether the appellants' convictions rested solely, or in a decisive manner, on the evidence at issue—the transcript of a witness's testimony in the *Krstić* case—and found that no conviction for "opportunistic" killings was based on the Kravica Supermarket events alone. *Popović et al.* Appeal Judgement, paras. 101–103. Thus, the Appeals Chamber concluded, the allegations related to Kravica Supermarket were not indispensable for any of the appellants' convictions and that these would stand even without the findings on the Kravica Supermarket killings. *Popović et al.* Appeal Judgement, para. 103. The Appeals Chamber also noted that "the Trial Chamber's approach is consistent with the reasoning in *Stakić*, where the conviction on the charge of killing 77 Croats was upheld, despite highlighting that the only evidence supporting the relevant finding was admitted under Rule 92 *bis* of the Rules and was untested". *Popović et al.* Appeal Judgement, para. 104. *See also Stakić* Appeal Judgement, para. 201(8). Addressing another challenge to findings in which the Trial Chamber relied upon a transcript of testimony admitted pursuant to Rule 92 *quater*, the *Popović et al.* Appeals Chamber found that these findings did not rest decisively on untested evidence, but rather, on "a body of *mutually* corroborating evidence". *Popović et al.* Appeal Judgement, paras. 1218–1229.

47 *See* Section VIII.A.3.d: Judicial Notice. The Chamber notes that it denied the Accused's motion for judicial notice of 26 facts relating to Count 1. Decision on Accused's Motion for Judicial Notice of Adjudicated Facts Related to Count One, 21 January 2014.

48 *Prosecutor v. S. Milošević*, Case No. IT-02-54-AR73.5, Decision on the Prosecution's Interlocutory Appeal against the Trial Chamber's 10 April 2003 Decision on Prosecution Motion for Judicial Notice of Adjudicated Facts, 28 October 2003, p. 4, cited in Decision on First Prosecution Motion for Judicial Notice of Adjudicated Facts, 5 June 2009, para. 8. *See also Prosecutor v. Ratko Mladić*, Case No. IT-09-92-AR73.1, Decision on Ratko Mladić's Appeal against the Trial Chamber's Decisions on the Prosecution Motion for Judicial Notice of Adjudicated Facts, 12 November 2013, para. 24 ("adjudicated facts of which judicial notice is taken are

26. As the Appeals Chamber has stated, adjudicated facts are "facts that have been established in a proceeding between other parties on the basis of the evidence the parties to that proceeding chose to introduce, in the particular context of that proceeding".[49] They are therefore not conclusive in other proceedings wherein judicial notice is taken of them, and parties have the opportunity to contest them.[50]

27. The Chamber assessed the weight and relevance of the adjudicated facts, taking into consideration the totality of the trial record and, in particular, any evidence submitted by the Accused to rebut the adjudicated fact.[51] Where an unchallenged adjudicated fact was the only evidence in support of a finding and there was no evidence contradicting it, the Chamber considered the judicially noticed fact sufficient to support the finding.

28. Where adjudicated facts and other evidence addressed the same subject matter, the Chamber assessed whether the other evidence was consistent with the adjudicated facts or rebutted them.[52] Where the Chamber has accepted evidence that contradicts an adjudicated fact, it has considered the presumption of accuracy of the adjudicated fact to have been rebutted.[53] The Chamber applied this principle where the Accused challenged an adjudicated fact and presented credible evidence to rebut or bring into question the accuracy of the adjudicated fact and where the evidence presented by the Prosecution on the point addressed by the adjudicated fact was internally contradictory or inconsistent with the adjudicated fact.

29. In relation to the evidence adduced by the Prosecution, the Chamber recalls that in its decision of 31 March 2010, the Chamber did not find it to be in the interests of justice to preclude

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admitted as rebuttable presumptions that may be disproved by the opposing party through the presentation of evidence at trial"); *Karemera* Appeal Decision on Judicial Notice, para. 42.

49 *Karemera* Appeal Decision on Judicial Notice, para. 40.

50 *See Karemera* Appeal Decision on Judicial Notice, paras. 40, 42; *Prosecutor v. Momčilo Krajišnik*, Case No. IT-00-39-PT, Decision on Prosecution Motions for Judicial Notice of Adjudicated Facts and for Admission of Written Statements of Witnesses Pursuant to Rule 92*bis*, 28 February 2003, para. 16.

51 This was the approach adopted by other chambers. *See Tolimir* Trial Judgement, para. 77; *Popović et al.* Trial Judgement, para. 71; *Krajišnik* Trial Judgement, para. 1197; *Prosecutor v. Momčilo Krajišnik*, Case No. IT-00-39-T, Decision on Third and Fourth Prosecution Motions for Judicial Notice of Adjudicated Facts, 24 March 2005, para. 17; *Prlić et al.* Trial Judgement, para. 385; *Prosecutor v. Prlić et al.*, Case No. IT-04-74-PT, Decision on Motion for Judicial Notice of Adjudicated Facts Pursuant to Rule 94(B), 14 March 2006, para. 11.

52 *See Stanišić and Simatović* Trial Judgement, para. 37 ("When assessing the evidence before it, the Trial Chamber was often faced with situations where evidence duplicated adjudicated facts of which the Trial Chamber had taken judicial notice. The Trial Chamber, in executing its obligation to review all evidence presented, analysed such evidence and then determined whether it was consistent with the Adjudicated Facts or rose to such a level so as to rebut them."); *Tolimir* Trial Judgement, para. 77 ("Where the Chamber has accepted evidence that contradicts an Adjudicated Fact, the presumption of the accuracy of the Adjudicated Fact will have been rebutted. The Chamber has made numerous factual findings in which Adjudicated Facts have been supported or amplified by other evidence that has been admitted.").

53 *See Tolimir* Trial Judgement, para. 77 ("Where the Chamber has accepted evidence that contradicts an Adjudicated Fact, the presumption of the accuracy of the Adjudicated Fact will have been rebutted.").

the Prosecution from bringing witnesses to give evidence that overlaps with the content of adjudicated facts that have been the subject of judicial notice in this case.[54] The Chamber reasoned that at that stage of the case it was open to the Accused to challenge any or all of the judicially-noticed facts in this case and that the Prosecution was at that time not in possession of specific information as to those aspects of its case or what particular evidence the Accused intended to rebut, including adjudicated facts admitted prior to the submission of the Defence Pre-Trial Brief, and therefore a considerable extension in the length of the case might result from the presentation of evidence in rebuttal following the hearing of the defence case.[55]

30. The Chamber also recalls its previous statement in the aforementioned decision of 31 March 2010 that

> the Chamber may base its final conclusions as to the individual criminal responsibility of the Accused on the evidence presented to it along with any adjudicated facts from prior proceedings which have been the subject of judicial notice. This will not mean, however, that witness evidence led at trial is to be considered corroborated by adjudicated facts from prior proceedings which are based on evidence from the same witness.[56]

Put another way, "adjudicated facts based on evidence from a witness may not be considered corroborative of that witness's evidence".[57] The Chamber reiterates its approach, outlined above and in accordance with other chambers' approaches, to assess adjudicated facts in light of the totality of the evidence adduced at trial and more particularly to analyse whether other evidence in the record is consistent with or contradicts the adjudicated facts.[58] Other evidence in the record was assessed for inconsistency with the adjudicated facts, and where reliable evidence contradicted an adjudicated fact, be it presented by the Accused or the Prosecution, the adjudicated fact was not used as the basis of a finding in this case.

31. In a number of instances, the adjudicated fact in the source judgement cited the same witness who gave evidence in this case on the same point and this latter evidence was the only

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54 Decision on Accused's Motion to Preclude Evidence or To Withdraw Adjudicated Facts, 31 March 2010, para. 18.

55 Decision on Accused's Motion to Preclude Evidence or To Withdraw Adjudicated Facts, 31 March 2010, paras. 16–18.

56 Decision on Accused's Motion to Preclude Evidence or To Withdraw Adjudicated Facts, 31 March 2010, para. 12.

57 Decision on Accused's Motion to Preclude Evidence or To Withdraw Adjudicated Facts, 31 March 2010, para. 14.

58 *See Tolimir* Trial Judgement, para. 77; *Popović et al.* Trial Judgement, para. 71; *Prlić et al.* Trial Judgement, para. 385. *See also Prosecutor v. Karemera et al.*, Case No. ICTR-98-44-AR73.17, Decision on Joseph Nzirorera's Appeal of Decision on Admission of Evidence Rebutting Adjudicated Facts, 29 May 2009, para. 21 ("adjudicated facts that are judicially noticed by way of Rule 94(B) of the Rules remain to be assessed by the Trial Chamber to determine what conclusions, if any, can be drawn from them when considered together with all the evidence brought at trial").

evidence in this case on the point, other than the adjudicated fact. In these situations, again, the Chamber did not consider the adjudicated fact to corroborate the witness's evidence in this case.[59]

II. GENERAL OVERVIEW

A. HISTORICAL CONTEXT

32. BiH, which was known as the SRBiH prior to the conflict, was one of the six republics that once constituted the SFRY. Before the conflict, the situation of the SRBiH was unique in that, unlike the other republics, it possessed no single majority ethnic grouping and thus there was no recognition of a distinct "Bosnian nation".[60]

33. Throughout the SFRY during the 1980s, opposition between the various national movements steadily grew, fuelled by a growing economic crisis and an increasingly dysfunctional political system in the wake of the death of Marshal Josip Broz Tito in 1980.[61] The JNA was the only military formation with an integrated command structure and large numbers of heavy weapons and aircraft, and was constitutionally mandated to "defend the homeland" and preserve the SFRY.[62] The JNA was an entirely federal force, with its headquarters in Belgrade,[63] and with the SFRY Presidency as its "supreme command and control organ".[64]

34. On 23 January 1990, upon the departure of the Slovene delegation, the Congress of the League of Communists of Yugoslavia was postponed indefinitely, paving the way for the organisation of multi-party elections in each of the six republics.[65]

1. The first multi-party elections

35. On 21 February 1990, the Assembly of the SRBiH adopted a law that permitted political parties to organise but forbade this organisation to be based on nationality or religion. Political

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59 In such situations, the Chamber used the phrase "*See also*". This does not indicate that the Chamber considered the adjudicated fact to corroborate the evidence in this case of the witness cited to in the original judgement.

60 *See* Adjudicated Fact 363. The Chamber acknowledges that the term "ethnic" or "ethnicity" may not comprehensively describe the distinguishing features of Bosnian Muslims, Bosnian Croats, and Bosnian Serbs, since other facts such as religion and nationality, are also relevant to the definition of those groups. However, for the sake of brevity and following other Chambers of the Tribunal, the Chamber will use the terms "ethnic" or "ethnicity" throughout this Judgement where it considers appropriate to do so.

61 Herbert Okun, T. 1559–1560 (23 April 2010).

62 P3033 (Reynaud Theunens's expert report entitled "Radovan Karadžić and the SRBiH TO-VRS (1992-1995)"), e-court p. 50. *See* Adjudicated Fact 415.

63 *See* D1358 (SFRY Law on All People's Defence), arts. 99–101; Adjudicated Fact 417.

64 D1358 (SFRY Law on All People's Defence), art. 106.

parties nonetheless formed on such bases although they were careful not to openly contravene the law. On 11 June 1990, the Constitutional Court of SRBiH declared this prohibition unconstitutional,[66] and ethnic parties began to form.[67]

36. The most prominent political parties in SRBiH were the SDA, the SDS,[68] and the HDZ.[69] They were formed in 1990 in the lead-up to the election and initially co-operated to defeat their common opponents, the former League of Communists of SRBiH, which had been newly renamed as the League of Communists-Social Democratic Party, and the Alliance of Reformist Forces of Yugoslavia.[70]

37. On 31 July 1990, amendments to the 1974 Constitution were adopted to determine the structure of governing institutions for which elections would be held. The new legislation provided for a seven-member Presidency, composed of two Serbs, two Croats, two Muslims, and one representative of "others".[71] It also provided that the legislature would consist of a 130-member Chamber of Citizens and a Chamber of Municipalities[72] with 110 deputies.[73] The legislation further provided for elections to assemblies in each of SRBiH's 109 municipalities.[74]

38. On 18 November 1990, the first free, multi-party elections were held for both municipal assemblies and for the legislative body at the republican level.[75] The SDA won 86 of the total 240 seats in both chambers, the SDS won 72 seats, and the HDZ won 44 seats. Eight different parties

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65 Isak Gaši, P3002 (Transcript from *Prosecutor v. Krajišnik*), T. 393. *See also* Vitomir Žepinić, T. 33622 (13 February 2013).

66 P971 (Robert Donia's Expert Report entitled "The Origins of Republika Srpska, 1990-1992, 30 July 2002), e-court p. 18.

67 Robert Donia, T. 3226 (2 June 2010).

68 *See* Section II.B.1: Serbian Democratice Party (SDS).

69 *See* Adjudicated Fact 404.

70 P971 (Robert Donia's Expert Report entitled "The Origins of Republika Srpska, 1990-1992, 30 July 2002), e-court p. 20; Robert Donia, T. 3160–3162 (1 June 2010), T. 3284, 3301–3302 (3 June 2010). *See also* Nenad Kecmanović, T. 39088–39089 (31 May 2013). Both the SK-SDP and the SRSJ pledged allegiance to ideals of a multi-ethnic BiH. P971 (Robert Donia's Expert Report entitled "The Origins of Republika Srpska, 1990-1992, 30 July 2002), e-court p. 20.

71 P971 (Robert Donia's Expert Report entitled "The Origins of Republika Srpska, 1990-1992, 30 July 2002), e-court p. 19 (specifying that each voter was allowed to vote for seven candidates for the Presidency: two Bosnian Serbs, two Bosnian Croats, two Bosnian Muslims, and one in the category identified as "Other").

72 The Chamber shall hereinafter refer collectively to the Chamber of Citizens and the Chamber of Municipalities as the SRBiH Assembly.

73 D1263 (Amendments to the Constitution of SRBiH, 31 July 1990), amendment LXX (5); P971 (Robert Donia's Expert Report entitled "The Origins of Republika Srpska, 1990-1992, 30 July 2002), e-court p. 19. The Chamber of Municipalities would consist of one deputy for each of the 109 municipalities of SRBiH and one for the city of Sarajevo.

74 D1263 (Amendments to the Constitution of SRBiH, 31 July 1990), amendment LXX (6).

75 P971 (Robert Donia's Expert Report entitled "The Origins of Republika Srpska, 1990-1992, 30 July 2002), e-court pp. 19, 23; Momčilo Mandić, C3 (Transcript from *Prosecutor v. Stanišić and Župljanin*), T. 9586; *see* Adjudicated Fact 403.

shared the remaining 38 seats.[76] In effect, the outcome of the elections generally reflected the ethnic census of the population with each ethnic group voting for its own national party.[77]

39. After the elections in SRBiH, a coalition government was formed according to an inter-party agreement and headed by a seven member Presidency, with the leader of the SDA, Alija Izetbegović, as the first President.[78] The SDS selected Momčilo Krajišnik to be President of the Assembly and Jure Pelivan was named by the HDZ to be Prime Minister.[79] In each municipality, executive positions were apportioned according to the national composition of the municipality in question.[80]

2. BiH regionalisation

40. The regionalisation process began with the establishment of communities of municipalities, which led to the creation of autonomous districts and regions.[81] In 21 January 1991, SDS presidents of 21 municipal assemblies in the northwestern BiH region of Bosnian Krajina began preparations for the formation of the ZOBK.[82] The SDS regional board formally approved the initiative to create the ZOBK on 7 April 1991.[83]

41. Soon thereafter, the ZOBK initiative faced opposition and criticism. The SRBiH Assembly passed a resolution requesting that regionalisation be suspended until a political agreement could be reached.[84] On 21 April 1991, the SDA organised a rally in Banja Luka to protest the "national regionalisation" of BiH.[85] In the wake of these criticisms, the Accused, as President of the SDS,

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76 P971 (Robert Donia's Expert Report entitled "The Origins of Republika Srpska, 1990-1992, 30 July 2002), e-court p. 23; Robert Donia, T. 3252 (2 June 2010). *See also* Adjudicated Fact 405.

77 *See* Adjudicated Fact 406.

78 *See* Adjudicated Fact 408; D356 (Inter-party agreement regarding BiH Ministries, January 1991).

79 Momčilo Mandić, T. 4770 (7 July 2010); Momčilo Krajišnik, T. 43153–43154 (7 November 2013). *See* Adjudicated Fact 1897.

80 *See* Adjudicated Fact 1905; D257 (SDA, HDZ, and SDS Criteria for Joint Government in Municipalities, 22 December 1990).

81 P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990–1992", 30 July 2002), paras. 100, 113–161. For a more detailed description of this process, *see* Section II.B.7: Regional and municipal bodies.

82 P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990–1992", 30 July 2002), paras. 117–118.

83 P971 (Robert Donia's Expert Report entitled "The Origins of Republika Srpska, 1990-1992, 30 July 2002), e-court p. 25. Vojislav Kuprešanin was elected President of the ZOBK. D4011 (Witness statement of Vojislav Kuprešanin dated 11 November 2013), para. 1.

84 D284 (SRBiH Assembly recommendation on regionalisation, 11-12 April 1991).

85 P971 (Robert Donia's Expert Report entitled "The Origins of Republika Srpska, 1990-1992, 30 July 2002), e-court p. 26 (citing Izetbegović: "Those who say that there are 51% of Serbs here and that therefore this is a Serbian municipality are not well-intentioned. [...] What about the 49% who are Muslims and Croats; to what do they belong? Bosnia is nationally mixed and no one can divide it, except if someone wishes disorder and blood. And we won't do that".)

denounced the concentration of power in Sarajevo and called to defend regionalisation as the solution to the economic crisis.[86]

42. By the time the founding assembly of the ZOBK was held on 25 April 1991, assemblies of 14 municipalities with large Serb majorities had voted to affiliate with the ZOBK, including Ključ.[87] Following the lead of the Bosnian Krajina, two other communities of municipalities were created in May 1991 in Romanija and in Eastern and Old Herzegovina.[88] Communities of municipalities were renamed SAOs in September, including the ZOBK which was renamed ARK on 16 September 1991.[89]

43. In June 1991, a number of SDS members from Croatia and the Bosnian Krajina, led by Milan Babić, undertook plans to declare the unity of the Croatian and Bosnian Krajinas and signed an "Agreement on Co-operation".[90] On 27 June 1991, delegates unanimously endorsed this agreement and passed a "Declaration of Unification", the purpose of which was described as the "integration of Serbian people as a whole, all in the aim of creating a united state in which all Serbs in the Balkans will live".[91] Despite further efforts by Babić in October 1991, the Accused and other BiH SDS members remained opposed to the idea, which never materialised.[92]

3. Towards disintegration of the SFRY

44. In the SRBiH Assembly, co-operation between the political parties proved increasingly difficult.[93] What was initially a coalition government broke down in October 1991.[94] The

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86 P971 (Robert Donia's Expert Report entitled "The Origins of Republika Srpska, 1990-1992", 30 July 2003), e-court p. 26. *See also* Robert Donia, T. 3544–3545 (9 June 2010).

87 P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990–1992", 30 July 2002), paras. 117, 122.

88 P971 (Robert Donia's Expert Report entitled "The Origins of Republika Srpska, 1990-1992", 30 July 2003), e-court pp. 26–27; P6284 (Announcement of Assembly of the Community of Eastern and Old Herzegovina municipalities, 28 May 1991).

89 P971 (Robert Donia's Expert Report entitled "The Origins of Republika Srpska, 1990-1992, 30 July 2002), e-court pp. 26–27. *See* para. 130.

90 P971 (Robert Donia's Expert Report entitled "The Origins of Republika Srpska, 1990-1992", 30 July 2003), e-court pp. 27–28.

91 P746 (Declaration on Unification of SAO Krajina and Bosanska Krajina), 27 June 1991, p. 3; Milan Babić, P741 (Transcript from *Prosecutor v. S. Milošević*), T. 13806; P971 (Robert Donia's Expert Report entitled "The Origins of Republika Srpska, 1990-1992, 30 July 2002), e-court pp. 28–29.

92 P2555 (Intercept of conversations between Radovan Karadžić, Anđelko Vukić and Boro Sendić, 16 October 1991); Milan Martić, T. 38105–38106 (13 May 2013).

93 *See* Adjudicated Fact 409. *See also* D264 (Radovan Karadžić's letter to Presidents of SDS municipal and regional boards, 27 August 1991); D266 (SDA instructions on full readiness of communications and monitoring, 26 September 1991).

94 Adjudicated Fact 409; Robert Donia, T. 3557–3558 (9 June 2010).

disintegration of multi-ethnic SFRY was swiftly followed by the disintegration of multi-ethnic BiH, and the prospect of war in BiH increased.[95]

45. Due to the manpower shortages resulting from the defection of non-Serbs from the JNA during the conflict in Croatia, the JNA ordered reservists in SRBiH to active duty during the summer of 1991.[96] The Presidency of SRBiH then denounced the JNA's mobilisation order as illegal, asked for the withdrawal of the reservists who had entered the territory of SRBiH from Serbia, and exhorted citizens of SRBiH "to exercise patience, avoid all potential provocations and allow these units to return in peace".[97] Most Croat and Muslim reservists did not answer the mobilisation order while a majority of the Serb reservists responded and were mobilised to locations in SRBiH or Croatia.[98]

46. At a meeting of the SRBiH Assembly held during the night of 14 to 15 October 1991, the Accused gave a speech, at the end of which he stated: "Don't think you won't take Bosnia and Herzegovina to hell and Muslim people in possible extinction. Because, Muslim people will not be able to defend itself if it comes to war here!"[99] After Krajišnik, as President of the SRBiH Assembly, had adjourned the SRBiH Assembly session for the day, HDZ and SDA delegates reconvened without Serb delegates and passed a declaration of sovereignty.[100] Shortly thereafter, the SDS leadership demanded that the declaration be repealed before 24 October 1991.[101]

47. On 24 October 1991, the Bosnian Serb deputies of the SRBiH Assembly met separately and decided to establish the Assembly of the Serbian People in BiH.[102] Opening the session, Krajišnik explained that the main reason for doing so lay "in a serious attempt to compromise the national sovereignty of the Serbian people in BiH and their constitutional and legal position in Yugoslavia,

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95 *See* Adjudicated Fact 410. The BiH Presidency established a Crisis Staff in September 1991, with Ejup Ganić in charge. Robert Donia, T. 3440 (8 June 2010); Nedeljko Prstojević, T. 13614–13615 (17 March 2011).

96 P973 (Robert Donia's Expert Report entitled "Bosnian Serb Leadership and the Siege of Sarajevo, 1990–1995", January 2010), p. 41; D2665 (Witness statement of Izo Golić dated 15 December 2012), paras. 4, 6; D2376 (Report of 4th Corps, 21 August 1991), pp. 1–2.

97 D368 (Minutes of 35th Session of SRBiH Presidency, 21 September 1991), p. 1.

98 P973 (Robert Donia's Expert Report entitled "Bosnian Serb Leadership and the Siege of Sarajevo, 1990–1995", January 2010), p. 41; KDZ072, P68 (Transcript from *Prosecutor v. Šešelj*), T. 8691–8692 (under seal); D3065 (Witness statement of Aleksandar Vasiljević dated 16 February 2013), para. 213.

99 D267 (Video Footage and Transcript of Radovan Karadžić's speech at the 8th Session of SRBiH Assembly, 15 October 1991), pp. 3-4; P971 (Robert Donia's Expert Report entitled "The Origins of Republika Srpska, 1990–1992, 30 July 2002), e-court p. 34.

100 P971 (Robert Donia's Expert Report entitled "The Origins of Republika Srpska, 1990-1992, 30 July 2002), e-court p. 35; Robert Donia, T. 3101–3102 (1 June 2010); Robert Donia, T. 3372 (7 June 2010); P974 (SRBiH Assembly Platform on the Position of BiH, 14 October 1991), pp. 1–2; *see* Adjudicated Fact 393.

101 Robert Donia, T. 3570 (9 June 2010); D294 (Minutes of SDS Council Meeting, 15 October 1991), pp. 1–3; D295 (Article from Politika entitled "Demand for Withdrawal of Illegal Acts", 25 October 1991).

102 P1343 (Transcript of 1st Session of SerBiH Assembly, 24 October 1991), p. 2. *See also* Robert Donia, T. 3107 (1 June 2010); *see* Adjudicated Fact 413. *See* para. 77.

which in turn compromises their survival in the territory of BiH, where they have lived from time immemorial".[103] On 9 and 10 November 1991, a plebiscite was held to determine whether Serbs in BiH wished to remain in a joint state of Yugoslavia, together with Serbia, Montenegro, the SAOs of Krajina, Slavonia, Baranja and Western Srem, and "any others who decide in favour of such a survival".[104] The overwhelming majority of Serbs voted in favour of remaining in Yugoslavia.[105] By that time, in the wake of Croatia's declaration of independence,[106] JNA forces were withdrawing from Croatia into SRBiH.[107] On 11 December 1991, Krajišnik, on behalf of the Assembly of the Serbian People in BiH, formally requested the JNA "to protect, with all available means the territories of [BiH]".[108]

48. On 17 December 1991, foreign ministers in the EC created a commission composed of EC judges, known as the Badinter Commission, to assess applications for independence from the republics of the SFRY based on their adherence to certain guidelines. On 20 December 1991, the SRBiH Presidency, Nikola Koljević and Biljana Plavšić dissenting, voted to apply to the Badinter Commission for the recognition of SRBiH as an independent state.[109]

49. On 19 December 1991, the Main Board of the SDS issued a document entitled "Instructions for the Organisation and Activity of Organs of Serbian People in Bosnia and Herzegovina in Extraordinary Circumstances" ("Variant A/B Instructions").[110] The stated purpose was to carry out the results of the plebiscite at which the Serbian people in BiH decided to live in a single state and to "enhance mobility and readiness to protect the interests of the Serbian

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103 P1343 (Transcript of 1st Session of SERBiH Assembly, 24 October 1991), p. 6; P6245 (SerBiH Assembly Ballot for Serbs); P6246 (SerBiH Assembly Ballot for non-Serbs).

104 P1343 (Transcript of 1st Session of SerBiH Assembly, 24 October 1991), p. 25; P6244 (Minutes of 4th session of SDS Executive Board, 25 October 1991); D83 (Shorthand Record of 2nd Session of SerBiH Assembly, 21 November 1991), p. 4. *See also* P5473 (Instructions on Implementation of Plebiscite of Serbian People in BiH, 28 October 1991).

105 D83 (Shorthand Record of 2nd Session of SERBiH Assembly, 21 November 1991), pp. 19–23.

106 P971 (Robert Donia's Expert Report entitled "The Origins of Republika Srpska, 1990-1992, 30 July 2002), e-court p. 15.

107 P946 (ECMM report re meeting with Prime Minister Pelivan, 27 November 1991); P5805 (Intercept of conversation between Radovan Karadžić and Momčilo Krajišnik, 6 December 1991), p. 2.

108 P5556 (Request of the Serb People of BiH to the JNA, 11 December 1991). *See* Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4408–4409. *See also* Herbert Okun, T. 1638 (22 April 2010).

109 P971 (Robert Donia's Expert Report entitled "The Origins of Republika Srpska, 1990-1992, 30 July 2002), e-court p. 36. *See also* Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4142, 4310–4312. On 11 January 1992, the Badinter Commission issued its Opinion No. 4 and assessed "that the will of the peoples of Bosnia-Herzegovina to constitute the SRBH as a sovereign and independent State cannot be held to have been fully established". D1279 (Opinion No. 4 on international recognition of SRBiH by the European Community and its members states, 11 January 1992), p. 3. The Chamber notes that while it is only in 1993 that the European Economic Community was officially re-named European Community ("EC"), for ease of reference, the Chamber shall refer to the EC even when referring to the period before 1993.

110 P5 (SDS Instructions for Organisation of Organs of the Serbian People in BiH, 19 December 1991).

people".[111] The Chamber will address the creation, contents, and dissemination of the Variant A/B Instructions later in this judgement.[112]

50. The members of the Assembly of the Serbian People in BiH met on 21 December 1991, expressed their strong opposition to the Badinter Commission process, and approved preparations for the formation of a Serb Republic.[113] On 9 January 1992, the Assembly of the Serbian People in BiH proclaimed the SerBiH, which on 12 August 1992 was renamed RS.[114]

51. International efforts to achieve a comprehensive diplomatic solution to the situation in Yugoslavia were initially formalised throughout the second half of 1991 and continued in different forms and in various fora throughout the conflict. These efforts will be discussed in detail in another section of this Judgement.[115]

52. By early 1992, and partly due to the refusal of non-Serbs to mobilise for the war in Croatia as discussed above, the JNA units in BiH were progressively becoming "all-Serb units", and the JNA openly favoured Serbs in its personnel policy.[116] By early 1992, there were some 100,000 JNA troops in SRBiH with over 700 tanks, 1,000 armoured personnel carriers, heavy weaponry, 100 planes and 500 helicopters, all under the command of the General Staff of the JNA in Belgrade.[117]

53. On 15 January 1992, the Badinter Commission recommended that SRBiH be required to hold a referendum to determine the will of its people regarding independence. On 20 January, the SRBiH Assembly voted to hold such a referendum on 29 February and 1 March 1992.[118] At its 26 January 1992 session, members of the SerBiH Assembly denounced the decision as illegal.[119]

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111 P5 (SDS Instructions for Organisation of Organs of the Serbian People in BiH, 19 December 1991), p. 2.

112 *See* paras. 132–136; Section IV.A.3.a.ii.D: Variants A/B Instructions and take-over of power.

113 D86 (Shorthand Record of 4th Session of SERBiH Assembly, 21 December 1991), pp. 4, 9–10, 29.

114 Robert Donia, T. 3564 (9 June 2010); P1346 (Minutes of 5th Session of SerBiH Assembly, 9 January 1992), pp. 2–3. *See also* Adjudicated Fact 394.

115 *See* Section II.E: International peace negotiations.

116 P5433 (1st Krajina Corps document analysing combat readiness in 1992, February 1993), p. 17; P3914 (Ewan Brown's expert report entitled "Military Developments in the Bosanska Krajina – 1992", 27 November 2002), para. 1.8; Adjudicated Fact 2096. By April 1992, more than 90 per cent of all JNA officers were Serbs or Montenegrins. Adjudicated Fact 2097. In early April 1992, Izetbegović ordered a general mobilisation in BiH and ordered that Bosnian Muslims block roads and JNA barracks all across BiH. D3724 (Witness statement of Branko Grujić dated 22 June 2013), para. 23; *see also* Martin Bell, T. 9942–9943 (15 December 2010).

117 Adjudicated Fact 486.

118 P971 (Robert Donia's Expert Report entitled "The Origins of Republika Srpska, 1990-1992, 30 July 2002), e-court p. 36. *See also* P1349 (Transcript of 6th Session of SerBiH Assembly, 26 January 1992), p. 16.

119 P1349 (Transcript of 6th Session of SerBiH Assembly, 26 January 1992), pp. 16–19.

On 28 February 1992, the SerBiH Assembly unanimously adopted the Constitution of the SerBiH.[120]

54. The referendum on the question of independence was held on 29 February and 1 March 1992. It was largely boycotted by the Bosnian Serbs and yielded an overwhelming majority of votes in favour of independence.[121]

55. On 28 March 1992, the SDS sponsored a congress in Sarajevo on the "Yugoslav Crisis and the Serbian Question".[122] The congress was attended by 500 participants who were greeted by the Accused and focused on sacrifices and losses suffered by the Serbs during WWII.[123] In evoking fears of a "Serbian genocide", Bosnian Serb leaders suggested that territorial claims beyond Serb-inhabited areas were justified.[124]

56. The EC and the USA recognised the independence of BiH in April 1992.[125] BiH was admitted as a State member of the UN, following decisions adopted by the Security Council and the General Assembly on 22 May 1992.[126]

57. During the 16th session of the Bosnian Serb Assembly on 12 May 1992, the Accused presented the Strategic Goals. These were: (i) the creation of a border separation with the other two national communities; (ii) the creation of a corridor between Semberija and Krajina; (iii) the creation of a corridor in the Drina Valley, namely elimination of the Drina as a border between Serbian states; (iv) the creation of a border on the Una and Neretva rivers; (v) division of the city of Sarajevo into Serbian and Muslim parts and implementation of an effective state government in each of these parts; (vi) and access of the SerBiH to the sea.[127] The Strategic Goals were adopted by the Bosnian Serb Assembly at the same session.[128]

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120 D89 (Shorthand Record of 9th Session of SerBiH Assembly, 28 February 1992), p. 14. *See also* P1351 (Transcript of 7th Session of SerBiH Assembly, 15 February 1992) (containing lengthy discussions on the draft constitution); *see* Adjudicated Fact 414.

121 *See* Adjudicated Fact 395; P5427 (Proclamation of the SDS Executive Board, undated); P5530 (Proclamation of the SDS Executive Board, 20 February 1992), p. 3.

122 D90 (Shorthand Record of 11th Session of SerBiH Assembly, 18 March 1992), p. 48

123 P971 (Robert Donia's Expert Report entitled "The Origins of Republika Srpska, 1990-1992, 30 July 2002), e-court p. 38.

124 P971 (Robert Donia's Expert Report entitled "The Origins of Republika Srpska, 1990-1992, 30 July 2002), e-court pp. 41–42 (referring to Article 2 of the 28 February 1992 SerBiH Constitution: "The territory of the Republic consists of autonomous regions, municipalities and other Serbian ethnic entities, including territory on which genocide was committed against Serbs in the Second World War.").

125 *See* Adjudicated Fact 396; P2284 (UNSG report entitled "The Fall of Srebrenica", 15 November 1999), para. 15.

126 *See* Adjudicated Fact 397.

127 P956 (Transcript of 16th Session of SerBiH Assembly, 12 May 1992), e-court pp. 8–10; P955 (SerBiH Assembly Decision on Strategic Goals of Serbian People in BiH, 12 May 1992).

128 P955 (SerBiH Assembly Decision on Strategic Goals of Serbian People in BiH, 12 May 1992).

B. BOSNIAN SERB POLITICAL AND CONSTITUTIONAL STRUCTURES

1. Serbian Democratic Party (SDS)

a. Establishment

58. The SDS was established on 12 July 1990 at a founding assembly in Sarajevo.[129] It was founded in advance of the first multi-party elections in the SRBiH which were to be held in November 1990.[130] The assembly elected the Accused as president of the party,[131] and he remained the president through 1995.[132] The Accused gave a speech in which he stated the objectives of the party, which included "a federative Yugoslavia, and in it an equal federal Bosnia and Herzegovina".[133] The Accused also stated that the party would be organised along republic, regional, subregional, municipal, and communal levels with regional and lower-level boards making "completely autonomous [...] local and political assessments and personnel decisions".[134]

59. In 1990 and 1991, the SDS was funded by voluntary contributions and enjoyed the support of the overwhelming majority of Bosnian Serbs.[135]

b. Components and their functions

60. The main organs of the SDS included the party Assembly, formally the supreme body; the SDS Main Board, the highest party organ at times when the Assembly was not in session; the SDS Executive Board, the executive arm of the Main Board; the President of the party, who was also the President of the Main Board; and several advisory bodies, such as the SDS Political Council.[136]

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129 P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), para. 7; Patrick Treanor, T. 14000 (1 June 2011). *See also* D4650 (Statute of the BiH SDS, 12 July 1990), p. 2. The assembly adopted a statute that outlined the organisation and operations of the party. Patrick Treanor, T. 14000 (1 June 2011); D4650 (Statute of the BiH SDS, 12 July 1990). For a list of members in 1990 and 1991, *see* P6626 (List of the SDS Main Committee members during 1990 and 1991).

130 P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), para. 7; Patrick Treanor, T. 14000 (1 June 2011).

131 P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), para. 7; Patrick Treanor, T. 14000 (1 June 2011).

132 P2537 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1993-1995 – Addendum to the Bosnian Serb Leadership 1990-1992", 1 May 2009), para. 5.

133 D255 (Radovan Karadžić's speech at the constituent SDS Assembly), p. 2; P971 (Robert Donia's expert report entitled "The Origins of Republika Srpska, 1990-1992", 30 July 2002), p. 20; Patrick Treanor, T. 14001 (1 June 2011).

134 D255 (Radovan Karadžić's speech at the constituent SDS Assembly), p. 2.

135 Adjudicated Fact 1892.

136 *See* Adjudicated Fact 1893; D4650 (Statute of the BiH SDS, 12 July 1990), arts. 12–13; Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16599–16600; Nedeljko Prstojević, T. 12935 (3 March 2011).

61. The party Assembly was responsible for adopting and amending the party programme and statutes and for electing, *inter alios*, the President of the party and the members of the Main Board.[137]

62. The Main Board's responsibilities included the election of members of the Executive Board and the preparation of drafts of all acts and decisions adopted by the party Assembly.[138] The Main Board made SDS policy and important political decisions.[139] The Accused was *ex officio* president of the Main Board of the SDS.[140] Krajišnik became a member of the Main Board in July 1991.[141] Under a new party statute provision approved on 12 July 1991, the party president could nominate and effectively select up to one-third of the members of the Main Board.[142]

63. Duties of the Executive Board included preparing materials for the use of the Main Board and implementing its decisions.[143] On 31 July 1991, Rajko Dukić, who was nominated by the Accused, was unanimously elected President of the Executive Board.[144] As such, Dukić was to carry out the establishment and operation of the party staff apparatus.[145] Radomir Nešković was elected as the Deputy President of the Executive Board on the same day.[146] The Accused attended some meetings of the Executive Board.[147]

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137 P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), para. 20; D4650 (Statute of the BiH SDS, 12 July 1990), art. 15; P761 (Statute and platform of SDS, 17 February 1990), art. 9.

138 D4650 (Statute of the BiH SDS, 12 July 1990), art. 19; P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), para. 28. *See, e.g.*, D3989 (Minutes of the SDS Main Board, 21 November 1991).

139 Predrag Radić, P1 (Transcript from *Prosecutor v. Krajišnik*), T. 7365; D4368 (Witness statement of Jovan Šarac dated 10 February 2014), para. 7.

140 P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), para. 14; P6558 (List of SDS Main Board members).

141 P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), para. 14.

142 Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16590–16591, 16601.

143 P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), paras. 32–34; D4650 (Statute of the BiH SDS, 12 July 1990), art. 21; P761 (Statute and platform of SDS, 17 February 1990), art. 12. *See also* P6243 (Notes of SDS Assembly session, 12 July 1991), p. 7.

144 D1274 (Minutes of 1st session of SDS Executive Board, 31 July 1991); P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), para. 35.

145 D1274 (Minutes of 1st session of SDS Executive Board, 31 July 1991).

146 Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16589; Radomir Nešković, T. 14221 (6 June 2011).

147 D1274 (Minutes of 1st session of SDS Executive Board, 31 July 1991), p. 1; D1275 (Minutes of 2nd session of SDS Executive Board, 6 September 1991), p. 2; P2585 (Minutes of 5th meeting of SDS Executive Board, 7 November 1991), p. 2.

64. The President of the SDS had statutory powers that included, by 1991, representing the SDS, convoking the SDS Assembly, Main Board, and Executive Board, and co-ordinating the work of organs and bodies of the SDS.[148] The President was the central, most important party organ.[149]

65. Another body that stemmed from the SDS was the Serbian Deputies' Club, a parliamentary caucus of the SDS in the SRBiH Assembly.[150] The Deputies' Club was headed by Vojo Maksimović.[151] The Accused, as the party leader, attended meetings of the Deputies' Club.[152] Members of the Deputies' Club formed the Assembly of the Serbian People in Bosnia and Herzegovina on 24 October 1991.[153] Radomir Nešković described the Deputies' Club as "a constituent organ which passed all constituent acts and documents which lay the grounds for Republika Srpska".[154]

c. Organisation and structure

66. In 1991 and into 1992, "expanded" meetings of the members of the formal and *ad hoc* bodies of the party played an important role in policy-setting, decision-making, and communications from the top to the grassroots level.[155] The SDS also utilised "expanded" meetings of different groups of middle-level government leaders and lower-level party officials to convey instructions or information to the grassroots level and to reach broader party consensus on policy or strategy.[156] These meetings often included SDS-nominated ministerial-level SRBiH government officials, and many of them would later become part of the Bosnian Serb Government.[157]

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148 P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), para. 23; D4650 (Statute of the BiH SDS, 12 July 1990), art. 17; P761 (Statute and platform of SDS, 17 February 1990), art. 11.

149 P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), paras. 24, 41, 67; Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16600.

150 P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), para. 44.

151 Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16605.

152 Patrick Treanor, T. 14012 (1 June 2011). *See* P2543 (Minutes of meeting of SDS Deputies' Club, 30 September 1991); P2581 (Minutes of meeting of SDS Deputies' Club, 18 October 1991).

153 P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), paras. 47, 165. *See* para. 77.

154 Radomir Nešković, T. 14242 (6 June 2011).

155 P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), paras. 41, 56, 64, 67.

156 P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), para. 49.

157 P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), para. 50.

67. Another key feature of SDS organisation in late 1991 into 1992 was collective leadership in the form of decision-making in small groups, most importantly, collaboration by four core leaders, the Accused, Krajišnik, Plavšić, and Koljević.[158]

68. The party was a hierarchical structure, organised into municipal assemblies and boards resembling the republican organs.[159] Larger towns had both municipal boards and local boards corresponding to the local communes.[160] Local boards were the basic units of party organisation.[161] Each member of the local board represented 15 to 20 households and informed the local board, which in turn informed the municipal board; the municipal board then informed the President of the party, the Main Board, or the Executive Board.[162] Municipal boards comprised presidents of local boards.[163] Members of the Main and Executive Boards were to be involved in the work of the municipal boards in the area where they lived.[164]

69. Decisions were implemented in accordance with the hierarchy by all bodies, including regional, municipal, and local boards,[165] and by lower-level officials.[166] Local boards received tasks from and answered to the municipal boards.[167] Municipal boards were obligated to implement the instructions issued by the Main Board or Executive Board.[168] The Main Board had

158 P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), paras. 18, 68–75. *See also* Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16605; Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 8618.

159 Adjudicated Fact 1894; P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), para. 22; Milorad Dodik, T. 36872–36875 (9 April 2013); P2526 (Witness Statement of Radomir Kezunović dated 21 May 2011), para. 21; Neđeljko Prstojević, T. 12935 (3 March 2011); D4368 (Witness statement of Jovan Šarac dated 10 February 2014), para. 3.

160 Predrag Radić, P1 (Transcript from *Prosecutor v. Krajišnik*), T. 7386; Neđeljko Prstojević, T. 12935 (3 March 2011).

161 Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16600, 16749–16750; Radomir Nešković, T. 14216, 14252–14253 (6 June 2011). *See also* P2529 (Letter from Radovan Karadžić to SDS Municipal Boards, 15 August 1991), p. 1.

162 Radomir Nešković, T. 14216–14217 (6 June 2011); Dževad Gušić, T. 17802–17804 (24 August 2011); Neđeljko Prstojević, T. 12936–12937 (3 March 2011). *See also* P2539 (Radovan Karadžić's interview in NIN, 9 November 1990), p. 1; P2529 (Letter from Radovan Karadžić to SDS Municipal Boards, 15 August 1991); P12 (Extended session of Main and Executive Boards of the SDS, 14 February 1992), p. 9.

163 P3023 (Witness statement of Đorde Ristanić dated 15 June 2011), para. 51.

164 P2573 (Minutes of 6th session of SDS Executive Board, November 1991), p. 3; *see* Adjudicated Fact 1895.

165 Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16602, 16751; Radomir Nešković, T. 14235 (6 June 2011).

166 Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16623–16627. *See also* Dževad Gušić, T. 17793 (24 August 2011).

167 Predrag Radić, P1 (Transcript from *Prosecutor v. Krajišnik*), T. 7386.

168 Predrag Radić, P1 (Transcript from *Prosecutor v. Krajišnik*), T. 7386; Neđeljko Prstojević, T. 12936–12939 (3 March 2011); Milorad Dodik, T. 36873 (9 April 2013). *See, e.g.*, P6121 (Decision of Vlasenica's SDS Municipal Board, 4 April 1992).

the power to dismiss municipal bodies if it considered them to not be functioning well or not implementing the party's policies.[169] The municipal boards sent delegates to the RS Assembly.[170]

70. From 1990 to 1995, the Accused was at the head of the hierarchical structure of the SDS.[171]

71. The party strove to develop and put into place an efficient system of communications to convey instructions from the top down and to receive reports from the bottom up.[172] The evidence shows communication in both directions between the top and local levels. Members of the Main Board or Executive Board were designated by the Main Board, Executive Board, or the Accused to go to specific municipalities to communicate with lower-level bodies and address municipal-level problems and to report back.[173] Members of the Main Board were obligated to regularly attend sessions of the municipal board of their respective municipalities.[174] The Main Board informed municipal boards about its decisions and work.[175] SDS municipal leaders met and communicated with SDS leaders at the republic level, including the Accused and the Main Board.[176] The Accused stated at the SerBiH Assembly session on 15 February 1992 that he would establish teams composed of Main Board members and deputies from the respective region to attend meetings of Deputies' Clubs in municipalities.[177]

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169 Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16602.

170 Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16620. For example, Srđo Srdić was the Assembly deputy from Prijedor. P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), pp. 151, 153. He was also for a time president of the SDS municipal board of Prijedor, replaced by Simo Mišković. Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16621–16622. Milenko Vojinović was the president of the SDS in Brčko and a deputy of the Bosnian Serb Assembly. P3023 (Witness statement of Đorđe Ristanić dated 15 June 2011), para. 13.

171 Patrick Treanor, T. 14001 (1 June 2011); Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16602, 16841; Milorad Dodik, T. 36872 (9 April 2013). *See also* P2529 (Letter from Radovan Karadžić to SDS Municipal Boards, 15 August 1991); P6238 (Radovan Karadžić's Decision, 18 October 1991) (the Chamber notes that although the date on the document is partly illegible, the date of 18 October 1991 was not contested by the parties when the document was tendered into evidence, *see* Rodoljub Đukanović, T. 36179, 36204 (27 March 2013); P2548 (Telex entitled "The Sarajevo SDS Order", 29 October 1991); Patrick Treanor, T. 14023–14024 (1 June 2011).

172 Patrick Treanor, T. 14001 (1 June 2011).

173 Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16619, 16627, 16760–16763, 16783–16784; Radomir Nešković, T. 14217–14218 (6 June 2011); P2526 (Witness Statement of Radomir Kezunović dated 21 May 2011), para. 21. *See also* Momčilo Krajišnik, T. 43862–43863 (20 November 2013); P6516 (Excerpt from Momčilo Krajišnik's testimony from *Prosecutor v. Krajišnik*), T. 25069–25070.

174 Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16630–16632; Radomir Nešković, T. 14216 (6 June 2011).

175 P6369 (Excerpts from KW317's statement to OTP, 14 June 2002) (under seal), e-court p. 2; KW317, T. 39327 (5 June 2013).

176 Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16632, 16752, 16758, 16759; P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), para. 25; Nebojša Ristić, T. 15391–15392 (24 June 2011); P4982 (Witness Statement of Branko Đerić dated 5 April 2012), para. 41; KW317, T. 39328 (5 June 2013); Radomir Kezunović, T. 13886–13887 (31 May 2011).

177 P1351 (Transcript of 7th session of SerBiH Assembly, 15 February 1992), p. 58.

d. Initial actions

72. During the first months of 1991 the SDS began to organise Serb-majority municipalities in BiH into communities of municipalities, in some cases severing ties with pre-existing communities of municipalities.[178] SDS party leaders justified the associations of municipalities in terms of economic necessity.[179]

73. A confidential SDS document, dated 23 February 1991, considered specific actions to be taken should BiH move towards independence.[180] In such a case municipal authorities were to ensure that only Yugoslav (federal) law would apply, suspending the implementation of republican regulations.[181] This policy was adopted by the SDS Deputies' Club and was made public in a document dated 10 June 1991.[182]

74. In late 1991, the SDS started implementing a policy of "regionalisation".[183] This consisted in taking steps towards the creation of "regions" in which Serbs were the relative majority.[184] In the fall of 1991, the SDS also made preparations for the establishment of Serb municipalities and Serb municipal Crisis Staffs, at the municipal level.[185]

75. On 16 September 1991 the SDS Executive Board approved the appointment of a Regionalisation Staff.[186] At least three communities of municipalities—Eastern and Old Herzegovina, ARK, and Romanija—became SAOs in September 1991.[187] More SAOs were formed between September and November 1991: Semberija-Majevica, Northern Bosnia, and Birač.[188] On 24 February 1992, the SDS Executive Board assigned "coordinators" for the SAOs.[189]

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178 Adjudicated Fact 1913. *But see* Momčilo Krajišnik, T. 43244–43246 (7 November 2013) (stating that the joining of or separating from communities of municipalities by a municipality was at the will of the citizens, required the consent of the municipal assembly, and was not initiated by the SDS).

179 Adjudicated Fact 1914.

180 Adjudicated Fact 1917.

181 *See* Adjudicated Fact 1918.

182 *See* Adjudicated Fact 1919; D4654 (Report of SDS Deputies Club, 10 June 1991).

183 *See* Adjudicated Fact 1921; P2584 (Minutes of 3rd meeting of SDS Executive Board, 16 September 1991), p. 1; P2530 (SDS decision on appointment of staff, 25 September 1991); P2585 (Minutes of 5th meeting of SDS Executive Board, 7 November 1991), p. 5; P2586 (Minutes of session of SDS Deputies' Club, 3 December 1991), pp. 1–3; Radomir Nešković, T. 14357–14361 (7 June 2011).

184 *See* Adjudicated Fact 1922. *See also* Patrick Treanor, T. 14016 (1 June 2011); Robert Donia, T. 3100–3101 (1 June 2010).

185 P2589 (Dorothea Hanson's expert report entitled "Bosnian Serb Crisis Staffs, War Presidencies and War Commissions 1991-1995", 10 September 2009), paras. 16, 19. *See* Section IV.A.1: Municipalities component (Facts) for a discussion on the establishment of Serb municipalities and Crisis Staffs in each of the Municipalities.

186 Adjudicated Fact 1923; P2584 (Minutes of 3rd meeting of SDS Executive Board, 16 September 1991), p. 1.

187 Adjudicated Fact 1923.

188 Adjudicated Fact 1924.

189 *See* Adjudicated Fact 2181.

For instance, the SDS Executive Board appointed Radislav Vukić, a member of the SDS Executive Board, as co-ordinator for SAO Krajina.[190]

2. Bosnian Serb Assembly

76. As described above,[191] by October 1991 the three-party coalition of the SDA, HDZ, and SDS was falling apart over the question of an independent BiH. During the night of 14 and 15 October 1991, the President of the SRBiH Assembly adjourned the session but a vote proceeded in the absence of the Serb deputies and a declaration of sovereignty was adopted.[192] On 15 October 1991, the SDS Political Council met to assess the situation.[193] During this and other meetings, the idea emerged that the SDS should form its own institutions, which would function in parallel to those of BiH.[194]

77. The Bosnian Serb deputies of the SRBiH Assembly proclaimed a separate Assembly of the Serbian People on 24 October 1991[195] and elected Krajišnik as President of the Assembly.[196] The newly established Assembly was essentially a new form of the SDS Deputies' Club, with the minutes and transcript of the Assembly's first session indicating it as a session of the Deputies' Club.[197]

78. In 1991 into 1992, the Bosnian Serb Assembly[198] was composed of 78 deputies and all but six were SDS members.[199] Twenty-three sessions of the Bosnian Serb Assembly were held

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190 P6530 (Decision of SDS Executive Board, 24 February 1992). *See also* Adjudicated Fact 2181. His duties were, *inter alia*, to co-ordinate the activities of SDS municipal boards in SAO Krajina, to work in co-operation with the Assembly president and the SAO Krajina prime minister to implement the decisions of the Bosnian Serb Assembly and Council of Ministers, and to take part in the work of the SAO Krajina Crisis Staff. P6530 (Decision of SDS Executive Board, 24 February 1992).

191 *See* paras. 44–46.

192 *See* Adjudicated Facts 1929–1936.

193 Adjudicated Fact 1937; D294 (Minutes of SDS Council meeting, 15 October 1991); Robert Donia, T. 3107 (1 June 2010).

194 Adjudicated Fact 1938; P2581 (Minutes of meeting of SDS Deputies' Club, 18 October 1991); P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), para. 164.

195 *See* Adjudicated Fact 413; P1343 (Transcript of 1st session of SerBiH Assembly, 24 October 1991), pp. 12–15; P3121 (Session of the Club of Deputies from the SDS, 24 October 1991); P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), para. 163.

196 P2538 (Patrick Treanor's research report entitled "Radovan Karadžić and the Serbian Leadership 1990-1995", 1 May 2009), para. 80.

197 P1342 (Minutes of 1st session of SerBiH Assembly, 24 October 1991), p. 3; P1343 (Transcript of 1st session of SerBiH Assembly, 24 October 1991), p. 3; P3121 (Session of the Club of Deputies from the SDS, 24 October 1991), p. 3; P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), paras. 47, 165.

198 The term "Bosnian Serb Assembly" will be used henceforth to collectively refer to the body that was called at different points in time the Assembly of the Serbian People in Bosnia and Herzegovina, SerBiH Assembly, and RS National Assembly.

between October 1991 and December 1992.[200] On 12 August 1992, the Assembly voted to change the name of the Republic from the SerBiH to RS.[201]

79. Chaired by a President (Speaker) and two vice-presidents, this legislative body could adopt laws and determine the budget and territorial organisation of the Republic.[202] It could also call referendums and elections.[203]

80. Proposals for legislation could be launched by the deputies, the Government, the President of the Republic, municipal assemblies, or a minimum of 3,000 voters.[204] Thereafter, a draft would be prepared by the relevant Ministry, adopted by the Government, and then forwarded to the Assembly.[205] This meant that, regardless of who initiated the legislation, the body officially

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199 P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), pp. 151–152, para. 165. The Bosnian Serb Constitution of 17 December 1992 states that the Assembly has 120 deputies. P5578 (Amended Text of the Constitution of RS and Rules of Procedure of RS Assembly, 17 December 1992), art. 71 (p. 15).

200 Adjudicated Fact 1941. *See also* P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), para. 186, pp. 184–185. *See* P1342 (Minutes of 1st session of SerBiH Assembly, 24 October 1991); P1343 (Transcript of 1st session of SerBiH Assembly, 24 October 1991); P1344 (Minutes of 2nd session of SerBiH Assembly, 21 November 1991); D83 (Shorthand Record of 2nd session of SerBiH Assembly, 21 November 1991); D85 (Minutes of 3rd session of SerBiH Assembly, 11 December 1991); D84 (Shorthand Record of 3rd session of SerBiH Assembly, 11 December 1991); P1345 (Minutes of 4th session of SerBiH Assembly, 21 December 1991); D86 (Shorthand Record of 4th session of SerBiH Assembly, 21 December 1991); P1346 (Minutes of 5th session of SerBiH Assembly, 9 January 1992); P1347 (Shorthand record of 5th session of SerBiH Assembly, 9 January 1992); P1348 (Minutes of 6th session of SerBiH Assembly, 26 January 1992); P1349 (Transcript of 6th session of SerBiH Assembly, 26 January 1992); P1350 (Shorthand record of 7th session of SerBiH Assembly, 15 February 1992); P1351 (Transcript of 7th session of SerBiH Assembly, 15 February 1992); P1352 (Minutes of 8th session of SerBiH Assembly, 25 February 1992); D88 (Shorthand Record of 8th session of SerBiH Assembly, 25 February 1992); D89 (Shorthand Record of 9th session of SerBiH Assembly, 28 February 1992); P1353 (Shorthand record of 10th session of SerBiH Assembly, 11 March 1992); D90 (Shorthand Record of 11th session of SerBiH Assembly, 18 March 1992); P961 (Shorthand Record of 12th session of SerBiH Assembly, 24 March 1992); P1354 (Minutes of 13th session of SerBiH Assembly, 24 March 1992); P1634 (Minutes of 14th session of SerBiH Assembly, 27 March 1992); D304 (Shorthand Record of 14th session of RS Assembly, 27 March 1992); P1355 (Minutes of 16th session of SerBiH Assembly, 12 May 1992); P956 (Transcript of 16th session of SerBiH Assembly, 12 May 1992); P1356 (Minutes of 17th session of SerBiH Assembly, 24-26 July 1992); D92 (Transcript of 17th session of SerBiH Assembly, 24-26 July 1992); P1357 (18th session of SerBiH Assembly, 11 August 1992); P1358 (Minutes of 19th session of SerBiH Assembly, 12 August 1992); D422 (19th session of SerBiH Assembly, 12 August 1992); P1359 (Minutes of 20th session of SerBiH Assembly, 14-15 September 1992); D456 (Transcript of 20th session of RS Assembly, 14-15 September 1992); P1468 (Minutes of 21st session of RS Assembly, 30 October-1 November 1992); P1360 (Transcript from Joint session (21st session) of RS Assembly and Assembly of Serbian Krajina, 31 October 1992); P1361 (Minutes of 22nd session of RS Assembly, 23-24 November 1992); P1362 (Shorthand Record of 22nd session of RS Assembly, 23-24 November 1992); P1363 (Minutes of 23rd session of RS Assembly, 17 December 1992); P1364 (Transcript of 23rd session of RS Assembly, 17 December 1992).

201 P1358 (Minutes of 19th session of SerBiH Assembly, 12 August 1992), p. 3; D422 (19th session of SerBiH Assembly, 12 August 1992), p. 34.

202 Adjudicated Fact 2014; P5578 (Amended Text of the Constitution of RS and Rules of Procedure of RS Assembly, 17 December 1992), arts. 70, 74, 79 (pp. 15, 16).

203 *See* Adjudicated Fact 2015; P5578 (Amended Text of the Constitution of RS and Rules of Procedure of RS Assembly, 17 December 1992), art. 70 (p. 15).

204 *See* Adjudicated Fact 2016; P5578 (Amended Text of the Constitution of RS and Rules of Procedure of RS Assembly, 17 December 1992), arts. 76, 90 (pp. 16, 18), arts. 118–119 (p. 53).

205 Adjudicated Fact 2017; P5578 (Amended Text of the Constitution of RS and Rules of Procedure of RS Assembly, 17 December 1992), art. 119–121 (p. 53).

proposing would always be the Government.[206] In the event of war or immediate threat of war, deputies could, in accordance with the evaluation of the political and security situation, propose to the Assembly that a law be passed without the draft being discussed.[207]

81. The Bosnian Serb Assembly was to exercise control over matters within the competence of the Bosnian Serb Government.[208] It elected the Prime Minister and voted to appoint the Government Ministers.[209] In addition, the Assembly debated matters related to the work of the Supreme Court, the Public Prosecutor, and the constitutionality of the laws of the Republic upon advice given to it by the Constitutional Court.[210] It was also tasked with co-operating with the assemblies of other republics, autonomous provinces, and municipalities, through information exchange and visits by Assembly deputies.[211]

82. The President of the Assembly had the power to propose the agenda of Assembly sessions and to convene the Assembly at his initiative, or upon demand of the Bosnian Serb Government or one-third of the deputies of the Assembly.[212]

83. Sessions of the Bosnian Serb Assembly were sometimes preceded by meetings of the SDS Deputies' Club, which proposed conclusions for adoption by the Assembly.[213]

84. The Assembly was an important avenue for deputies to be informed of policies, plans, and instructions, including for purposes of dissemination to the field.[214] Municipal bodies were briefed on Assembly sessions and the decisions reached therein.[215] For instance, at the 7th Assembly session, the Accused requested that the Krajina deputies "work a lot with our people there, with

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206 *See* Adjudicated Fact 2018.

207 P5578 (Amended Text of the Constitution of RS and Rules of Procedure of RS Assembly, 17 December 1992), art. 241 (p. 76).

208 Adjudicated Fact 2019; P5578 (Amended Text of the Constitution of RS and Rules of Procedure of RS Assembly, 17 December 1992), art. 70 (p. 15).

209 Adjudicated Fact 2020; P5578 (Amended Text of the Constitution of RS and Rules of Procedure of RS Assembly, 17 December 1992), art. 176 (p. 62).

210 Adjudicated Fact 2021; P5578 (Amended Text of the Constitution of RS and Rules of Procedure of RS Assembly, 17 December 1992), art. 228–232 (pp. 72–74).

211 *See* Adjudicated Fact 2022; P5578 (Amended Text of the Constitution of RS and Rules of Procedure of RS Assembly, 17 December 1992), arts. 233–237 (pp. 74–75).

212 *See* Adjudicated Fact 2024; P5578 (Amended Text of the Constitution of RS and Rules of Procedure of RS Assembly, 17 December 1992), art. 74 (p. 16), arts. 26, 82, 89 (pp. 36, 47, 48).

213 *See, e.g.*, D115 (Transcript of 25th session of RS Assembly, 19-20 January 1993), p. 69; P1379 (Transcript of 34th session of RS Assembly, 27-29 August, 9-11 September, 29 September to 1 October 1993), p. 2; P1405 (Transcript of 48th session of RS Assembly, 29-30 December 1994), pp. 35–40, 40–41.

214 *See* P1369 (Transcript of 27th session of RS Assembly, 3 April 1993), p. 7; P961 (Shorthand Record of 12th session of SerBiH Assembly, 24 March 1992), p. 22; P956 (Transcript of 16th session of SerBiH Assembly, 12 May 1992), pp. 13–14; P988 (Transcript of 53rd session of RS Assembly, 28 August 1995), p. 68.

215 *See* P3439 (Minutes of meeting of Ključ Crisis Staff, 13-14 May 1992), p. 2; Rajko Kalabić, T. 44577–44578; P6589 (Minutes of Prijedor Municipal Board meeting, 18 May 1992), p. 1; P3590 (Minutes of meeting of presidents of municipalities in the zone of responsibility of the 1st Partisan Brigade, 14 May 1992), p. 3.

party membership, to explain our strategic goals and to explain our tactics on a daily basis" and stated that "[a] deputy is a representative and is vested with the highest representative authority" and "[a]t the same time, he will report to the Assembly here".[216]

85. At Assembly sessions, deputies reported on events in the municipalities.[217] The Accused stated at the 12th Assembly session on 24 March 1992:

> If the Assembly agrees, [...] it is my opinion and request that in this period when the State is being created and getting on its feet, deputies will have to be the pillars of our power in the areas where they are located. They must, therefore, remain in permanent contact with presidents of municipalities and work on the establishment of local government.[218]

86. Statements by deputies indicate that they ascribed to the Assembly a degree of authority over municipal bodies. At the 8th Assembly session, amid remarks on the "discord" in Bosnian Krajina, Vojo Kuprešanin spoke of the Assembly as "our supreme authority because it can annul all our decisions".[219] The Accused stated earlier in the same session: "This Assembly is the supreme power of the Serbian people in [BiH]. [...] This Assembly has the authority to cancel all decisions of any Serbian Assembly in [BiH], and of the Regional Assembly."[220]

87. The Assembly established many of the Bosnian Serb state political organs, including the SNB, the three and five-member Presidency and sole President, the Council of Ministers, and the Government, as well as the judicial system.[221]

3. National Security Council (SNB)

88. On 27 March 1992, the Bosnian Serb Assembly established the SNB.[222] It was to be an advisory organ to the Assembly, on political, legal, constitutional, and other issues relevant to the

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216 P1351 (Transcript of 7th session of SerBiH Assembly, 15 February 1992), p. 58.

217 *See* D92 (Transcript of 17th session of SerBiH Assembly, 24-26 July 1992), pp. 66–67, 71–75.

218 P961 (Shorthand Record of 12th session of SerBiH Assembly, 24 March 1992), p. 15.

219 D88 (Shorthand Record of 8th session of SerBiH Assembly, 25 February 1992), pp. 60–61.

220 D88 (Shorthand Record of 8th session of SerBiH Assembly, 25 February 1992), p. 45.

221 *See* paras. 88, 96–98, 103, 107. *See also* Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16779; P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), paras. 168–188.

222 P1634 (Minutes of 14th session of SerBiH Assembly, 27 March 1992), p. 14; D304 (Shorthand Record of 14th session of RS Assembly, 27 March 1992), p. 10; P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), para. 185. *See also* Adjudicated Fact 2028. Its decisions were sometimes published in the Official Gazette of the SerBiH. *See* Adjudicated Fact 2030.

security of "the Serbian people in [BiH]", and it was to be responsible to the Assembly.[223] It was also envisioned as being able to issue binding decisions on executive organs, including the Ministries of Interior and of National Defence.[224]

89. The Accused was President of the SNB.[225] *Ex officio* members of the SNB also included the President of the Bosnian Serb Assembly, the SerBiH Prime Minister, and the Ministers of Defence and Interior.[226]

90. The SNB was one of the interim bodies that served as the *de facto* Presidency of the SerBiH in 1992.[227] Plavšić and Koljević, who were members of the SRBiH Presidency, functioned as acting presidents of the SerBiH.[228] The SNB, usually in joint sessions with the Government, made decisions relating to, *inter alia*, security, defence, the military, and political strategy,[229] and charged various ministries with tasks[230]. Decisions of joint sessions were then formalised through Plavšić and Koljević, who were members of the SNB, or a decision of the relevant Government organ.[231]

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223 Adjudicated Fact 2029; P961 (Shorthand Record of 12th session of SerBiH Assembly, 24 March 1992), pp. 10–15; P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), para. 185.

224 P961 (Shorthand Record of 12th session of SerBiH Assembly, 24 March 1992), pp. 14–15.

225 Patrick Treanor, T. 14060 (1 June 2011); P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), para. 256; P4982 (Witness Statement of Branko Đerić dated 5 April 2012), para. 28. The Accused signed minutes of meetings of the SNB (often joint sessions with the Government) as President of the Council. *See, e.g.*, P3050 (Minutes of joint meeting of SNB and SerBiH Government, 15 April 1992); D405 (Minutes of extended session of the NSC, 16 April 1992); P1087 (Minutes of meeting between SNB and SerBiH Government, 24 April 1992). Some of the minutes are signed by the Accused and the Prime Minister. *See, e.g.*, P3078 (Minutes of meeting of the National Security Council and the SerBiH Government, 8 May 1992); P3079 (Minutes of joint session of the National Security Council and the SerBiH Government, 14 May 1992).

226 *See* Adjudicated Fact 2079.

227 P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), paras. 236, 255, 258.

228 P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), paras. 236, 254; D89 (Shorthand Record of 9th session of SerBiH Assembly, 28 February 1992), pp. 9–10, 15; P961 (Shorthand Record of 12th session of SerBiH Assembly, 24 March 1992), p. 24.

229 *See, e.g.*, P3050 (Minutes of joint meeting of SNB and SerBiH Government, 15 April 1992); P3077 (Minutes of expanded session of the National Security Council and the SerBiH Government, 20 April 1992); P3051 (Minutes of expanded meeting of SNB and SerBiH Government, 22 April 1992); P1087 (Minutes of meeting between SNB and SerBiH Government, 24 April 1992); D406 (Minutes of meeting of SNB and SerBiH Government, 27 April 1992) D409 (Minutes of SNB and the Government of the SerBiH session, 10 May 1992); P3080 (Minutes of unified session of the National Security Council and the SerBiH Government, 15 May 1992).

230 *See, e.g.*, D405 (Minutes of extended session of the SNB, 16 April 1992), paras. 3–4, 7, 12; P3051 (Minutes of expanded meeting of SNB and SerBiH Government, 22 April 1992), p. 2; D406 (Minutes of meeting of SNB and SerBiH Government, 27 April 1992), p. 1.

231 P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), para. 259. For instance, at one of its first sessions, on 15 April 1992, the SNB in a joint meeting with the Government determined that the conditions had been met to propose that the Presidency of the Republic declare a state of imminent threat of war. P3050 (Minutes of joint meeting of SNB and SerBiH Government, 15 April 1992), p. 1. This was effected through a decision of Plavšić and Koljević, as the Presidency. P3922 (Decision of SerBiH Presidency, 15 April 1992).

91. The SNB and Government made a number of decisions regarding the TO[232] in April 1992: On 15 April 1992, the SNB and Government decided that the Minister of Defence shall organise and supervise the TO until the appointment of the commander.[233] On 22 April 1992, the SNB and Government decided that the President of the SNB should co-ordinate matters relating to the commanding of TO forces.[234] They also adopted the conclusion that the SerBiH TO Staff appoint staff commanders in regions, municipalities, and towns.[235] On 24 April 1992, the SNB decided to form a Town TO Staff composed of municipal TO commanders, with the Accused responsible for "its realisation".[236] On 27 April 1992, a joint session decided that salaries for members of the TO would be secured with the help of municipal assemblies.[237]

92. In April 1992, the SNB was issuing instructions to, and receiving reports from, municipal crisis staffs and TOs.[238]

93. On 24 April 1992, at a meeting with the SerBiH Government, the SNB decided that "the Ministry of Justice shall take over the exchange of prisoners once the organs of the interior have completed their work".[239] At the same meeting, the SNB decided to establish a state commission for war crimes and to compile instructions for the work of the commission.[240] On 8 May 1992, a joint session of the SNB and SerBiH Government decided to set up a state commission for assistance to refugees.[241]

94. With respect to communication structures, in April 1992 the SNB and Government ordered that the ministers of the MUP and Ministry of National Defence "submit daily reports on the situation in the field, on the establishment of possible accountability and the measures taken" and that the MUP minister "submit a daily report on the security situation in the territory of the [SerBiH]".[242]

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232 *See* paras. 212–214.

233 P3050 (Minutes of joint meeting of SNB and SerBiH Government, 15 April 1992), p. 2.

234 P3051 (Minutes of expanded meeting of SNB and SerBiH Government, 22 April 1992), p. 1. *See also* Reynaud Theunens, T. 16888–16889 (19 July 2011).

235 P3051 (Minutes of expanded meeting of SNB and SerBiH Government, 22 April 1992), p. 2.

236 P1087 (Minutes of meeting between SNB and SerBiH Government, 24 April 1992), p. 1.

237 D406 (Minutes of meeting of SNB and SerBiH Government, 27 April 1992).

238 *See* Adjudicated Fact 2080. *See, e.g.*, D394 (Announcement of SNB, 4 April 1992), p. 2; P2615 (Decision of Birač Crisis Staff, 29 April 1992); P3051 (Minutes of expanded meeting of SNB and SerBiH Government, 22 April 1992), p. 2; P2627 (Minutes of meeting of SNB and SerBiH Government, 28 April 1992), p. 1.

239 P1087 (Minutes of meeting between SNB and SerBiH Government, 24 April 1992), p. 1.

240 P1087 (Minutes of meeting between SNB and SerBiH Government, 24 April 1992), p. 1; P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), para. 275.

241 P3078 (Minutes of meeting of the National Security Council and the SerBiH Government, 8 May 1992), p. 1.

242 P3051 (Minutes of expanded meeting of SNB and SerBiH Government, 22 April 1992), p. 2.

95. The SNB effectively ceased convening sessions or fulfilling a central role around May 1992, when the Presidency was established.[243]

4. Presidency, War Presidency, President

a. Establishment

96. On 12 May 1992, the Bosnian Serb Assembly established a three-member Presidency and elected the Accused, Plavšić, and Koljević to the Presidency.[244] The Presidency then elected the Accused as President of the Presidency.[245] The President of the Presidency was to issue orders, adopt and present decisions, and command the VRS[246] on behalf of the Presidency.[247]

97. On or around 2 June 1992, the Presidency was enlarged to five members to include the Prime Minister, Branko Đerić, and the President of the Bosnian Serb Assembly, Krajišnik.[248] On 6 July 1992, the five-member Presidency allocated tasks among themselves: military issues to the Accused; international relations as well as information and propaganda-related questions to Koljević; contacts with UNPROFOR, except for military issues, and questions related to refugees and humanitarian aid, *inter alia*, to Plavšić; questions related to commissioners and the economy to Krajišnik; and questions related to supplies to Đerić.[249] The Presidency that met from 2 June until 17 December 1992 is sometimes referred to as the "War Presidency", because it was considered to be "held during an imminent threat of war", as indicated in some of the meeting minutes from this period.[250] On 17 December 1992 the Bosnian Serb Assembly adopted a "Declaration on the End of the War," proclaiming the war in the former BiH over for the RS.[251]

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243 P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), paras. 260–261, fn. 723.

244 P956 (Transcript of 16th Session of SerBiH Assembly, 12 May 1992), p. 58; P1355 (Minutes of 16th session of SerBiH Assembly, 12 May 1992), p. 2; Patrick Treanor, T. 14051, 14060 (1 June 2011); P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), paras. 180, 260.

245 P3032 (Minutes of 1st constitutive session of SerBiH Presidency, 12 May 1992). *See also* Patrick Treanor, T. 14060 (1 June 2011); P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), paras. 180, 260; P956 (Transcript of 16th Session of SerBiH Assembly, 12 May 1992), p. 58.

246 For ease of reference the acronym "VRS" will be used throughout this section to also cover the period prior to 12 August 1992, when the Army of SerBiH was renamed the VRS. *See* fn. 422.

247 P956 (Transcript of 16th Session of SerBiH Assembly, 12 May 1992), p. 58.

248 Patrick Treanor, T. 14060–14061 (1 June 2011); P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), paras. 236, 261–265.

249 D440 (Minutes of 15th session of SerBiH Presidency, 6 July 1992), p. 3.

250 *See, e.g.*, P3061 (Minutes of the 3rd session of the SerBiH Presidency, 8 June 1992); P1093 (Minutes of 5th session of SerBiH Presidency, 10 June 1992); D440 (Minutes of 15th session of SerBiH Presidency, 6 July 1992); P1465 (Minutes of 19th session of SerBiH Presidency, 13 July 1992).

251 P1363 (Minutes of 23rd session of RS Assembly, 17 December 1992), p. 3; P1364 (Transcript of 23rd session of RS Assembly, 17 December 1992), e-court pp. 7–16.

98. On 17 December 1992, the Bosnian Serb Assembly replaced the structures of the Presidency by establishing a single president and two vice-presidents of the Republic.[252] The Assembly elected the Accused to the position of President of the RS and elected Plavšić and Koljević as Vice-Presidents.[253]

b. Functions

99. Under the Bosnian Serb Constitution, the President's duties were to represent the Republic, propose to the National Assembly candidates for the posts of Prime Minister and the posts of president and judges of the Constitutional Court, pronounce laws by decree,[254] give amnesty, award decorations and commendations determined by the law, and perform other duties in accordance with the Constitution.[255]

100. The President also possessed contingent powers such as the authority, when the Assembly was unable to meet due to a state of emergency, to pronounce such a state and "order measures for its elimination, in accordance to the Constitution and the law", "in co-ordination with the opinion of the Government".[256] The President also had the power, during a state of war or imminent threat of war, on his own initiative or at the Government's suggestion, to establish enactments on issues within the authority of the Assembly and forward them to the Assembly for confirmation as soon as the Assembly could meet.[257] In exercise of this contingent power, the Presidency passed the Law

252 P1364 (Transcript of 23rd session of RS Assembly, 17 December 1992), e-court pp. 57–58; Patrick Treanor, T. 14061 (1 June 2011).

253 P1364 (Transcript of 23rd session of RS Assembly, 17 December 1992), e-court pp. 114–115; Patrick Treanor, T. 14061 (1 June 2011); P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), paras. 188, 266.

254 The President's authority to pronounce laws by decree under article 80 of the Bosnian Serb Constitution refers to the authority to promulgate laws adopted by the Assembly. P5578 (Amended Text of the Constitution of RS and Rules of Procedure of RS Assembly, 17 December 1992), art. 80 (p. 17). *See, e.g.*, P2315 (Law on Establishment of Rajlovac Municipality, 11 May 1992 and corresponding Decree on promulgation, 15 May 1992); P2964 (SerBiH Decree on the promulgation on the Law of Internal Affairs, 23 March 1992). This authority is distinct from the authority of the President, under paragraph 2 of article 81, during a state of war or imminent threat of war, to enact laws, which would later be confirmed by the Assembly. *See* para. 100.

255 P5578 (Amended Text of the Constitution of RS and Rules of Procedure of RS Assembly, 17 December 1992), arts. 69, 80 (pp. 14, 16–17).

256 P5578 (Amended Text of the Constitution of RS and Rules of Procedure of RS Assembly, 17 December 1992), art. 81 (p. 17); P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), para. 240.

257 P5578 (Amended Text of the Constitution of RS and Rules of Procedure of RS Assembly, 17 December 1992), art. 81 (p. 17); P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), para. 240. At its 16th, 17th, and 20th sessions, the Assembly verified a number of decisions adopted by the SerBiH Presidency. P1355 (Minutes of 16th session of SerBiH Assembly, 12 May 1992), p. 2; P1356 (Minutes of 17th session of SerBiH Assembly, 24-26 July 1992), pp. 8–9; D456 (Transcript of 20th session of RS Assembly, 14-15 September 1992), pp. 107–117; P1359 (Minutes of 20th session of RS Assembly, 14-15 September 1992), pp. 2–3, 10.

on Defence and the Law on the Army on 1 June 1992.[258] The Presidency also elected ministers to the Government when the Assembly was unable to convene, with subsequent confirmation by the Assembly.[259]

101. The President of the Republic served as the Commander in Chief, or Supreme Commander, of the VRS.[260]

102. Under the Bosnian Serb Constitution, the President could ask the Government to give its position on issues important to the Republic.[261] The Presidency "regularly received reports through the Government, which was in regular contact with municipalities, Crisis Staffs and Serbian Autonomous Regions".[262] The Presidency and President also received reports from the MUP[263] and the Main Staff of the VRS.[264]

5. Council of Ministers

103. On 21 December 1991, the Bosnian Serb Assembly named a Council of Ministers.[265] The Council of Ministers was composed of a president, 18 ministers, and the five presidents of the

258 P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), para. 241; P2602 (SerBiH Defence Act, 1 June 1992); P2603 (SerBiH Law on the Army, 1 June 1992). The Assembly verified the Law on Defence and Law on the Army at its 17th session. P1356 (Minutes of 17th session of SerBiH Assembly, 24-26 July 1992), p. 8.

259 *See* P1355 (Minutes of 16th session of SerBiH Assembly, 12 May 1992), p. 3.

260 P2603 (SerBiH Law on the Army, 1 June 1992), art. 174; P5578 (Amended Text of the Constitution of RS and Rules of Procedure of RS Assembly, 17 December 1992), art. 106 (p. 22); P5416 (Decision of the Assembly of the Serbian People in BiH, 12 May 1992), Amendment III; Patrick Treanor, T. 14061–14062 (1 June 2011); P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), para. 246. For a description of the duties of the President as Supreme Commander, *see* paras. 167–168.

261 P5578 (Amended Text of the Constitution of RS and Rules of Procedure of RS Assembly, 17 December 1992), art. 82; P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), para. 277.

262 P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), para. 274.

263 Christian Nielsen, T. 16270–16271 (7 July 2011); P2958 (Christian Nielsen's expert report entitled "The Bosnian Serb Ministry of Internal Affairs: Genesis, Performance and Command and Control 1990-1992", 19 May 2011), para. 389; P2761 (RS MUP report on work for period April to December 1992), p. 23.

264 *See, e.g.*, P4206 (VRS Main Staff Report to RS President and Drina Corps re talks with General Morillon, 15 March 1993); P4449 (VRS Main Staff Report, 10 July 1995); P3054 (VRS Main Staff Report, 12 July 1995); P4464 (VRS Main Staff Report 13 July 1995); P4457 (VRS Main Staff Report, 14 July 1995). *See also* P1478 (Ratko Mladić's notebook, 27 May 31-31 July 1992), e-court p. 126; P1467 (Minutes of 21st session of SerBiH Presidency, 2 August 1992), p. 2; Richard Butler, T. 27505 (17 April 2012); P3033 (Reynaud Theunens's expert report entitled "Radovan Karadžić and the SRBiH TO-VRS (1992-1995)"), pp. 308–313.

265 P1345 (Minutes of 4th session of SerBiH Assembly, 21 December 1991), pp. 6–8; D86 (Shorthand Record of 4th session of SerBiH Assembly, 21 December 1991, pp. 35–37; D296 (Decision of SDS and SPO deputies on the establishment of the Assembly of the SerBiH, 24 October 1991), pp. 23–25; Patrick Treanor, T. 14030 (1 June 2011); P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), para. 176.

Governments of the SAOs, the latter designated as *ex officio* members.[266] Many of the members named on 21 December 1991 held positions in ministries of the joint government of BiH.[267] The Council of Ministers was to function as the executive organ of the Bosnian Serb Assembly.[268]

104. On 11 January 1992, the Council of Ministers held its first session, where it established interim commissions on economic and development policy, public services, domestic policy, justice, and administration.[269] According to the minutes of the meeting, the Council of Ministers also discussed the "[e]xecution of tasks resulting from the Declaration of the Promulgation of the Republic of the Serbian People of Bosnia and Herzegovina" and identified priorities in relation to the Declaration as "the defining of ethnic territory, establishment of government organs in the territory and the economic disempowerment of the current authorities in the [SRBiH]".[270] The Accused as the President of the SDS, Krajišnik as the President of the Bosnian Serb Assembly, the Secretary of the Bosnian Serb Assembly, the President of the SDS Executive Board, the President of the Chamber of Municipalities of the SRBiH Assembly, and Plavšić—a member of the SRBiH Presidency—attended the meeting.[271]

105. At its second meeting, held on 17 January 1992, the Council of Ministers addressed the Draft Work Programme of the Council and discussed the need to adopt the Constitution of the Republic as soon as possible and to consolidate and organise the territory of the regions, including through the formation of new municipalities.[272]

106. The Council of Ministers, under the Constitutional Law passed by the Bosnian Serb Assembly on 28 February 1992,[273] was to carry out the rights and duties of the Government until

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266 D296 (Decision of SDS and SPO deputies on the establishment of the Assembly of the SerBiH, 24 October 1991), pp. 23–25; P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), paras. 149, 221, p. 162.

267 *See* P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), para. 51.

268 P1082 (Minutes of 1st meeting of Ministerial Council of SerBiH Assembly, 13 January 1992), p. 3; D86 (Shorthand Record of 4th session of SerBiH Assembly, 21 December 1991), p. 36.

269 P1082 (Minutes of 1st meeting of Ministerial Council of SerBiH Assembly, 13 January 1992), p. 2; P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), para. 227.

270 P1082 (Minutes of 1st meeting of Ministerial Council of SerBiH Assembly, 13 January 1992), pp. 2–3; P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), para. 227.

271 P1082 (Minutes of 1st meeting of Ministerial Council of SerBiH Assembly, 13 January 1992), p. 1; P3111 (Minutes of the 2nd meeting of the Ministerial Council of SerBiH Assembly, 17 January 1992), pp. 2–3.

272 P3111 (Minutes of the 2nd meeting of the Ministerial Council of SerBiH Assembly, 17 January 1992), p. 5.

273 D89 (Shorthand Record of 9th session of SerBiH Assembly, 28 February 1992), pp. 15–16.

the Government was elected and operative and effectively served as a precursor to the Bosnian Serb Government.[274]

107. At its 13th session held on 24 March 1992, the Bosnian Serb Assembly adopted a decision relieving from duty the Council of Ministers of the Bosnian Serb Assembly and elected members of the first Bosnian Serb Government.[275]

6. Bosnian Serb Government

a. Establishment

108. While he was a member of the BiH Government, Đerić was nominated by Plavšić for the post of Prime Minister in the Bosnian Serb Government.[276] Serbs who had been serving in ministerial posts in the Government of BiH were appointed by the Bosnian Serb Assembly as Ministers to equivalent positions in the Bosnian Serb Government.[277] Where no Serb sat as Minister or deputy Minister in the BiH Government, the Prime Minister was to propose candidates for ministerial posts in the Bosnian Serb Government to the Bosnian Serb Assembly.[278]

109. On 24 March 1992, the Bosnian Serb Assembly elected Đerić as the Prime Minister, Aleksa Buha as Minister of Foreign Affairs, and Mićo Stanišić as Minister of Internal Affairs in the SerBiH Government.[279] At the same session, the Assembly instructed the Government to prepare and submit to the Assembly for adoption an operational plan "of assuming power and rendering operational the authorities in the territory of the Serbian Republic of Bosnia and Herzegovina".[280]

110. In the first days of April 1992, following international recognition of BiH as an independent state and the beginning of the conflict, the Bosnian Serb leadership relocated to Pale, about 20 kilometres from Sarajevo.[281] From 15 April 1992, the Government held regular meetings in

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274 P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), paras. 210, 222; D90 (Shorthand Record of 11th session of SerBiH Assembly, 18 March 1992), p. 7. *See* Adjudicated Fact 2044.

275 P1354 (Minutes of 13th session of SerBiH Assembly, 24 March 1992), pp. 3–7; P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), para. 223. The term "Bosnian Serb Government" will be used henceforth to refer to the Government of the SerBiH and, after 12 August 1992, of the RS.

276 *See* Adjudicated Fact 2045; P961 (Shorthand Record of 12th session of SerBiH Assembly, 24 March 1992), pp. 24–25.

277 P4982 (Witness Statement of Branko Đerić dated 5 April 2012), para. 7. *See also* Adjudicated Fact 2046.

278 P4982 (Witness Statement of Branko Đerić dated 5 April 2012), para. 7. *See also* Adjudicated Fact 2047.

279 P1354 (Minutes of 13th session of SerBiH Assembly, 24 March 1992), pp. 4–7; P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), para. 223.

280 P1354 (Minutes of 13th session of SerBiH Assembly, 24 March 1992), pp. 8–9; P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), para. 223.

281 Adjudicated Fact 2052.

Pale in joint sessions with the new SNB.[282] The Kikinda Hotel functioned as the seat of the Bosnian Serb institutions, namely the Assembly, the Presidency, and the Government, until June 1992.[283]

111. The Government met in several joint sessions with the SNB in April and May 1992.[284] From around 18 May 1992, the Government began convening by itself.[285]

b. Functions

112. The Bosnian Serb Constitution vested the Bosnian Serb Government with executive authority, under the formal control of the Assembly.[286] Under the Bosnian Serb Constitution, the Government's functions were, *inter alia*, to propose and ensure the implementation of laws and regulations, to give its opinion regarding laws and regulations proposed to the National Assembly by other persons, to establish principles for the internal organisation of ministries and other bodies of the republic, and to coordinate and supervise the work of ministries and other bodies of the republic.[287]

113. The Government was headed by the Prime Minister, two deputy Prime Ministers, and 13 Ministers.[288]

114. Aleksandar Buha, Minister of Foreign Affairs, was in charge of contacts with international representatives.[289] The Ministry of Information, under Velibor Ostojić, dealt with general public information, and would distribute and report on the statements from Government sessions, press briefings, and news conferences.[290] Dragan Kalinić, Minister of Health and Social Affairs, was in charge of co-operation with international humanitarian organisations.[291]

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282 P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), para. 229.

283 *See* Adjudicated Fact 2053.

284 *See, e.g.*, P3050 (Minutes of joint meeting of SNB and SerBiH Government, 15 April 1992); P3077 (Minutes of expanded session of the National Security Council and the SerBiH Government, 20 April 1992); P3079 (Minutes of joint session of the National Security Council and the SerBiH Government, 14 May 1992).

285 *See* P2625 (Minutes of 11th session of SerBiH Government, 18 May 1992).

286 Adjudicated Fact 2038; P5578 (Amended Text of the Constitution of RS and Rules of Procedure of RS Assembly, 17 December 1992), arts. 69, 70, 94 (pp. 14, 15 19).

287 P5578 (Amended Text of the Constitution of RS and Rules of Procedure of RS Assembly, 17 December 1992), art. 90 (pp. 18–19). *See, e.g.*, P2625 (Minutes of 11th session of SerBiH Government, 18 May 1992); P3081 (Minutes of the 12th session of SerBiH Government, 21 May 1992).

288 Adjudicated Fact 2039; P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), para. 211.

289 *See* Adjudicated Fact 2048.

290 Adjudicated Fact 2049.

291 Adjudicated Fact 2050.

115. In April 1992, Koljević proposed to JNA colonel Bogdan Subotić that he set up a Ministry of Defence.[292] Subotić accepted the assignment, moved to Pale, and with the assistance of the SFRY Ministry of Defence, started organising the Ministry and preparing drafts of the Law on Defence and Law on the Army.[293] These drafts were eventually adopted by the Government and submitted to the Bosnian Serb Assembly.[294]

c. Structure and relationship to other entities

116. Under the Bosnian Serb Constitution, the Government was responsible to the Assembly.[295] The Bosnian Serb Government was to report to the Assembly on its progress in policy implementation and law enforcement.[296] Based on an evaluation of the Government's work, the Assembly could hold a vote of no-confidence.[297] The Government could propose the convening of sessions of the Assembly.[298]

117. In a letter to the Government, the Chairman of the SDS Executive Board stated that the Government was to implement the policy of the party and that at all levels from the municipality to the Republic, appointments were not possible without the party's approval.[299] While the Bosnian Serb Constitution provided that the prime minister propose candidates for ministerial positions to the Assembly,[300] in fact it was the SDS and the SDS President that chose the nominees.[301] For

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292 *See* Adjudicated Fact 2054.

293 Adjudicated Fact 2055.

294 Adjudicated Fact 2056.

295 P5578 (Amended Text of the Constitution of RS and Rules of Procedure of RS Assembly, 17 December 1992), arts. 70, 94 (pp. 15, 19); P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), para. 212. *See also* Momčilo Krajišnik, T. 43358 (13 November 2013).

296 Adjudicated Fact 2040; P5578 (Amended Text of the Constitution of RS and Rules of Procedure of RS Assembly, 17 December 1992), art. 217 (pp. 69–70).

297 Adjudicated Fact 2041; P5578 (Amended Text of the Constitution of RS and Rules of Procedure of RS Assembly, 17 December 1992), art. 94 (p. 19), art. 221 (pp. 70–71).

298 P5578 (Amended Text of the Constitution of RS and Rules of Procedure of RS Assembly, 17 December 1992), art. 74 (p. 16), art. 82 (p. 47); P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), para. 212.

299 P6337 (Letter from SDS Executive Board to RS Government, 12 April 1993).

300 P5578 (Amended Text of the Constitution of RS and Rules of Procedure of RS Assembly, 17 December 1992), art. 93.

301 P4982 (Witness Statement of Branko Đerić dated 5 April 2012), paras. 7–9; P1105 (Transcript of 22nd session of RS Assembly, 23-24 November 1992), p. 12. The SDS and the Accused exercised control over personnel appointments more generally, including to assistant minister positions and public enterprises, though the Government could propose candidates. *See* Vladimir Lukić, T. 38760–38764 (23 May 2013); P6338 (Letter from RS Government to SDS Executive Board, 29 August 1993); P6339 (Letter from SDS Executive Board to RS Government, 28 December 1993); P6340 (Letter from RS Government to SDS Executive Board, 12 March 1994).

instance, the Accused, as President of the SDS, asked that Đerić nominate Mićo Stanišić and Buha.[302]

118. The Government was to take decisions by a simple majority vote, in sessions with a majority of the members attending.[303] It was to co-operate with municipal executive organs by having their representatives participate in Government sessions, as well as by having Ministers participate in sessions of the municipal organs.[304]

119. A new "Law on the Government of the Republika Srpska" was passed by the Bosnian Serb Assembly on 15 September 1992.[305] Under the new Law on the Government, the Bosnian Serb Government could propose to the President of the Republic the declaration of a state of emergency as well as adequate measures and decisions could be made by a majority of the Government members present at a Government session.[306]

120. The Government was in regular contact with municipalities and SAOs.[307] The Government regularly received letters, reports, and requests from Government organs and requested or received reports from individual ministries;[308] some reports were conveyed to the Presidency[309] or submitted to the Assembly.[310] Minutes of Government sessions also indicate that ministries were assigned

302 Branko Đerić, T. 27943 (24 April 2012); P4982 (Witness Statement of Branko Đerić dated 5 April 2012), para. 9.

303 *See* Adjudicated Fact 2042.

304 Adjudicated Fact 2043. *But see* D3321 (Witness statement of Milorad Skoko dated 1 April 2013), para. 31 (stating that this was not the case while he was deputy minister of the economy during 1992). The Chamber does not consider the evidence of this witness to be reliable on this point.

305 P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), para. 217.

306 P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), paras. 218–219.

307 P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), para. 233.

308 P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), para. 233. *See, e.g.*, P3086 (Minutes of the 21st session of SerBiH Government, 5 June 1992), p. 2; P3089 (Minutes of the 31st session of SerBiH Government, 19 June 1992), pp. 3–4; P3098 (Minutes of the 48th session of SerBiH Government, 28 July 1992), p. 10; P3099 (Minutes of the 49th session of RS Government, 7 September 1992), pp. 5–6; P3100 (Minutes of the 53rd session of RS Government, 1 October 1992), pp. 7–9; P3102 (Minutes of the 57th session of RS Government, 27 October 1992), pp. 6–7; P3103 (Minutes of the 58th session of RS Government, 27 October 1992), pp. 9–11.

309 P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), para. 233. *See, e.g.*, P1092 (Minutes of 25th session of Government SerBiH, 10 June 1992), p. 3; P1093 (Minutes of 5th session of SerBiH Presidency, 10 June 1992), p. 2; P3088 (Minutes of the 27th session of SerBiH Government, 13 June 1992), p. 2.

310 *See, e.g.*, P3101 (Minutes of the 56th session of RS Government, 21 October 1992), p. 3; P3103 (Minutes of the 58th session of RS Government, 27 October 1992), p. 9.

tasks with direction from the Presidency.[311] The Ministry of Justice and municipalities or municipal-level bodies had communications about matters relating to detained persons.[312]

d. Initial actions

121. In the course of 1992, the Bosnian Serb Government held around 90 sessions.[313] Legislative proposals were forwarded to the Assembly, while decisions within the competence of the Government were published in the Official Gazette.[314]

122. The Government was also concerned with the issue of deserted houses and apartments in the municipalities, as well as the issue of Muslim-owned property in general.[315] It would send individual Ministers to visit municipal assemblies in order to be kept up to date on the situation.[316]

123. By early May 1992, the Government had at its disposal in Pale a Republican Information Centre which connected with regional communication centres in the Bosnian-Serb territory.[317] It operated 24 hours per day and had five employees.[318] By June 1992, written reports, as well as dozens of telegrams, were received daily by the Centre and sent on to the intended recipients.[319]

e. Exchange Commission

124. Pursuant to a decision at the 24 April 1992 SNB-Government meeting, after the MUP had conducted an investigation of prisoners, the Ministry of Justice was to conduct their exchange.[320]

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311 *See* P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), para. 234. *See, e.g.*, P1095 (Minutes of 28th session of SerBiH Government, 15 June 1992), p. 4; P3090 (Minutes of the 32nd session of SerBiH Government, 24 June 1992), p. 9; P3100 (Minutes of the 53rd session of RS Government, 1 October 1992), p. 8.

312 P1142 (Letter from Ministry of Justice of SerBiH to Vogošća War Presidency, 10 August 1992); P1606 (Request from Vogošća Municipality to Ministry of Justice of SerBiH, 6 August 1992); P1130 (Letter from Ministry of Justice of SerBiH to Municipality of Ilidža, 4 July 1992); P1151 (Letter from SJB Novi Grad to the Ministry of Justice of SerBiH, 25 May 1992).

313 *See* Adjudicated Fact 2057.

314 Adjudicated Fact 2059.

315 Adjudicated Fact 2061.

316 Adjudicated Fact 2062. *But see* D3321 (Witness statement of Milorad Skoko dated 1 April 2013), para. 32 (stating that this only occurred in particular circumstances and that communications with the field were irregular and extremely difficult). The Chamber does not consider the evidence of this witness to be reliable on this point.

317 Adjudicated Fact 2063. *But see* D3321 (Witness statement of Milorad Skoko dated 1 April 2013), para. 33 (disputing that the centre functioned as described). The Chamber does not consider the evidence of this witness to be reliable on this point. *See* para. 120.

318 Adjudicated Fact 2064. *But see* D3321 (Witness statement of Milorad Skoko dated 1 April 2013), para. 33 (disputing that the centre functioned as described). The Chamber does not consider the evidence of this witness to be reliable on this point.

319 Adjudicated Fact 2065.

320 P1087 (Minutes of meeting between SNB and SerBiH Government, 24 April 1992), p. 1; Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 8743–8745; Momčilo Mandić, T. 4529–4537 (1 July 2010).

The latter work was done through the state-level Exchange Commission formed after the April meeting.[321]

125. On 8 May 1992, the Bosnian Serb Government established a Central Commission for the Exchange of Prisoners of War and Arrested Persons.[322] The Commission's jurisdiction was to extend over the entire territory of the SerBiH and cover "all cases of negotiating and exchanging prisoners-of-war, arrested persons and the bodies of those killed".[323] If the Commission was unable to do its work throughout the territory of the Republic, presidents of Serb districts, in co-operation with the commanders of TO staffs and chiefs of CSBs, were to form a commission for the area of the district.[324] The commissions for districts were to "submit reports on measures taken to the Central Commission".[325] The Commission worked through local commissions.[326]

126. On 10 May 1992, the SNB and the Government appointed the members of the Commission, who included representatives from the Bosnian Serb Ministry of Defence, the MUP, and the Ministry of Justice.[327] The Commission was initially headed by Rajko Čolović,[328] who was replaced as president of the Commission by Slobodan Avlijaš by a decision of the SerBiH Government;[329] however, Avlijaš asked to be relieved of the position and Nenad Vanovac was appointed president of the Commission.[330] Instructions on the Treatment of Captured Persons

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Mandić specified that the prisoners included detained persons of civilian status. Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 8758; Momčilo Mandić, T. 4552–4553 (5 July 2010).

321 Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 8744–8746, 8749–8750.

322 Adjudicated Fact 2075; P1088 (Decision of SerBiH, 8 May 1992); Momčilo Mandić, T. 4537–4538 (1 July 2010). The Chamber notes that the Commission was dissolved in March 1993 and that a new commission was formed immediately thereafter. *See* para. 2935.

323 P1088 (Decision of SerBiH, 8 May 1992), p. 1.

324 P1088 (Decision of SerBiH, 8 May 1992), p. 1.

325 P1088 (Decision of SerBiH, 8 May 1992), p. 2.

326 P1088 (Decision of SerBiH, 8 May 1992); P1090 (Order of Central Commission for Exchange of Detained Persons, 6 June 1992), p. 1; Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 8754; P4850 (Witness statement of Amor Mašović dated 23 March 2012), para. 14.

327 Adjudicated Fact 2076; D409 (Minutes of SNB and the Government of the SerBiH session, 10 May 1992), p. 2; P1088 (Decision of SerBiH, 8 May 1992), p. 1. *See also* Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 8746, 8770; Momčilo Mandić, T. 4536–4538 (1 July 2010).

328 Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 8752, 8770; Momčilo Mandić, T. 4537–4538 (1 July 2010); P1088 (Decision of SerBiH, 8 May 1992), p. 1; D3105 (Witness statement of Slobodan Avlijaš dated 9 March 2013), para. 6.

329 P3091 (Minutes of the 33rd session of SerBiH Government, 26 June 1992), p. 5; D3105 (Witness statement of Slobodan Avlijaš dated 9 March 2013), paras. 6, 49.

330 P1130 (Letter from Ministry of Justice of SerBiH to Municipality of Ilidža, 4 July 1992); D3105 (Witness statement of Slobodan Avlijaš dated 9 March 2013), paras. 6, 49.

published in the Official Gazette on 13 June 1992 and signed by the Minister of Defence Bogdan Subotić stated that the Commission operates under the jurisdiction of the Ministry of Justice.[331]

127. The Commission's official role was to co-ordinate exchanges and to provide information on captured persons.[332] As part of that role the Commission was to differentiate between civilians and prisoners of war, with a view to releasing the former and preventing crisis staffs or paramilitary formations from committing crimes against the latter.[333] The report on the activities of the Ministry of Justice and Administration in the period May-October 1992 indicates that the Ministry "urged the Presidency to establish a Central Commission for the exchange of prisoners of war, incarcerated and wounded persons, and dead bodies" to address "the increased influx of incarcerated persons".[334] According to Mandić, the impetus for establishing the Commission was to provide "rule of law and legal security" for people detained, many of whom were civilians from conflict areas.[335]

128. On 6 June 1992, the Commission issued an order signed by the Commission President Čolović that stated that SJBs "engaged in safeguarding of facilities where prisoners of war, or detainees are located, shall keep evidence of all the persons who have been brought in" and "shall submit lists of detainees or persons deprived of liberty to municipal commissions for exchange of prisoners of war on regular basis".[336] The order further stated that municipal commissions were to submit the lists to regional commissions or to the Central Commission.[337] According to the order, detainees or persons deprived of liberty could not be released or exchanged without a prior order of the Commission.[338]

7. Regional and municipal bodies

129. During the first half of 1991, several municipalities in BiH having a Serb majority or plurality formed new communities of municipalities.[339] Among these were the Community of

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331 P1134 (SerBiH Ministry of Defence of Instructions on the Treatment of Captured Persons, 13 June 1992), para. 19. *But see* Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 8746, 8750 (stating that the Commission was at the state level and not solely under the jurisdiction of the Ministry of Justice).

332 Adjudicated Fact 2077. *See also* Momčilo Mandić, T. 4604 (5 July 2010).

333 Adjudicated Fact 2078. *See also* Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 8761–8764.

334 P1089 (Ministry of Justice Report on the Ministry's Activities in May-October 1992 Period, 16 November 1992), p. 2.

335 Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 8750.

336 P1090 (Order of Central Commission for Exchange of Detained Persons, 6 June 1992), pp. 1, 4.

337 P1090 (Order of Central Commission for Exchange of Detained Persons, 6 June 1992), p. 1.

338 P1090 (Order of Central Commission for Exchange of Detained Persons, 6 June 1992), p. 1.

339 P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), para. 117; Robert Donia, T. 3100–3101 (1 June 2010). *See* paras. 40–42.

Municipalities of the Bosnian Krajina (ZOBK), established on 25 April 1991, Community of Municipalities of Romanija, established on 8 May 1991, and Community of Municipalities of Eastern and Old Herzegovina, established on 27 May 1991.[340] For instance, the ZOBK had an assembly, a president and two vice presidents, and a secretary.[341] The ZOBK Assembly was authorised to enact decisions, conclusions, positions, and other acts.[342]

130. Around the fall of 1991, several areas declared themselves SAOs.[343] These included the SAO Herzegovina (formerly, Community of Municipalities of Eastern and Old Herzegovina), Autonomous Region of Krajina (formerly, ZOBK), SAO Northeastern Bosnia, SAO Romanija, SAO Northern Bosnia, and SAO Birač.[344] The Bosnian Serb Assembly approved on 21 December 1991 the appointment of Jovan Čizmović as the co-ordinator of activities of the executive bodies of the SAOs.[345]

131. On 11 December 1991, the Bosnian Serb Assembly adopted a recommendation that SDS deputies in municipal assemblies in BiH in which the SDS did not have a majority establish "municipal assemblies of the Serbian people".[346] The recommendation was directed to groups of SDS deputies in municipal assemblies in BiH "on whom decisions contrary to the interests of the Serbian people are imposed".[347] The recommendation stated that the assemblies would be composed of SDS deputies and "other deputies of Serb nationality who make a statement on joining the Assembly".[348] Attached to the recommendation was a model decision on the establishment of an assembly of the Serbian people to be adopted by individual municipalities.[349] These decisions were to be verified by the Bosnian Serb Assembly.[350]

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340 P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), para. 117; Radomir Nešković, T. 14355 (7 June 2011); Asim Egrlić, P6586 (Transcript from *Prosecutor v. Krajišnik*), T. 4642.

341 P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), para. 124.

342 P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), para. 125.

343 P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), para. 136; Radomir Nešković, T. 14355–14356 (7 June 2011).

344 P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), para. 136.

345 D86 (Shorthand Record of 4th session of SerBiH Assembly, 21 December 1991), p. 34.

346 D84 (Shorthand Record of 3rd session of SerBiH Assembly, 11 December 1991), pp. 10–30; D1183 (SerBiH Assembly recommendation on establishment of municipal assemblies, 11 December 1991); P2589 (Dorothea Hanson's expert report entitled "Bosnian Serb Crisis Staffs, War Presidencies and War Commissions 1991-1995", 10 September 2009), para. 19; Robert Donia, T. 3108 (1 June 2010).

347 D84 (Shorthand Record of 3rd session of SerBiH Assembly, 11 December 1991), p. 29; D1183 (SerBiH Assembly recommendation on establishment of municipal assemblies, 11 December 1991).

348 D84 (Shorthand Record of 3rd session of SerBiH Assembly, 11 December 1991), p. 11.

349 D84 (Shorthand Record of 3rd session of SerBiH Assembly, 11 December 1991), pp. 11, 18–20.

350 D84 (Shorthand Record of 3rd session of SerBiH Assembly, 11 December 1991), p. 29.

132. Instructions dated 19 December 1991 were issued by the Main Board of the SDS regarding Serb-dominated municipalities, designated Variant A, and Serb-minority municipalities, designated Variant B.[351] The Variant A/B Instructions directed SDS municipal officials to form Serb municipal institutions in municipalities where Serbs were a minority.[352] The instructions were communicated from SDS leaders to municipal SDS leaders and boards.[353] Copies of the document itself were distributed by the Accused for viewing only by high-ranking municipal officials, such as presidents of municipalities or other municipal authorities, at a meeting on or around 20 December 1991[354] attended by all members of the Main Board and Executive Board, deputies, municipal representatives, and members of the government.[355]

133. The Variant A/B Instructions called for, in the first phase in Variant A and B municipalities, convening and proclaiming an assembly of the Serbian people and carrying out preparations for the

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351 P5 (SDS Instructions for Organisation of Organs of the Serbian People in BiH, 19 December 1991); Patrick Treanor, T. 14027–14028 (1 June 2011); P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), paras. 61–63; P2589 (Dorothea Hanson's expert report entitled "Bosnian Serb Crisis Staffs, War Presidencies and War Commissions 1991-1995", 10 September 2009), paras. 20–21; P973 (Robert Donia's expert report entitled "Bosnian Serb Leadership and the Siege of Sarajevo, 1990–1995", January 2010), pp. 19–20. Radomir Nešković testified that the Variant A/B Instructions were not produced through regular SDS party procedures, and he believed that the document was written by a group of officers outside the SDS and wrote "Crisis Staff of the SDS", a non-existing entity, as the header. Radomir Nešković, T. 14262–14264 (6 June 2011), T. 14325, 14365–14366 (7 June 2011). However, the Chamber does not place any weight on Nešković's belief and speculation in this regard.

352 P5 (SDS Instructions for Organisation of Organs of the Serbian People in BiH, 19 December 1991), pp. 2, 6–7; P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), para. 63; Patrick Treanor, T. 14027–14028 (1 June 2011); Robert Donia, T. 3109–3113 (1 June 2010); P2589 (Dorothea Hanson's expert report entitled "Bosnian Serb Crisis Staffs, War Presidencies and War Commissions 1991-1995", 10 September 2009), para. 21.

353 Predrag Radić, P1 (Transcript from *Prosecutor v. Krajišnik*), T. 7385; Neđeljko Prstojević, T. 12940 (3 March 2011); P4374 (Witness statement of Milenko Katanić dated 11 October 2011), para. 15; P6369 (Excerpts from KW317's statement to OTP, 14 June 2002) (under seal), p. 11; Branko Grujić, T. 40367 (25 June 2013). *See also* P2592 (Minutes of 6th Session of the Executive Board of the Ključ SDS Municipal Board, 23 December 1991), p.1; P6661 (Minutes of 3rd session of Bosanska Krupa SSO Executive Board, 24 December 1991), p. 1; P2595 (Minutes of meeting of Prijedor's SDS Municipal Board, 27 December 1991), p. 1; P2598 (Minutes of meeting of Bratunac's SDS Municipal Board, 23 December 1991), p. 1.

354 Radomir Nešković refers to 19 December 1991 as the date of the meeting. Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16647, 16783–16784. However, other evidence indicates that the meeting likely took place the next day, on 20 December 1991. *See* D215 (Excerpts from Ljubo Grcković's diary), p. 59; P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), para. 62; P2550 (Intercept of conversation between Radovan Karadžić and Momčilo Krajišnik, 21 December 1991), p. 3, Patrick Treanor, T. 14029–14030 (1 June 2011); P5792 (Intercept of conversation between Radovan Karadžić and Milan Novaković, 19 December 1991), pp. 1–2; Momčilo Krajišnik, T. 43856–43857 (20 November 2013). The Chamber does not consider the date discrepancy to affect the reliability of Nešković's evidence on the substance of the meeting. Miroslav Toholj stated that the Variant A/B Instructions were not presented during this meeting. D3981 (Witness statement of Miroslav Toholj dated 31 October 2013), para. 92. Having considered the weight of evidence which demonstrates that the Variant A/B Instructions were presented at this meeting, the Chamber does not find Toholj's evidence to be reliable in this regard. In reaching that conclusion the Chamber also had regard to the evasiveness, contradictions and indicators of partiality in his testimony.

355 Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16647–16650, 16655–16657, 16788–16790; D1278 (Transcript of Radomir Nešković's interview with Karadžić's legal associate, 8 October 2009), pp. 27–28.

establishment of municipal state or government organs.[356] According to the instructions, the tasks laid out therein were to be implemented over the entire territory of the SRBiH or in every municipality where the Serbian people live, in their entirety in Variant A municipalities and partially in Variant B municipalities.[357] The instructions addressed the formation of Crisis Staffs in Variant A and B municipalities as part of the first phase.[358]

134. In the second phase in Variant A and B municipalities, the Variant A/B Instructions called for, *inter alia*, convening a session of the Serb municipal assembly, establishing a municipal executive board and municipal state or government organs, mobilising and resubordinating all Serb police forces in co-ordination with JNA command and staff, and ensuring the implementation of the order for mobilisation of JNA reserve and territorial defence units.[359]

135. On 14 February 1992, at an extended session of the SDS Main and Executive Boards, the Accused referred to the implementation of phase two of the Variant A/B Instructions.[360] The presidents of SDS municipal boards, presidents and members of regional boards, presidents of assemblies, and executive boards of municipalities were invited to this meeting.[361] This discussion and a directive to implement phase two were conveyed to municipal boards.[362]

136. On 24 March 1992, the Bosnian Serb Assembly verified the decisions of numerous municipal assemblies on the proclamation of newly established Serbian municipalities, including Vogošća, Srebrenica, Bratunac, Prijedor, Višegrad, Foča, Brčko, and Zvornik.[363] Earlier in the Assembly session, the Accused stated: "Newly established municipalities must establish their organs as soon as possible, have their stamps made and start to work. The police, that is, our organs must be positioned at the border."[364]

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356 P5 (SDS Instructions for Organisation of Organs of the Serbian People in BiH, 19 December 1991), pp. 3–4, 7.

357 P5 (SDS Instructions for Organisation of Organs of the Serbian People in BiH, 19 December 1991), p. 2.

358 P5 (SDS Instructions for Organisation of Organs of the Serbian People in BiH, 19 December 1991), pp. 3, 6–7.

359 P5 (SDS Instructions for Organisation of Organs of the Serbian People in BiH, 19 December 1991), pp. 5–6, 9–10.

360 P12 (Extended session of Main and Executive Boards of the SDS, 14 February 1992), pp. 5–7, 17, 24.

361 P12 (Extended session of Main and Executive Boards of the SDS, 14 February 1992), p. 1.

362 P5516 (Minutes of Meeting of SDS Prijedor Municipal Board, 17 February 1992); P6587 (Excerpts from Simo Mišković's testimony from *Prosecutor v. Stanišić & Župljanin*), T. 15184–15188; P2597 (Minutes of meeting of Bratunac's SDS Municipal Board, 24 February 1992), p. 1; P4374 (Witness statement of Milenko Katanić dated 11 October 2011), para. 18; KW317, T. 39337 (5 June 2013). [REDACTED].

363 P961 (Shorthand Record of 12th session of SerBiH Assembly, 24 March 1992), pp. 23–24.

364 P961 (Shorthand Record of 12th session of SerBiH Assembly, 24 March 1992), p. 17.

137. Municipalities had an SDS municipal board and president thereof,[365] a municipal assembly and president thereof,[366] and a municipal executive board and chairman or president thereof.[367] From late 1991 on, municipalities had a Crisis Staff (some were re-established or re-formed around April or May 1992)[368], a War Presidency, a War Commission, and/or a republican commissioner.[369] Municipal Crisis Staffs were headed by the municipal executive board or assembly president or SDS municipal board president.[370] The president of the municipality was usually the executive board president, assembly president, or president of the SDS in the municipality.[371]

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365 *See* P3023 (Witness statement of Đorde Ristanić dated 15 June 2011), paras. 13, 62; Asim Egrlić, P6586 (Transcript from *Prosecutor v. Krajišnik*), T. 4746; P3454 (Decision of Ključ Crisis Staff, 13 July 1992); P2595 (Minutes of meeting of Prijedor's SDS Municipal Board, 27 December 1991), pp. 1–2; P2632 (Report of Bosanski Novi's Crisis Staff, undated), p. 1; P2590 (Conclusions of Zvornik's SDS Municipal Board, 22 December 1991); P2450 (Ilidža SDS Declaration for working in wartime, 6 February 1993), pp. 1, 4; P5515 (Letter from SDS Municipal Board of Foča to SDS Crisis Staff in Sarajevo, 2 March 1992); P6121 (Decision of Vlasenica's SDS Municipal Board, 4 April 1992); P2598 (Minutes of meeting of Bratunac's SDS Municipal Board, 23 December 1991); P6542 (Report of Sanski Most SDS Municipal Board, 10 September 1993); P2576 (Minutes of 13th session of Novo Sarajevo's SDS Municipal Board, 28 February 1992); P5249 (Letter from Milan Tupajić to Sokolac SDS Municipal Board, 9 October 1992).

366 *See* P5411 (Minutes of the 13th session of the Ključ Municipal Assembly, 31 July 1992); P3536 (Decision of Prijedor Municipal Assembly dated 20 May 1992, published in Prijedor Official Gazette on 25 June 1992), pp. 1, 7; P975 (Decision of Serbian Municipal Assembly of Ilidža, 3 January 1992); P5481 (Request of Foča Municipal Assembly, 17 March 1992); P6139 (Decision of Vlasenica Municipal Assembly, 30 March 1992); P3199 (Minutes of 1st meeting of Bratunac Municipal Assembly, 30 December 1991); P3407 (Report on the work of the Rogatica Municipal Assembly and Executive Board from July 1992 to September 1993); P2297 (Minutes of meeting of Hadžići Municipal Assembly, 11 April 1992); P3325 (Decision of Sanski Most Municipal Assembly, 3 April 1992); P5523 (14th session of Pale Municipal Assembly, 18 June 1992); P5511 (Minutes of the 3rd meeting of the Vogošća Municipal Assembly, 14 November 1992); P6524 (Excerpt of Minutes of the 19th Banja Luka Municipal Assembly Session, 23 June 1992); P6236 (Letter from Sokolac Municipal Assembly to Radovan Karadžić, 15 July 1992).

367 *See* P3589 (Decision of Ključ Executive Board, 12 May 1992); P3484 (Decision of Prijedor Executive Board, 21 July 1992); D4727 (Decisions of Zvornik Executive Board, September 1992); P3340 (Decision of Foča Executive Board, 26 April 1992); P3271 (Report of Rogatica's Executive Board, 24 March 1992); P3309 (Minutes of meeting of Sanski Most's Executive Board, 5 March 1992); P6034 (Report of Pale Executive Board, 7 July 1992). Ključ had an executive board of its SDS municipal board, as well as an executive board of the municipality or municipal assembly as in the other municipalities. *See* P3438 (Minutes of 8th session of Ključ SDS Municipal Board Executive Board, 29 April 1992); P3589 (Decision of Ključ Executive Board, 12 May 1992).

368 *See, e.g.*, Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16683–16685, 16706; Radomir Nešković, T. 14282–14283 (6 June 2011); P2643 (Ključ Crisis Staff Report, 15 May – 29 July 1992), p. 2; P2605 (Prijedor Assembly's decision on the organization and work of Prijedor Crisis Staff, May 1992); P2632 (Report of Bosanski Novi's Crisis Staff, undated), p. 7; P2835 (Report of Rogatica Crisis Staff, April – June 1992), p. 1.

369 *See* paras. 388, 403, 410.

370 *See* para. 139, Section IV.A.1: Municipalities component (Facts). For instance, Žarko Đurović, the president of the municipal executive board, was the head of the Crisis Staff formed in Novo Sarajevo, a Variant A municipality, in December 1991. *See* Radomir Nešković, P2568 (Transcript from *Prosecutor v. Krajišnik*), T. 16684; Radomir Nešković, T. 14275–14276 (6 June 2011); T. 14352–14354 (7 June 2011); P2575 (Excerpt from session of Novo Sarajevo's Crisis Staff, 23 December 1991). In Ključ, the president of the municipal assembly, Jovo Banjac, was the president of the Crisis Staff. *See* Asim Egrlić, P6586 (Transcript from *Prosecutor v. Krajišnik*), T. 4643; P3442 (Proposed work schedule of Ključ Crisis Staff, May 1992), p. 5; P3454 (Decision of Ključ Crisis Staff, 13 July 1992). In Hadžići and Zvornik, the president of the Crisis Staff was the president of the SDS in the municipality. *See* P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), paras. 23–25; P2590 (Conclusions of Zvornik's SDS Municipal Board, 22 December 1991), pp. 1–2.

371 For instance, in Novo Sarajevo, the president of the executive board of the municipality, who was the president of the municipal government, was Žarko Đurović. Radomir Nešković, P2568 (Transcript from *Prosecutor*

138. The exact setting up and transformation from Crisis Staff to War Presidency to War Commission varied from municipality to municipality. Some of the factors determining this variation were location, time, and personalities.[372]

a. Crisis Staffs

139. The Variant A/B Instructions ordered SDS municipal boards in Variant A and B municipalities in the first phase to "establish immediately Crisis Staffs of the Serbian People in the municipality", comprising all members of the SDS municipal board secretariat, SDS candidates in certain municipal organs (Variant A) or SDS candidates in every municipal organ (Variant B), deputies of the Assembly of the Serbian People in BiH, and members of the SDS Main Board from the municipality.[373] The Commander of the Crisis Staff was, in Variant A municipalities, the president of the municipal assembly or the chairman of the municipal executive board and, in Variant B municipalities, the president of the SDS municipal board.[374] This composition and leadership of the Crisis Staffs provided for close links between the Crisis Staffs and the SDS and its leadership.[375]

140. On 27 March 1992, at a session of the Bosnian Serb Assembly, the Accused reiterated the instructions to "urgently establish" Crisis Staffs in the municipalities and for the presidents of municipalities and executive boards to "hold the highest ranks in the crisis staffs".[376] The Accused stated: "I urge you to undertake, with the full authorisation of the Assembly, the task of introducing discipline and organising crisis staffs, headed by reserve and retired officers in order to organise the people for defensive purposes. Exclusively for defensive purposes".[377]

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v. Krajišnik), T. 16641; Radomir Nešković, T. 14276 (6 June 2011). In Ključ, the president of the municipal assembly and the president of the municipality was Jovo Banjac. Asim Egrlić, P6586 (Transcript from *Prosecutor v. Krajišnik*), T. 4637, 4643; P3454 (Decision of Ključ Crisis Staff, 13 July 1992). Similarly, in Zvornik, the president of the Serb municipal assembly, Jovo Mijatović, was the president of the municipality. P2591 (Decision regarding the formation of the Serbian Municipality of Zvornik, 27 December 1991), p. 4; P2590 (Conclusions of Zvornik's SDS Municipal Board, 22 December 1991), p. 2. In Hadžići, Ratko Radić was the president of the SDS and the president of the municipality. P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), paras. 23–25.

372 Adjudicated Fact 2204.

373 P5 (SDS Instructions for Organisation of Organs of the Serbian People in BiH, 19 December 1991), pp. 3, 7.

374 P5 (SDS Instructions for Organisation of Organs of the Serbian People in BiH, 19 December 1991), pp. 3, 7.

375 P2589 (Dorothea Hanson's expert report entitled "Bosnian Serb Crisis Staffs, War Presidencies and War Commissions 1991-1995", 10 September 2009), para. 24. *See also* Adjudicated Fact 2188.

376 P1634 (Minutes of 14th session of SerBiH Assembly, 27 March 1992), pp. 23–24; P2589 (Dorothea Hanson's expert report entitled "Bosnian Serb Crisis Staffs, War Presidencies and War Commissions 1991-1995", 10 September 2009), para. 34.

377 P1634 (Minutes of 14th session of SerBiH Assembly, 27 March 1992), p. 24; P2589 (Dorothea Hanson's expert report entitled "Bosnian Serb Crisis Staffs, War Presidencies and War Commissions 1991-1995", 10 September 2009), para. 34.

141. On 4 April 1992, the Accused, as President of the SNB, ordered the activation of Crisis Staffs.[378]

142. On 26 April 1992, the Bosnian Serb Government under Prime Minister Đerić issued "Instructions for the Work of Crisis Staffs of the Serbian People in Municipalities", which stated: "In wartime conditions, the Crisis Staff shall take over all the prerogatives and functions of municipal assemblies, when they are not in a position to meet."[379] The record of the session of the SNB and Government on 27 April 1992 states that "[i]t was concluded that comprehensive instructions for crisis staffs should be drafted in which the manner of political work on the ground and organisation of the functioning of the authorities will be presented".[380]

143. The 26 April 1992 Instructions provided that the Crisis Staff "shall co-ordinate governmental functions for the purpose of the defence of territory, safety of the population and its property, establishment of authority and organisation of all other aspects of life and work".[381] The instructions further stated that the Crisis Staff would, through these "co-ordination efforts", "create the conditions for the municipal executive board to exercise legal executive power, manage the economy and other aspects of life".[382] The instructions stated that "[t]he work of the Crisis Staff shall be based on the provisions of the Constitution and the law, and on the decisions of the Assembly, the Presidency and the Government of the [SerBiH]".[383]

144. According to the 26 April 1992 Instructions, the Crisis Staffs were "obliged to gather information on the situation in the field and notify and consult the competent authorities in [SerBiH], i.e. commissioners of the Government appointed for the areas and regions especially threatened by war".[384]

145. The relationship between Crisis Staffs and the various military forces present in the municipalities (JNA units, the TO, paramilitary units, and the VRS) differed from municipality to

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378 D394 (Announcement of SNB, 4 April 1992); P2589 (Dorothea Hanson's expert report entitled "Bosnian Serb Crisis Staffs, War Presidencies and War Commissions 1991-1995", 10 September 2009), para. 36.

379 P2717 (SerBiH Government instructions for Crisis Staffs, 26 April 1992); P2589 (Dorothea Hanson's expert report entitled "Bosnian Serb Crisis Staffs, War Presidencies and War Commissions 1991-1995", 10 September 2009), para. 38.

380 D406 (Minutes of meeting of SNB and SerBiH Government, 27 April 1992), p. 2.

381 P2717 (SerBiH Government instructions for Crisis Staffs, 26 April 1992), para. 3. In the same 26 April 1992 Instructions, the Government of SerBiH mandated that all Crisis Staffs include the commander of the TO Staff. P2717 (SerBiH Government instructions for Crisis Staffs, 26 April 1992), para. 2. The Instructions also stated that the Crisis Staffs were to "create all the conditions for the life and work of members of the JNA". P2717 (SerBiH Government instructions for Crisis Staffs, 26 April 1992), para. 8.

382 P2717 (SerBiH Government instructions for Crisis Staffs, 26 April 1992), para. 3.

383 P2717 (SerBiH Government instructions for Crisis Staffs, 26 April 1992), para. 6.

384 P2717 (SerBiH Government instructions for Crisis Staffs, 26 April 1992), para. 11.

municipality.[385] At a minimum, however, the relationship involved a co-ordinating and supporting role for the Crisis Staffs. In at least one municipality, Zvornik, the local JNA commander was listed as a member of the Crisis Staff.[386] Crisis Staffs also provided various forms of general assistance to the TO, such as calling for mobilisation within their municipalities and providing financial assistance.[387]

146. As will be further discussed later in this judgement, Crisis Staffs were formed and in existence between 1991 and 1993 in municipalities relevant to the charges in the Indictment.[388] There were also Crisis Staffs of SAOs, including for SAO Semberija and Majevica,[389] ARK,[390] and SAO Birač.[391]

b. War Presidencies

147. The Bosnian Serb Government decided on 23 May 1992 to abolish the Crisis Staffs.[392] The Government concluded that "the conditions for functioning of the regular governing organs should be created as soon as possible" and War Presidencies established in municipalities.[393] A preceding

385 Adjudicated Fact 2205.

386 Adjudicated Fact 2206.

387 Adjudicated Fact 2215.

388 *See* P2590 (Conclusions of Zvornik's SDS Municipal Board, 22 December 1991); P3154 (Decision of Zvornik's Crisis Staff, 6 April 1992); P2592 (Minutes of 6th Session of the Executive Board of the Ključ SDS Municipal Board, 23 December 1991); P2606 (Minutes from sessions of Ključ's Crisis Staff, 27 May – 10 July 1992); P2575 (Excerpt from session of Novo Sarajevo's Crisis Staff, 23 December 1991); D885 (Letter from Novo Sarajevo Crisis Staff to Radovan Karadžić, 5 June 1992); P6055 (Minutes of the Crisis Staff meeting, 25 December 1991); Neđeljko Prstojević, T. 12951–12953, 12955, 12957–12959 (8 March 2011); P2410 (Ilidža Crisis Staff Order on implementation of general mobilisation, 6 April 1992); P2595 (Minutes of meeting of Prijedor's SDS Municipal Board, 27 December 1991); P2741 (Decision of Prijedor Crisis Staff, 2 June 1992); P2835 (Report of Rogatica Crisis Staff, April – June 1992); P3407 (Report on the work of the Rogatica Municipal Assembly and Executive Board from July 1992 to September 1993), e-court p. 5; P5250 (Minutes of meeting of Sokolac Crisis Staff, 10 April 1992); P5240 (Sokolac Crisis Staff conclusions, 20 April 1992); P6121 (Decision of Vlasenica's SDS Municipal Board, 4 April 1992); P3214 (Decision of Vlasenica Crisis Staff, 19 April 1992); P2598 (Minutes of meeting of Bratunac's SDS Municipal Board, 23 December 1991); P3202 (Decision of Bratunac Crisis Staff, 1992); D2061 (List of decisions and orders issued by the Crisis Staff, War Staff, and Wartime Presidency of Bratunac Municipality, 29 August 1992), p. 2; D3116 (Bratunac Crisis Staff decision, 6 May 1992); P4374 (Witness statement of Milenko Katanić dated 11 October 2011), paras. 15–16; Milenko Katanić, T. 24526–24527 (10 February 2012); P734 (Order of Pale Crisis Staff, 7 May 1992); P2364 (Vogošća Crisis Staff Order, 14 May 1992); P2635 (Conclusions of Vogošća's Crisis Staff, 16 May 1992); P2613 (Conclusions of Sanski Most's Crisis Staff, 22 May 1992); P2626 (Report of Bijeljina Crisis Staff, 1 April 1992); P2632 (Report of Bosanski Novi's Crisis Staff, undated); P2918 (Order of Bosanski Novi's Crisis Staff, 8 June 1992); P3346 (Order of Foča Crisis Staff, 9 May 1992); D1084 (Hadžići Crisis Staff Decision, 26 May 1992).

389 *See* P2875 (Freedom of movement pass issued by Semberija & Majevica Crisis Staff).

390 P6 (Decision on the formation of ARK Crisis Staff, 5 May 1992). *See* Section IV.A.1.b.ii.A: Establishment of ARK Crisis Staff.

391 P2615 (Decision of Birač Crisis Staff, 29 April 1992).

392 P3082 (Minutes of the 13th session of SerBiH Government, 23 May 1992), para. 4; P2589 (Dorothea Hanson's expert report entitled "Bosnian Serb Crisis Staffs, War Presidencies and War Commissions 1991-1995", 10 September 2009), para. 46.

393 P3082 (Minutes of the 13th session of SerBiH Government, 23 May 1992), para. 4; P2589 (Dorothea Hanson's expert report entitled "Bosnian Serb Crisis Staffs, War Presidencies and War Commissions 1991-1995",

joint session of the SNB and Government, on 22 April 1992, concluded that the Government was to appoint a war presidency and war executive boards in all municipalities where executive boards "are not functioning".[394]

148. On 31 May 1992, the Presidency issued, pursuant to Article 5 of the Constitutional Law on the Implementation of the Constitution of the SerBiH, a decision constituting War Presidencies "in the municipalities of the Serbian Republic of Bosnia and Herzegovina where the assembly and the executive organ are unable to exercise authority".[395] The War Presidencies were to be composed of a republican commissioner and the president of the municipal assembly or his deputy, the chairman of the executive board or his deputy, or citizens who are deputies or assemblymen.[396]

149. The 31 May 1992 Decision stated that the War Presidency "shall organise, coordinate and adjust activities for the defence of the Serbian people and the establishment of legal organs of authority in the municipality"; "shall perform all the functions of the assembly and the executive organ until there is a possibility for these organs to convene and work"; and "shall create and secure conditions for the work of military organs and units on the defence of the Serbian people", *inter alia*.[397]

150. The republican commissioner, who would be a member of the War Presidencies, was to be appointed by the SerBiH Presidency and have the "right and duty [...] to ensure permanent coordination and implementation of the policies and measures that are established and adopted by the republican state organs and the Main Staff of the [VRS]".[398]

151. According to the 31 May 1992 decision, the Crisis Staffs in the municipalities were to cease operating on the date the War Presidencies were constituted.[399] On 31 May 1992, the Secretary of the SDS Executive Board sent a notice to SAOs Herzegovina, Romanija–Birač, and Semberija

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10 September 2009), para. 46. *See also* D3715 (Article from Glas entitled "Crisis Staffs Abolished", 7 July 1992), p. 1.

394 P3051 (Minutes of expanded meeting of SNB and SerBiH Government, 22 April 1992), p. 2.

395 P2607 (SerBiH Presidency decision on constituting war presidencies in municipalities at a time of imminent threat of war or state of war, 31 May 1992), p. 1 (art. 1); P3060 (Minutes of the 2nd session of the SerBiH Presidency, 31 May 1992); P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), para. 262.

396 P2607 (SerBiH Presidency decision on constituting war presidencies in municipalities at a time of imminent threat of war or state of war, 31 May 1992), p. 1 (art. 2).

397 P2607 (SerBiH Presidency decision on constituting war presidencies in municipalities at a time of imminent threat of war or state of war, 31 May 1992), p. 1 (art. 3).

398 P2607 (SerBiH Presidency decision on constituting war presidencies in municipalities at a time of imminent threat of war or state of war, 31 May 1992), p. 1 (art. 4).

399 P2607 (SerBiH Presidency decision on constituting war presidencies in municipalities at a time of imminent threat of war or state of war, 31 May 1992), p. 2 (art. 5). *See also* P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), para. 268.

stating that the Crisis Staffs whose structure and method of work were established by the 26 April 1992 Instructions have been abolished under the 31 May 1992 decision and that War Commissions/Presidencies instead were being established in the municipalities at a time of imminent threat of war or state of war.[400] This communication stated that it was the duty of the recipients, hitherto presidents of regional Crisis Staffs and now war commissioners,[401] to ensure the implementation of the 31 May 1992 decision and instructed them to contact the Presidency directly with any remarks or suggestions related thereto.[402]

152. Records such as reports, orders, and meeting minutes indicate the existence of War Presidencies including in the following municipalities: Vogošća, Brčko, Ključ, Zvornik, Sanski Most, Ilidža, and Prijedor.[403]

c. War Commissions

153. On 10 June 1992, the Presidency issued, pursuant to Article 5 of the Constitutional Law on the Implementation of the Constitution of the SerBiH, a decision establishing War Commissions in SerBiH municipalities "which are either affected by war or are facing imminent threat of war".[404] The War Commissions were to be composed of "a state commissioner and four members from the ranks of the most influential citizens within the crisis staff, the economy and the ruling party".[405] The decision stated that the SerBiH Presidency would "appoint state commissioners to provide

400 P2608 (Report of the SDS Executive Board on the formation of war presidencies, 31 May 1992).

401 The communication makes reference, in relation to war commissioners, to the duties set out in article 4 of the 31 May 1992 decision, which discusses the Presidency-appointed republican commissioners. *See* para. 150.

402 P2608 (Report of the SDS Executive Board on the formation of war presidencies, 31 May 1992). *See also* Dorothea Hanson, T. 14538–14539 (9 June 2011).

403 P1142 (Letter from Ministry of Justice of SerBiH to Vogošća War Presidency, 10 August 1992); P2391 (Vogošća War Presidency order, 6 November 1992); P2874 (Freedom of movement pass issued by Brčko War Presidency, 7 May 1992); P3025 (Travel permit issued by Brčko's War Presidency, 9 May 1992); P2888 (Brčko War Presidency Summary of events in Brčko Municipality); P3452 (Extract from Minutes of Ključ War Presidency, 10 July 1992); P3453 (Decision of Ključ War Presidency, 13 July 1992); P3462 (Decision of Ključ War Presidency, 30 July 1992); D4365 (Report from Ključ War Presidency to Banja Luka SJB dated 22 August 1992); P5205 (Minutes from 3rd session of the Zvornik Municipality War Presidency, 2 August 1995); P5536 (Decision of the War Presidency of Sanski Most Municipality, 14 July 1992); D2563 (Radovan Karadžić's Decision on appointment of Ilidža War Presidency, 20 June 1995); D4472 (Conclusions of Prijedor War Presidency, 6 August 1995).

404 P2611 (SerBiH Presidency Decision on the establishment of War Commissions in municipalities, 10 June 1992), p. 1 (art. 1); P1093 (Minutes of 5th session of SerBiH Presidency, 10 June 1992); P2536 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1990-1992", 30 July 2002), para. 262.

405 P2611 (SerBiH Presidency Decision on the establishment of War Commissions in municipalities, 10 June 1992), p. 1 (art. 2).

expert and other assistance to the war presidencies".[406] The state commissioners could appoint and dissolve War Commissions in consultation with the War Presidency at the Republic level.[407]

154. The War Commissions were to "maintain the closest possible cooperation with the legal authorities", "convey directives issued by the War Presidency of the Republic", "convey information about the problems, needs and work of the municipal bodies via their commissioners", and "cooperate with the authorities with a view to creating conditions for the work of military organs and units engaged in defending the Serbian people".[408]

155. The War Commissions, once constituted, were to supersede the Crisis Staffs, and the decision itself was to supersede the 31 May 1992 decision establishing War Presidencies in municipalities in time of imminent threat of war or during a state of war.[409]

156. Records such as confirmations of appointments, orders, reports, or meeting minutes indicate the existence of War Commissions including in Foča, Pale, Zvornik, Vlasenica, Bratunac, Novo Sarajevo, Vogošća, and Ilidža.[410] For instance, a decision of the Vogošća war commission states that it worked with civilian and military, municipal and republic-level authorities and it was to ensure that municipal civilian and military organs carried out their duties in accordance with laws and regulations.[411]

157. State commissioners were appointed by the Presidency in June 1992, including Nikola Poplašen for Vogošća,[412] Vojislav Maksimović for Foča,[413] and Dragan Đokanović for Zvornik,[414] Bratunac,[415] and Vlasenica.[416]

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406 P2611 (SerBiH Presidency Decision on the establishment of War Commissions in municipalities, 10 June 1992), p. 1 (art. 4).

407 P2611 (SerBiH Presidency Decision on the establishment of War Commissions in municipalities, 10 June 1992), p. 1 (art. 4).

408 P2611 (SerBiH Presidency Decision on the establishment of War Commissions in municipalities, 10 June 1992), p. 1 (art. 3).

409 P2611 (SerBiH Presidency Decision on the establishment of War Commissions in municipalities, 10 June 1992), p. 1 (arts. 5, 6).

410 P2642 (Report of Foča's War Commission, 18 June 1992); P5417 (Confirmation of a decision of the Pale SDS, 25 June 1992); P5479 (Radovan Karadžić's confirmation of appointment of Zvornik War Commission members, 17 June 1992); D1623 (Order of Zvornik War Commission, 1 July 1992); P5486 (RS Presidency Confirmation of Appointment of Members of the War Commission in Vlasenica, 17 June 1992); P5491 (RS Presidency Confirmation of Appointment of Members of the War Commission in Bratunac, 17 June 1992); P5543 (Decision of Radovan Karadžić appointing a War Commission in Novo Sarajevo, 21 July 1992); D4031 (Decision of Vogošća War Commission, 18 June 1992); P6001 (Request of Vogošća Municipality War Commission, 27 June 1992); P6059 (Order of Vogošća War Commission, 29 July 1992); P2390 (Vogošća War Commission order, 6 November 1992); D1244 (Ilidža War Commission Decision, 4 April 1993).

411 *See* D4029 (Decision of Vogošća War Commission, 1 July 1992).

412 D4027 (Witness statement of Nikola Poplašen dated 11 November 2013), para. 1; Nikola Poplašen, T. 43585–43586 (15 November 2013).

413 P3339 (Certificate of appointment signed by Radovan Karadžić, 4 June 1992).

158. On 17 December 1992, the Bosnian Serb Assembly decided that the decision on forming War Commissions in the municipalities during an imminent threat of war or a state of war ceased to be valid.[417]

C. BOSNIAN SERB MILITARY AND POLICE STRUCTURES

159. During the time period relevant to the Indictment, the armed forces in the RS consisted of the VRS and Bosnian Serb MUP personnel.[418] The Prosecution defines the "Serb Forces" as "members of the MUP, VRS, JNA, VJ, TO, the Serbian MUP, Serbian and Bosnian Serb paramilitary forces and volunteer units, and local Bosnian Serbs".[419] The Prosecution further defines the "Bosnian Serb forces" as members of "the VRS, the TO, the MUP and Bosnian Serb paramilitary forces and volunteer units".[420] For ease of reference, the Chamber adopts these definitions. The structure of the respective components of these forces will be addressed in turn in this section.

1. VRS

a. Establishment and composition of the VRS

160. On 12 May 1992, the Bosnian Serb Assembly decided to establish the Army of SerBiH.[421] On 12 August 1992, when SerBiH was renamed RS, the denomination of the army also changed from Army of SerBiH to the VRS.[422] The Accused, in his capacity as President of the RS, was also

414 P5479 (Radovan Karadžić's confirmation of appointment of Zvornik War Commission members, 17 June 1992).

415 P5491 (RS Presidency Confirmation of Appointment of Members of the War Commission in Bratunac, 17 June 1992).

416 P5486 (RS Presidency Confirmation of Appointment of Members of the War Commission in Vlasenica, 17 June 1992).

417 P1364 (Transcript of 23rd session of RS Assembly, 17 December 1992), e-court pp. 83–84; D1229 (RS National Assembly Decision, 17 December 1992).

418 P5416 (Decision of the SerBiH Assembly, 12 May 1992), amendment II, art. 110; P2602 (SerBiH Defence Act, 1 June 1992), art. 7.

419 Indictment, para. 13. *See also* Prosecution Final Brief, Appendix I.

420 Indictment, para. 14(b). *See also* Prosecution Final Brief, Appendix I.

421 Manojlo Milovanović, T. 25431 (28 February 2012); P956 (Transcript of 16th session of SerBiH Assembly, 12 May 1992), pp. 6, 57–58. *See also* Adjudicated Facts 17, 501 (referring to 19 May 1992 as the date of the "formal" establishment of the Army of SerBiH).

422 P1358 (Minutes of 19th session of SerBiH Assembly, 12 August 1992), pp. 2–3; D422 (19th session of SerBiH Assembly, 12 August 1992), pp. 32–34, 37. For ease of reference the acronym "VRS" will be used throughout this section to also cover the period prior to 12 August 1992. On 18 August 1992, the Presidency adopted provisional service regulations for the VRS. D3834 (1st Krajina Corps dispatch, 25 August 1992; VRS Main Staff dispatch to 1st Krajina Corps, 18 August 1992; Provisional Service Regulations of VRS, 18 August 1992); Dragomir Keserović, T. 40966–40967 (8 July 2013).

the Supreme Commander of the VRS.[423] Ratko Mladić was appointed the Commander of the Main Staff.[424] Manojlo Milovanović was appointed as both the Chief of Staff and Deputy Commander of the Main Staff.[425]

161. The VRS was formed from parts of the JNA, TO, and volunteer units.[426] Each of the former JNA corps in BiH retained most of its personnel and weaponry.[427] The VRS inherited both officers and other ranks from the JNA, many of whom were of Bosnian Serb origin, as well as a substantial amount of weaponry and equipment.[428] In places where there were no former JNA infantry units, the VRS created units.[429] Weapons from the former JNA were distributed to the infantry units by officers and SDS members.[430] The official withdrawal of the JNA was announced on 5 May 1992 and by 19 May 1992 it was said to be nearly completed.[431] On 21 May 1992, the Accused, in his capacity as President of the Presidency, issued an order on general mobilisation.[432]

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423 P2603 (SerBiH Law on the Army, 1 June 1992), art. 174; Manojlo Milovanović, T. 25441 (28 February 2012); Mićo Stanišić, T. 46360 (3 February 2014), T. 46577 (5 February 2014); Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 9108. *See also* P3034 (Track changes version of Reynaud Theunens's expert report entitled "Radovan Karadžić and the SRBiH TO-VRS (1992-1995)"), e-court pp. 287–288.

424 Ewan Brown, T. 21504–21505 (17 November 2011); P3914 (Ewan Brown's expert report entitled "Military Developments in the Bosanska Krajina – 1992", 27 November 2002), para. 1.64; P956 (Transcript of 16th Session of SerBiH Assembly, 12 May 1992), p. 57; Manojlo Milovanović, T. 25439 (28 February 2012); Dušan Kovačević, T. 39707 (11 June 2013). *See also* Adjudicated Fact 510. Prior to this, on 25 April 1992, Mladić was appointed by the Presidency of the SFRY as the Chief of Staff and Deputy Commander of the JNA 2nd Military District. As of 10 May 1992, Mladić had taken over command of the JNA 2nd Military District. D3680 (30th Partisan Division dispatch, 16 May 1992); Dušan Kovačević, T. 39707–39708 (11 June 2013); Milosav Gagović, T. 31865 (15 January 2013).

425 Manojlo Milovanović T. 25431–25432 (28 February 2012); Ljubomir Obradović, P4444 (Transcript from *Prosecutor v. Tolimir*), T. 11935–11936, 12017–12021; P4446 (Organisational Chart of the VRS Main Staff Structure for July 1995).

426 Adjudicated Fact 2803.

427 Mirsad Mujadžić, P3702 (Transcript from *Prosecutor v. Stakić*), T. 3716 (under seal); D1218 (Ilidža National Security Service report, 17 May 1992), p. 2; P1505 (SRK Order, 22 May 1992); D1839 (Combat report of JNA 5th Corps, 17 May 1992). *See also* Adjudicated Fact 2805.

428 D325 (VRS Main Staff analysis of combat readiness and army activities in 1992, April 1993), pp. 14, 69; P4913 (Richard Butler's expert report entitled "VRS Corps Command Responsibility Report", 5 April 2000), paras. 1.0–1.1; P3914 (Ewan Brown's expert report entitled "Military Developments in the Bosanska Krajina – 1992", 27 November 2002), paras. 1.65, 3.10; Ewan Brown, T. 21536 (17 November 2011); Colm Doyle, T. 2738–2741 (26 May 2010); P3921 (Report of 1st Krajina Corps, 21 May 1992), pp. 1–2; P4915 (Richard Butler's expert report entitled "VRS Brigade Command Responsibility Report", 31 October 2002), para. 1.2; Radovan M. Karadžić, T. 41378–41379 (17 July 2013). *See, e.g.,* D1218 (Ilidža National Security Service report, 17 May 1992), p. 2; D1838 (Regular Combat Report from JNA 5th Corps Command to 2nd Military District Command dated 1 May 1992); D1839 (Combat report of JNA 5th Corps, 17 May 1992); P1505 (SRK Order, 22 May 1992); Richard Philipps, T. 3772–3775 (15 June 2010), T. 3896–3897 (16 June 2010); Fadil Banjanović, P57 (Transcript from *Prosecutor v. S. Milošević*), T. 20664–20665; KDZ166, T. 8350–8351 (26 October 2010); Dragomir Milošević, T. 32559–32560 (23 January 2013). *See also* Adjudicated Facts 504, 506, 2092, 2099; Ljubomir Obradović, P4444 (Transcript from *Prosecutor v. Tolimir*), T. 12123–12124.

429 D325 (VRS Main Staff analysis of combat readiness and army activities in 1992, April 1993), p. 13.

430 D325 (VRS Main Staff analysis of combat readiness and army activities in 1992, April 1993), p. 14.

431 P4917 (Richard Butler's expert report entitled "VRS Main Staff Command Responsibility Report", 9 June 2006), paras. 1.10, 1.12; P3914 (Ewan Brown's expert report entitled "Military Developments in the Bosanska Krajina – 1992", 27 November 2002), para. 1.63. *See also* Adjudicated Fact 502; P950 (Agreement on withdrawal of JNA from BiH); Colm Doyle, P918 (Transcript from *Prosecutor v. S. Milošević*), T. 25295–

162. According to the Defence Act, the Accused, as the President, had the power to organise and implement plans for defence, order mobilisation, command and control the army, and define the basis for the organisation and size of the police force.[433] The Accused, as President, also had the power to issue orders for the deployment of the police during the war.[434]

163. On 15 June 1992, the Accused, in his capacity as President of the Presidency, established a system of command and control in the VRS.[435] It consisted of a Main Staff and operative groups, including Corps of land forces consisting of brigades, regiments, and units.[436] The Main Staff had command and control over the operative groups.[437] The Main Staff was also directly subordinated to the President, as the Supreme Commander.[438] The operative groups initially consisted of (i) the 1st Krajina Corps with headquarters in Banja Luka; (ii) the 2nd Krajina Corps with headquarters in Drvar; (iii) the Eastern Bosnia Corps with headquarters in Bijeljina; (iv) the SRK with headquarters in Pale; (v) the Herzegovina Corps with headquarters in Bileća; and (vi) the Air Force and Air Defence Corps with headquarters in Banja Luka.[439] On 1 November 1992, the Drina Corps was formed.[440]

25296. On 27 April 1992, Izetbegović issued a decision ordering the withdrawal of the JNA from BiH. Members of the JNA were given the choice to join the "newly formed forces" of the TO of BiH or to leave the territory. D224 (Alija Izetbegović's decision re JNA withdrawal from BiH, 27 April 1992).

432 P3919 (Radovan Karadžić's Decision, 20 May 1992); D325 (VRS Main Staff analysis of combat readiness and army activities in 1992, April 1993), pp. 69–70. *See also* P3920 (Order of 1st Krajina Corps, 21 May 1992), p. 1.

433 P2602 (SerBiH Defence Act, 1 June 1992), art. 7.

434 P2602 (SerBiH Defence Act, 1 June 1992), art. 7.

435 P3035 (Decision on Army of SerBiH, 15 June 1992). Soldiers were required to take an oath when joining the VRS. D4004 (Amendment on the Law of the Army, as published in Official Gazette, 25 June 1992); Momčilo Krajišnik, T. 43369–43370 (13 November 2013).

436 P3035 (Decision on Army of SerBiH, 15 June 1992), p. 1; D325 (VRS Main Staff analysis of combat readiness and army activities in 1992, April 1993), p. 70. *See also* P3034 (Track changes version of Reynaud Theunens's expert report entitled "Radovan Karadžić and the SRBiH TO-VRS (1992-1995)"), e-court pp. 315–317.

437 P3035 (Decision on Army of SerBiH, 15 June 1992), p. 3.

438 P3035 (Decision on Army of SerBiH, 15 June 1992), p. 3; P4917 (Richard Butler's expert report entitled "VRS Main Staff Command Responsibility Report", 9 June 2006), paras. 2.0–2.1. In 1992, the Main Staff was subordinated to the Presidency. The Chamber recalls that on 17 December 1992, the Bosnian Serb Assembly replaced the structures of the Presidency by establishing a single President and two vice-Presidents; from then on the VRS Main Staff was subordinated to the President of the RS. *See* paras. 97–98.

439 P3035 (Decision on Army of SerBiH, 15 June 1992), pp. 2–3; Ljubomir Obradović, P4444 (Transcript from *Prosecutor v. Tolimir*), T. 11963–11965; D325 (VRS Main Staff analysis of combat readiness and army activities in 1992, April 1993), pp. 11, 70–71; Petar Škrbić, P4523 (Transcript from *Prosecutor v. Popović et al.*), T. 15466. *See also* P3914 (Ewan Brown's expert report entitled "Military Developments in the Bosanska Krajina – 1992", 27 November 2002), para. 1.63; P3034 (Track changes version of Reynaud Theunens's expert report entitled "Radovan Karadžić and the SRBiH TO-VRS (1992-1995)"), e-court pp. 315–317; P4913 (Richard Butler's expert report entitled "VRS Corps Command Responsibility Report", 5 April 2000), para. 1.0; P4917 (Richard Butler's expert report entitled "VRS Main Staff Command Responsibility Report", 9 June 2006), para. 1.0; D3864 (Radovan Radinović's expert report entitled "The Control Authority of Dr. Radovan Karadžić in the Strategic Command System of the VRS", 2012), para. 83; D3688 (Excerpt from the Directive for use of the VRS, December 1993), pp. 8–10. *See also* Adjudicated Fact 2094.

440 P3914 (Ewan Brown's expert report entitled "Military Developments in the Bosanska Krajina – 1992", 27 November 2002); para. 1.63; Richard Butler, T. 27442—27433 (17 April 2012); P976 (Directive 4,

164. The basic structure and principles of the VRS, including the warfare doctrine, command and control principles, operational and tactical methods, and regulations followed those of the JNA.[441] Organs and branches of the VRS were specifically directed to comply with the existing regulations of the SFRY, including the SFRY Law on All People's Defence, until regulations for the VRS were published.[442]

b. Supreme Command

165. On 30 November 1992, the Accused, in his capacity as the President of the Presidency, established the Supreme Command for the purpose of co-ordinating and improving the efficiency of the command system of the VRS.[443] The Supreme Command consisted of the Supreme Commander who was the President of the Presidency, the RS Assembly President, the Prime Minister, the Minister of Defence, and the Minister of the Interior.[444] The Commander of the Main Staff of the VRS, his assistants and other members of the Main Staff, and Commanders of the Corps were also allowed to attend meetings of the Supreme Command by invitation.[445]

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19 November 1992), pp. 2, 5; P3037 (VRS Main Staff Order, 20 November 1992). *See also* D325 (VRS Main Staff analysis of combat readiness and army activities in 1992, April 1993), p. 11; Adjudicated Fact 1442.

441 P4913 (Richard Butler's expert report entitled "VRS Corps Command Responsibility Report", 5 April 2000), paras. 1.0–1.7; P4915 (Richard Butler's expert report entitled "VRS Brigade Command Responsibility Report", 31 October 2002), paras. 1.0–1.9; P3914 (Ewan Brown's expert report entitled "Military Developments in the Bosanska Krajina - 1992", 27 November 2002), paras. 1.66, 3.6–3.9, 3.11; Ljubomir Obradović, P4444 (Transcript from *Prosecutor v. Tolimir*), T. 11958, 12183–12191; Richard Philipps, T. 3746–3747 (15 June 2010); P990 (JNA 4th Corps Instructions, 29 August 1991); P3033 (Reynaud Theunens's expert report entitled "Radovan Karadžić and the SRBiH TO-VRS (1992-1995)"), e-court pp. 13–14, 310–315.

442 D436 (1st Krajina Corps information on political and security situation, 20 June 1992), p. 3; P4913 (Richard Butler's expert report entitled "VRS Corps Command Responsibility Report", 5 April 2000), paras. 1.0–1.7; P3914 (Ewan Brown's expert report entitled "Military Developments in the Bosanska Krajina - 1992", 27 November 2002), paras. 1.66, 3.6–3.9, 3.11.

443 P3036 (Radovan Karadžić's Decision on the establishment of the VRS Supreme Command, 30 November 1992), art. 1. *See also* P3149 (Minutes of the 14th session of Supreme Command, 31 March 1995), p. 7; Manojlo Milovanović, T. 25467 (28 February 2012); P3034 (Track changes version of Reynaud Theunens's expert report entitled "Radovan Karadžić and the SRBiH TO-VRS (1992-1995)"), e-court p. 288; P2537 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1993–1995 - Addendum to the Bosnian Serb Leadership 1990–1992", 1 May 2009), para. 140.

444 P3036 (Radovan Karadžić's Decision on the establishment of the VRS Supreme Command, 30 November 1992), art. 2; P192 (Decree on the Promulgation of Law on Implementation of Law of the Army during Threat of War, 29 November 1994), art. 3 (specifying that the President, as commander-in-chief, shall establish the Supreme Command, consisting of the Vice-President, President of the Bosnian Serb Assembly, the Prime Minister, Minister of Defence and Minister of Interior); Petar Škrbić, P4523 (Transcript from *Prosecutor v. Popović et al.*), T. 15544–15545. *See also* P3149 (Minutes of 14th session of Supreme Command, 31 March 1995), p. 2.

445 P3036 (Radovan Karadžić's Decision on the establishment of the VRS Supreme Command, 30 November 1992), art. 3; Ljubomir Obradović, T. 25126–25127 (23 February 2012); P3034 (Track changes version of Reynaud Theunens's expert report entitled "Radovan Karadžić and the SRBiH TO-VRS (1992-1995)"), e-court p. 288.

166. The Supreme Command held both regular and extraordinary sessions in which various strategic issues were discussed and conclusions and tasks were adopted.[446] When military decisions had to be made, members of the Main Staff attended meetings of the Supreme Command as observers without voting rights.[447] The Supreme Command's decisions were adopted by the Supreme Commander.[448] The Supreme Commander also periodically issued directives, which assigned tasks to subordinate units in order to carry out the planning and execution of combat operations.[449]

c. Supreme Commander

167. According to the Law on the Army and the Amended RS Constitution, the President of the Republic was the Supreme Commander and thus the Commander-in-Chief of the VRS.[450] Accordingly, the Accused, as Supreme Commander, held the highest authority in respect of the VRS.[451] The Accused remained the Supreme Commander until July 1996.[452] The powers of the

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446 Manojlo Milovanović, T. 25526–25532, 25545 (29 February 2012); Dušan Kovačević, T. 39653–39654 (10 June 2013), 39656–39657 (11 June 1993). *See, e.g.*, P1469 (Minutes of VRS Supreme Command meeting, 20 December 1992); P3148 (Handwritten notes of Supreme Command meeting, 8 May 1994); P3149 (Minutes of 14th session of Supreme Command, 31 March 1995).

447 Manojlo Milovanović, T. 25470 (28 February 2012); P3036 (Radovan Karadžić's Decision on the establishment of the VRS Supreme Command, 30 November 1992), art. 3; P2537 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1993–1995 - Addendum to the Bosnian Serb Leadership 1990–1992", 1 May 2009), paras. 141–142. *See, e.g.,* the meeting of 20 December 1992 attended by the commander of the VRS Main Staff and his deputy, Mladić and Milovanović. P1469 (Minutes of VRS Supreme Command meeting, 20 December 1992); Manojlo Milovanović, T. 25467–25470 (28 February 2012); P3034 (Track changes version of Reynaud Theunens's expert report entitled "Radovan Karadžić and the SRBiH TO-VRS (1992-1995)"), e-court p. 543; P2537 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1993–1995 - Addendum to the Bosnian Serb Leadership 1990–1992", 1 May 2009), para. 141. *See, e.g.,* the meeting of 31 March 1995 attended by several members of the Main Staff including Mladić, Milovanović, Tolimir, and Gvero. P3149 (Minutes of the 14th session of Supreme Command, 31 March 1995), p. 1.

448 P3036 (Radovan Karadžić's Decision on the establishment of the VRS Supreme Command, 30 November 1992), art. 5. *See also* P3034 (Track changes version of Reynaud Theunens's expert report entitled "Radovan Karadžić and the SRBiH TO-VRS (1992-1995)"), e-court pp. 304–306; P2537 (Patrick Treanor's expert report entitled "The Bosnian Serb Leadership 1993–1995 - Addendum to the Bosnian Serb Leadership 1990–1992", 1 May 2009), para. 140; Petar Škrbić, P4523 (Transcript from *Prosecutor v. Popović et al.*), T. 15544–15545. During the 29th Session of the Bosnian Serb Assembly, held on 24 to 25 March 1994, the Accused stated that the Supreme Command had been established so that he did not make decisions by himself. P1388 (Transcript of 39th Session of RS Assembly, 24-25 March 1994), p. 85.

449 Ljubomir Obradović, P4444 (Transcript from *Prosecutor v. Tolimir*), T. 11992–12000; Manojlo Milovanović, T. 25493–25494 (29 February 2012). *See, e.g.*, P3039 (Directive 6, 11 November 1993); P838 (Directive 7, 8 March 1995). For further detail on Directive 7 specifically, *see* Section IV.C.1.b.ii: Issuance of Directives 7 and 7/1.

450 P2603 (SerBiH Law on the Army, 1 June 1992), art. 174; D422 (19th session of SerBiH Assembly, 12 August 1992), pp. 63–64; P5578 (Amended Text of the Constitution of the RS, 17 December 1992), art. 106, p. 22; Patrick Treanor, T. 14061 (1 June 2011); Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 9108; KDZ088, T. 6357 (8 September 2010) (private session); Jovan Šarac, T. 47162–47163 (14 February 2014).

451 *See* P3036 (Radovan Karadžić's Decision on the establishment of the VRS Supreme Command, 30 November 1992); P1388 (Transcript of 39th session of RS Assembly, 24-25 March 1994), pp. 85–86; Ljubomir Obradović, T. 25108–25109 (22 February 2012). *See, e.g.*, P3041 (VRS Main Staff Report, 31 March 1994), p. 5; P4493 (VRS Main Staff Order, 7 February 1994); P4447 (Order of Radovan Karadžić, 24 April 1994); P4495 (Radovan Karadžić's Order to VRS Main Staff and RS MUP, 29 March 1995); Rupert Smith, T. 11326–11328

Supreme Commander included defining the organisation of the VRS, establishing a system of command, monitoring the implementation of orders, establishing a plan for deployment and mobilisation, and issuing regulations.[453] The Supreme Commander also had the authority to appoint, promote, and dismiss officers of the VRS.[454]

168. The Supreme Commander exercised authority at the strategic level.[455] He had the power to issue decrees, instructions, orders, and requests related to the general planning for the preparation of the army,[456] the mobilisation of the army,[457] and its deployment;[458] he could delegate certain command duties to the Commander of the Main Staff.[459] Occasionally, the Accused sent direct orders to corps and brigade commanders to answer directly to him.[460]

(8 February 2011); Manojlo Milovanović, T. 25444–25445 (28 February 2012), T. 25484–25486 (29 February 2012); Dusan Kovačević, T. 39657 (11 June 2013); Jovan Šarac, T. 47162–47163 (14 February 2014); P3034 (Track changes version of Reynaud Theunens's expert report entitled "Radovan Karadžić and the SRBiH TO-VRS (1992-1995)"), e-court pp. 501–503; Reynaud Theunens, T. 16841, 16844–16845 (19 July 2011), T. 17171–17172 (22 July 2011); P3037 (VRS Main Staff Order, 20 November 1992); P4913 (Richard Butler's expert report entitled "VRS Corps Command Responsibility Report", 5 April 2000), para. 5.3; Petar Škrbić, T. 26024–26026 (8 March 2012); Richard Butler, T. 27430–27431 (17 April 2012).

452 P3036 (Decision on the Establishment of the Supreme Command of the Army of Republika Srpska, 30 November 1992); P1469 (Minutes of VRS Supreme Command meeting, 20 December 1992); P3148 (Handwritten notes of Supreme Command meeting, 8 May 1994); P3149 (Minutes of 14th session of Supreme Command, 31 March 1995); Milan Ninković, T. 40505 (26 June 2013).

453 P2603 (SerBiH Law on the Army, 1 June 1992), art. 174.

454 P5578 (Amended Text of the Constitution of the RS, 17 December 1992), art.106, p.22; P2603 (SerBiH Law on the Army, 1 June 1992), art. 11, 369. *See also* P3034 (Track changes version of Reynaud Theunens's expert report entitled "Radovan Karadžić and the SRBiH TO-VRS (1992-1995)"), e-court pp. 332–333; Manojlo Milovanović, T. 25530 (29 February 2012); P3149 (Minutes of 14th session of Supreme Command, 31 March 1995), p. 9; P4913 (Richard Butler's expert report entitled "VRS Corps Command Responsibility Report", 5 April 2000), paras. 4.0–4.4; P3914 (Ewan Brown's expert report entitled "Military Developments in the Bosanska Krajina – 1992", 27 November 2002), paras. 3.1–3.4; Radovan Radinović, T. 41533–41534 (19 July 2013)

455 D3864 (Radovan Radinović's expert report entitled "The Control Authority of Dr. Radovan Karadžić in the Strategic Command System of the VRS", 2012), paras. 2, 121–129; KDZ088, T. 6357–6359 (8 September 2010) (closed session).

456 *See, e.g.*, P3037 (VRS Main Staff Order, 20 November 1992), p. 1. The Chamber notes that the "request" by the Supreme Command referred to in this document dates from 20 November 1992, which is before the official creation of the Supreme Command on 30 November 1992.

457 *See, e.g.*, P5482 (Order from Radovan Karadžić to Municipal Assembly Presidents and VRS Main Staff, 26 March 1995); P2248 (Radovan Karadžić's Order to RS Government, VRS Main Staff, and Presidents of Municipalities, 26 March 1995); P2249 (VRS Main Staff Order, 26 March 1995). *See also* P3034 (Track changes version of Reynaud Theunens's expert report entitled "Radovan Karadžić and the SRBiH TO-VRS (1992-1995)"), e-court pp. 507–509.

458 *See, e.g.*, P856 (VRS Main Staff Order, 20 April 1994); P5580 (VRS Main Staff Order, 20 April 1994); P3045 (VRS Main Staff Order, 20 April 1994); P2252 (Radovan Karadžić's Order to VRS Main Staff and RS MUP, 29 March 1995).

459 P2603 (SerBiH Law on the Army, 1 June 1992), art. 175.

460 P846 (Radovan Karadžić's Order to VRS, 7 February 1994); P4493 (VRS Main Staff Order, 7 February 1994).

d. VRS Main Staff

169. Commanded by Mladić,[461] the Main Staff was the highest operative body of the VRS.[462] The Main Staff directed and planned the conduct of army operations.[463] It was responsible for the mobilisation, training, and deployment of troops; co-ordination between the Corps;[464] the drafting of military documents;[465] the engagement of armed forces;[466] the relationship with UNPROFOR regarding military activities and cease-fires;[467] and the implementation of discipline and control over subordinate units.[468] The headquarters of the Main Staff was located at Crna Rijeka and the logistics (rear) command post was at Han Pijesak.[469] The code name for the Main Staff command post was "Panorama".[470]

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461 *See* para. 160. On 15 December 1992, the Accused reaffirmed the appointment of Mladić as Commander of the Main Staff of the VRS. P3034 (Track changes version of Reynaud Theunens's expert report entitled "Radovan Karadžić and the SRBiH TO-VRS (1992-1995)"), e-court pp. 287, 293. Mladić was given an exceptional promotion to the rank of Colonel-General on 28 June 1994. P3046 (Radovan Karadžić's Decree on promotion of Ratko Mladić, 28 June 1994), Reynaud Theunens, T. 16863 (19 July 2011). Mladić remained in that position until 8 November 1996. P3034 (Track changes version of Reynaud Theunens's expert report entitled "Radovan Karadžić and the SRBiH TO-VRS (1992-1995)"), e-court pp. 287, 293; Ewan Brown, T. 21504–21505 (17 November 2011); P3914 (Ewan Brown's expert report entitled "Military Developments in the Bosanska Krajina – 1992", 27 November 2002), para. 1.64; P1355 (Minutes of 16th Session of Assembly of SerBiH), 12 May 1992, p. 2; Manojlo Milovanović, T. 25439 (28 February 2012); P4446 (Organisational Chart of the VRS Main Staff Structure for July 1995).

462 D325 (VRS Main Staff analysis of combat readiness and army activities in 1992, April 1993), p. 158; P4917 (Richard Butler's expert report entitled "VRS Main Staff Command Responsibility Report", 9 June 2006), para. 2.0.

463 *See, e.g.,* D2143 (VRS Main Staff Order, 18 April 1993); D2144 (VRS Main Staff Order, 18 April 1993); D2145 (VRS Main Staff Order, 8 May 1993).

464 *See, e.g.,* P3037 (VRS Main Staff Order, 20 November 1992); P4475 (VRS Main Staff Order, 21 July 1995); P4498 (Report of 1st Romanija Infantry Brigade, 3 September 1992).

465 Manojlo Milovanović, T. 25495 (29 February 2012).

466 D325 (VRS Main Staff analysis of combat readiness and army activities in 1992, April 1993), pp. 7–13. *See also* P3034 (Track changes version of Reynaud Theunens's expert report entitled "Radovan Karadžić and the SRBiH TO-VRS (1992-1995)"), e-court pp. 313–314.

467 D1019 (Ratko Mladić letter to UNPROFOR, 11 February 1995); D1020 (Ratko Mladić letter to UNPROFOR, 13 February 1995); P2273 (UNPROFOR report re meeting with Ratko Mladić, 4 June 1995); P2278 (UNPROFOR report re aftermath of fall of Srebenica, 13 July 1995); P2280 (UNPROFOR report re meeting with Ratko Mladić, 19 July 1995); P2281 (UNPROFOR report re meeting with Ratko Mladić, 26 July 1995); D1023 (Ratko Mladić letter to UNPROFOR, 24 February 1995); D1024 (Ratko Mladić letter to UNPROFOR, 3 March 1995); D1028 (UNPROFOR report re agreement on demilitarisation of Srebrenica, 18 April 1993); D2143 (VRS Main Staff Order, 18 April 1993). *See also* D2169 (Letter from Manojlo Milovanović to UNPROFOR Command, 30 March 1993).

468 D2161 (VRS Main Staff Order, 22 November 1992).

469 Petar Škrbić, T. 25988, 25998 (8 March 2012); Petar Škrbić, P4523 (Transcript from *Prosecutor v. Popović et al.*), T. 15468; D3688 (Excerpt from the Directive for use of the VRS, December 1993), p. 13. Crna Rijeka's facility housed the VRS Main Staff Communications Centre, the 67th Communication Regiment, parts of the 65th Motorised Protection Regiment ("65th Protection Regiment"), the Staff Sector as well as the Administration for Planning, Development, and Finance and the Administration for Air Force and Anti-Aircraft Defence. The logistics sector and the sector for moral guidance, religious, and legal affairs was housed in Han Pijesak. Ljubomir Obradović, T. 25079–25081 (22 February 2012); P2794 (Witness statement of Ranko Vuković dated 24 May 2011), paras. 21–23.

470 Ranko Vuković, T. 15098–15099 (21 June 2011); Richard Butler, T. 27437–27438, 27518 (17 April 2012).

170. As the Commander of the Main Staff, Mladić commanded the VRS in compliance with the authority that the President delegated to him.[471] He issued regulations, orders, and instructions relating to the implementation of orders that the President had issued.[472]

171. The Staff Sector, headed by Milovanović, who served as both Chief of Staff and Deputy Commander,[473] consisted of several branches, including the Administration for Operations and Training headed by General Radivoje Miletić.[474] The Chief of Staff and units subordinated to him were tasked with operative duties in relation to the services of the army, including planning and monitoring the situation on the ground.[475]

172. The Main Staff consisted of sectors and administrations, each providing specific technical expertise to the Main Staff Commander.[476] The sectors and administrations headed by assistant commanders included (i) the Sector for Morale, Religious, and Legal Affairs, which included a Civil Affairs Administration, and was headed by General Milan Gvero;[477] (ii) the Sector for Logistics, also called the Sector for Rear Services, headed by General Đordje Đukić;[478] (iii) the

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471 P2603 (SerBiH Law on the Army, 1 June 1992), art. 175. *See also* P3034 (Track changes version of Reynaud Theunens's expert report entitled "Radovan Karadžić and the SRBiH TO-VRS (1992-1995)"), e-court p. 299.

472 P2603 (SerBiH Law on the Army, 1 June 1992), art. 175.

473 Manojlo Milovanović T. 25431–25432, 25442 (28 February 2012); Ljubomir Obradović, P4444 (Transcript from *Prosecutor v. Tolimir*), T. 11929, 11935–11939, 12017–12021, 12138–12139, 12185; Ljubomir Obradović, T. 25106 (22 February 2012). *See also* P4446 (Organisational Chart of the VRS Main Staff Structure for July 1995); P4917 (Richard Butler's expert report entitled "VRS Main Staff Command Responsibility Report", 9 June 2006), paras. 2.6–2.9; P4920 (Diagrams of various VRS Military Command structures), p. 1.

474 Manojlo Milovanović, T. 25442 (28 February 2012); Petar Škrbić, P4523 (Transcript from *Prosecutor v. Popović et al.*), T. 15495–15503; Ljubomir Obradović, P4444 (Transcript from *Prosecutor v. Tolimir*), T. 11929, 11931–11932, 11935, 11938, 11941–11944, 12091–12092, 12138–12139, 12185. *See also* P4446 (Organisational Chart of the VRS Main Staff Structure for July 1995); P4917 (Richard Butler's expert report entitled "VRS Main Staff Command Responsibility Report", 9 June 2006), paras. 2.6–2.9; P4920 (Diagrams of various VRS Military Command structures), p. 1. Ljubomir Obradović was the Chief of Staff of the operative detachment in the Administration for Operations and Training. Ljubomir Obradović, P4444 (Transcript from *Prosecutor v. Tolimir*), T. 11929; P4446 (Organisational Chart of the VRS Main Staff Structure for July 1995).

475 Ljubomir Obradović, P4444 (Transcript from *Prosecutor v. Tolimir*), T. 11936.

476 Manojlo Milovanović, T. 25441–25442 (28 February 2012); Petar Škrbić, P4523 (Transcript from *Prosecutor v. Popović et al.*), T. 15495–15503; Ljubomir Obradović, P4444 (Transcript from *Prosecutor v. Tolimir*), T. 11940, 12039–12040, 12134–12136; P4446 (Organisational Chart of the VRS Main Staff Structure for July 1995). *See also* P3034 (Track changes version of Reynaud Theunens's expert report entitled "Radovan Karadžić and the SRBiH TO-VRS (1992-1995)"), e-court p. 311; P4917 (Richard Butler's expert report entitled "VRS Main Staff Command Responsibility Report", 9 June 2006), para. 2.6.

477 Manojlo Milovanović, T. 25442 (28 February 2012); Ljubomir Obradović, P4444 (Transcript from *Prosecutor v. Tolimir*), T. 11937, 11948; Petar Škrbić, P4523 (Transcript from *Prosecutor v. Popović et al.*), pp. 15495–15503. *See, e.g.*, P4545 (VRS Main Staff document regarding the treatment of journalists and representatives of international organisations, 20 June 1992). *See also* P4446 (Organisational Chart of the VRS Main Staff Structure for July 1995).

478 Manojlo Milovanović, T. 25442 (28 February 2012); Ljubomir Obradović, P4444 (Transcript from *Prosecutor v. Tolimir*), T. 11937; Petar Škrbić, P4523 (Transcript from *Prosecutor v. Popović et al.*), pp. 15495–15503. *See also* P4446 (Organisational Chart of the VRS Main Staff Structure for July 1995).

Sector for Intelligence and Security Affairs headed by General Zdravko Tolimir,[479] which was comprised of the Intelligence Administration headed by Colonel Petar Salapura and the Security Administration headed by Colonel Ljubiša Beara;[480] (iv) the Sector for Organisation, Mobilisation, and Personnel Affairs headed by General Petar Škrbić;[481] (v) the Administration for Planning, Development, and Finance headed by General Stevo Tomić;[482] and (vi) the Administration for Air Force and Anti-Aircraft Defence headed by General Jovo Marić.[483]

173. Directly linked to the Commander was the Department for Civilian Affairs headed by Colonel Miloš Đurđić.[484] It was responsible for liaising with foreign military representatives and other organisations, and for co-ordinating between the VRS and international organisations regarding humanitarian aid.[485] On 14 March 1995, the Accused issued a decision to form a State Committee for Co-operation with the United Nations and International Humanitarian Organs.[486] Koljević was appointed as its President, and Đurđić was appointed as the co-ordinator for the committee's relations with the Ministry of Defence and the VRS.[487] Notwithstanding the formation

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479 Manojlo Milovanović, T. 25442 (28 February 2012); Petar Škrbić, P4523 (Transcript from *Prosecutor v. Popović et al.*), T. 15495–15503; Ljubomir Obradović, P4444 (Transcript from *Prosecutor v. Tolimir*), T. 11937–11949, 11962; D325 (VRS Main Staff analysis of combat readiness and army activities in 1992, April 1993), pp. 83–93. *See also* P4446 (Organisational Chart of the VRS Main Staff Structure for July 1995).

480 Ljubomir Obradović, P4444 (Transcript from *Prosecutor v. Tolimir*), T. 11949, 12191–12197; Ljubomir Obradović, T. 25124–25125 (23 February 2012); P4446 (Organisational Chart of the VRS Main Staff Structure for July 1995); Ljubisa Beara, T. 45202–45203 (17 December 2013); Momir Nikolić, T. 24570 (13 February 2012); P4917 (Richard Butler's expert report entitled "VRS Main Staff Command Responsibility Report", 9 June 2006), paras. 2.13–2.15; Adjudicated Fact 1461.

481 Petar Škrbić, P4523 (Transcript from *Prosecutor v. Popović et al.*), T. 15467–15469; Ljubomir Obradović, P4444 (Transcript from *Prosecutor v. Tolimir*), T. 11937; Manojlo Milovanović, T. 25442 (28 February 2012). *See also* Manojlo Milovanović, T. 25442 (28 February 2012); P4446 (Organisational Chart of the VRS Main Staff Structure for July 1995).

482 Manojlo Milovanović, T. 25442 (28 February 2012); Petar Škrbić, P4523 (Transcript from *Prosecutor v. Popović et al.*), T. 15495–15503. *See also* P4446 (Organisational Chart of the VRS Main Staff Structure for July 1995).

483 Manojlo Milovanović, T. 25442 (28 February 2012); Petar Škrbić, P4523 (Transcript from *Prosecutor v. Popović et al.*), T. 15495–15503; Ljubomir Obradović, P4444 (Transcript from *Prosecutor v. Tolimir*), T. 11937–11940. *See also* P4446 (Organisational Chart of the VRS Main Staff Structure for July 1995); P4920 (Diagrams of various VRS Military Command structures), p. 1.

484 Ljubomir Obradović, P4444 (Transcript from *Prosecutor v. Tolimir*), T. 11963; Petar Škrbić, P4523 (Transcript from *Prosecutor v. Popović et al.*), T. 15539; Ljubomir Obradović, T. 25110–25112 (22 February 2012),

485 Slavko Kralj, D3245 (Transcript from *Prosecutor v. Popović et al.*), T. 29228, 29256; Petar Škrbić, P4523 (Transcript from *Prosecutor v. Popović et al.*), T. 15539; Ljubomir Obradović, P4444 (Transcript from *Prosecutor v. Tolimir*), T. 11963; Ljubomir Obradović, T. 25110–25112 (22 February 2012).

486 P4543 (Decision of Radovan Karadžić, 14 March 1995), p. 1. *See also* Slavko Kralj, D3245 (Transcript from *Prosecutor v. Popović et al.*), T. 29233–29234.

487 P4543 (Decision of Radovan Karadžić, 14 March 1995), p. 3; Manojlo Milovanović, T. 25443 (28 February 2012); Slavko Kralj, D3245 (Transcript from *Prosecutor v. Popović et al.*), T. 29233–29244; Ljubomir Obradović, T. 25110–25112 (22 February 2012).

of this committee, the Main Staff retained control of processing the authorisation for UNPROFOR re-supply convoys.[488]

174. On 2 August 1995, pursuant to a decision issued by the Accused, in his capacity as President and Supreme Commander, the Main Staff was renamed as the VRS General Staff and would be called the Supreme Command Staff in "times of war".[489] According to this decision, which provided for Mladić's appointment as Special Advisor to the Supreme Commander, the Supreme Command Staff was to be under the direct command and control of the Supreme Commander.[490] Mladić and the VRS Generals criticised and challenged the decision, which was annulled by the Accused on 27 August 1995.[491]

175. There were various units that were directly subordinated to the Main Staff. They included the 65th Protection Regiment, the 10th Sabotage Detachment, and the 67th Communication Regiment.[492]

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488 Ljubomir Obradović, T. 25110–25112 (22 February 2012), T. 25133–25134 (23 February 2012); P4447 (Order of Radovan Karadžić, 24 April 1994); P839 (VRS Report regarding UN convoys, 7 April 1995); Slavko Kralj, D3245 (Transcript from *Prosecutor v. Popović et al.*), T. 29233–29244, 29258. *See also* D4842 (VRS Main Staff notification, 28 March 1995). Prior to the establishment of that committee, the Main Staff issued decisions regarding humanitarian convoys, and the VRS was charged with monitoring the convoys, ensuring their safe passage, and allowing their entry where aid was needed. Manojlo Milovanović, T. 25443–25444 (28 February 2012); Ljubomir Obradović, T. 25110–25115 (22 February 2012), T. 25139–25140 (23 February 2012); D2172 (Letter from Radovan Karadžić to VRS Main Staff, 8 January 1994); P4448 (VRS Main Staff Report, 6 March 1995). *See, e.g.*, for the period of October 1993: D2109 (VRS Main Staff Notification, 25 September 1993); D2110 (VRS Main Staff Notification, 2 October 1993); D2111 (VRS Main Staff Notification, 8 October 1993); D2112 (VRS Main Staff Notification, 15 October 1993).

489 D3879 (Radovan Karadžić's Decision, 2 August 1995); P3034 (Track changes version of Reynaud Theunens's expert report entitled "Radovan Karadžić and the SRBiH TO-VRS (1992-1995)"), e-court pp. 569–571.

490 D3879 (Radovan Karadžić's Decision, 2 August 1995); D2157 (Radovan Karadžić's Decree, 4 August 1995). *See also* Manoljo Milovanović, T. 25669–25670 (1 March 2012); Petar Škrbić, T. 26027–26028 (8 March 2012); P5156 (Fax from UNPROFOR, attaching a press release from Radovan Karadžić, 4 August 1995), p. 2.

491 D4861 (Letter from Radovan Karadžić to VRS Main Staff, 27 August 1995); P3034 (Track changes version of Reynaud Theunens's expert report entitled "Radovan Karadžić and the SRBiH TO-VRS (1992-1995)"), e-court pp. 572–579.

492 Ljubomir Obradović, T. 25119–25125 (23 February 2012); Ljubomir Obradović, P4444 (Transcript from *Prosecutor v. Tolimir*), T. 11934, 11960–11961; P4487 (VRS Main Staff Order, 4 December 1994); P4524 (VRS Main Staff Order, 25 December 1994); Petar Škrbić, T. 25969–25970 (7 March 2012); Dragan Todorović, P4350 (*Transcript from Prosecutor v. Popović et al.*), T. 13991–13992 (under seal); P3034 (Track changes version of Reynaud Theunens's expert report entitled "Radovan Karadžić and the SRBiH TO-VRS (1992-1995)"), e-court pp. 315–317. *See also* Adjudicated Fact 1462; P4446 (Organisational Chart of the VRS Main Staff Structure for July 1995). The 67th Communication Regiment was in charge of organising and providing the communication needs of the Main Staff. Ljubomir Obradović, P4444 (Transcript from *Prosecutor v. Tolimir*), T. 11934; Ljubomir Obradović, T. 25119–25121 (23 February 2012). This regiment trained the VRS and MUP units in all aspects of communications. Ranko Vuković, T. 15085–15086 (21 June 2011).

176. The 65th Protection Regiment was commanded by Colonel Milomir Savčić.[493] The main tasks of the 65th Protection Regiment included providing security to the Main Staff and carrying out its orders.[494] It was also tasked with carrying out "counter-sabotage and anti-terrorist tasks".[495] Its headquarters was in Crna Rijeka.[496] The MP Battalion of the 65th Protection Regiment was commanded by Major Zoran Malinić.[497] Along the professional chain of command, it reported to the Security Administration headed by Colonel Ljubiša Beara.[498] The MP headquarters was in Nova Kasaba.[499]

177. As a special unit of the Main Staff and directly subordinated to the Intelligence Administration,[500] the 10th Sabotage Detachment consisted of to approximately 50 to 60 men divided into two platoons.[501] It was commanded by Milorad Pelemiš.[502] The 1st platoon was based in Vlasenica, commanded by Franc Kos, and the 2nd platoon was based in Bijeljina, commanded by Luka Jokić.[503] The detachment was primarily used for wartime sabotage activities.[504] It also engaged in reconnaissance missions because it was subordinated to the Intelligence Administration.[505] The members of the 10th Sabotage Detachment had several uniforms in

493 D3918 (Witness statement of Milomir Savčić, undated), para. 24; Manojlo Milovanović, T. 25442 (28 February 2012); Ljubomir Obradović, T. 25123 (23 February 2012); Ljubomir Obradović, P4444 (Transcript from *Prosecutor v. Tolimir*), T. 11962–11963; P4446 (Organisational Chart of the VRS Main Staff Structure for July 1995); P4920 (Diagrams of various VRS Military Command structures), p.1; P4917 (Richard Butler's expert report entitled "VRS Main Staff Command Responsibility Report", 9 June 2006), para. 4.0.

494 Manojlo Milovanović, T. 25442 (28 February 2012); Ljubomir Obradović, P4444 (Transcript from *Prosecutor v. Tolimir*), T. 11962–11963; Ljubomir Obradović, T. 25123 (23 February 2012); P4446 (Organisational Chart of the VRS Main Staff Structure for July 1995); P4920 (Diagrams of various VRS Military Command structures), p. 1; P4917 (Richard Butler's expert report entitled "VRS Main Staff Command Responsibility Report", 9 June 2006), para. 4.0; D3918 (Witness statement of Milomir Savčić, undated), para. 25. *See also* Adjudicated Fact 1462.

495 D3918 (Witness statement of Milomir Savčić, undated), para. 25.

496 D3918 (Witness statement of Milomir Savčić, undated), para. 27.

497 D3918 (Witness statement of Milomir Savčić, undated), para. 26.

498 P4446 (Organisational Chart of the VRS Main Staff Structure for July 1995).

499 D3918 (Witness statement of Milomir Savčić, undated), para. 26.

500 Dražen Erdemović, P332 (Transcript from *Prosecutor v. Popović et al.*), T. 10931–10935; Petar Salapura, T. 40236 (24 June 2013); P4920 (Diagrams of various VRS Military Command structures), p. 1; Ljubomir Obradović, P4444 (Transcript from *Prosecutor v. Tolimir*), T. 11960.

501 Dražen Erdemović, P332 (Transcript from *Prosecutor v. Popović et al.*), T. 10931–10932; Dragan Todorović, P4353 (Transcript from *Prosecutor v. Popović et al.*), T. 13991–13993.

502 Dražen Erdemović, P332 (Transcript from *Prosecutor v. Popović et al.*), T. 10935; D3927 (Witness statement of Franc Kos dated 26 July 2013), pp. 3, 5; Dragan Todorović, P4353 (Transcript from *Prosecutor v. Popović et al.*), T. 13994.

503 D3927 (Witness statement of Franc Kos dated 26 July 2013), pp. 3–4; Dražen Erdemović, P332 (Transcript from *Prosecutor v. Popović et al.*), T. 10931–10932; Dragan Todorović, P4353 (Transcript from *Prosecutor v. Popović et al.*), T. 13991–13993.

504 Dragan Todorović, P4353 (Transcript from *Prosecutor v. Popović et al.*), T. 13991–13993; Ljubomir Obradović, T. 25121–25123 (23 February 2012).

505 Ljubomir Obradović, P4444 (Transcript from *Prosecutor v. Tolimir*), T. 11960–11961; Ljubomir Obradović, T. 25121–25123 (23 February 2012). *See also* Dražen Erdemović, P332 (Transcript from *Prosecutor v. Popović et al.*), T. 10934–10935, 10950.

July 1995, including a black uniform, a VRS uniform, a uniform of the US Army, a uniform of the ABiH, and a uniform of the HVO.[506]

e. VRS Corps

178. While the Main Staff would provide general guidance to the Corps on the various objectives, it was the responsibility of the Corps to plan the details of combat operations and to conduct them on the ground within their designated zone.[507]

i. 1st Krajina Corps

179. The 1st Krajina Corps was commanded by General Major Talić from 17 March 1992 and he remained the Commander during the Indictment period.[508] Its headquarters was in Banja Luka.[509] The 1st Krajina Corps consisted of various brigades (motorised and light infantry), regiments, and battalions.[510]

180. The area of responsibility of the 1st Krajina Corps, which was initially identical to the area of responsibility of the 5th JNA Corps,[511] included Bosanska Krupa, Banja Luka, Gradiska, Prijedor, Kotor Varoš, Ključ, and Sanski Most.[512] The corps was strengthened by light infantry

506 Dražen Erdemović, P332 (Transcript from *Prosecutor v. Popović et al.*), T. 10939.

507 Richard Butler, T. 27452 (17 April 2012), T. 3765, 3770–3771 (15 June 2010); P4913 (Richard Butler's expert report entitled "VRS Corps Command Responsibility Report", 5 April 2000), para. 1.6. The Corps command would brief the details of an operation to the Main Staff. The Main staff would then review the operation and give its approval. Richard Butler, T. 27452 (7 April 2012).

508 Ewan Brown, T. 21536 (17 November 2011); P3914 (Ewan Brown's expert report entitled "Military Developments in the Bosanska Krajina – 1992", 27 November 2002), paras. 1.72–1.73, 3.5; Ljubomir Obradović, P4444 (Transcript from *Prosecutor v. Tolimir*), T. 11963–11964. *See also* Adjudicated Fact 511.

509 P3914 (Ewan Brown's expert report entitled "Military Developments in the Bosanska Krajina – 1992", 27 November 2002), para. 1.72.

510 P3920 (Order of 1st Krajina Corps, 21 May 1992), p. 4. *See also* Ewan Brown, T. 21536 (17 November 2011); P3914 (Ewan Brown's expert report entitled "Military Developments in the Bosanska Krajina – 1992", 27 November 2002), paras. 1.76, 1.81.

511 P3914 (Ewan Brown's expert report entitled "Military Developments in the Bosanska Krajina – 1992", 27 November 2002), para. 1.85; P5433 (1st Krajina Corps document analysing combat readiness in 1992, February 1993), pp. 2–4; P3656 (1st Krajina Corps report, 1 June 1992).

512 P3914 (Ewan Brown's expert report entitled "Military Developments in the Bosanska Krajina – 1992", 27 November 2002), paras. 1.85–1.97; P5433 (1st Krajina Corps document analysing combat readiness in 1992, February 1993), pp. 2–4; P3656 (1st Krajina Corps report, 1 June 1992); KDZ163, P3716 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 5365 (under seal). The Corps began its operations with 1,650 men, but by June 1992 it had approximately 25,000 men, and by April 1993, 72,330 men. P5433 (1st Krajina Corps document analysing combat readiness in 1992, February 1993), p. 2; D325 (VRS Main Staff analysis of combat readiness and army activities in 1992, April 1993), p. 76.

brigades, which were created from both Serb TO units and newly mobilised personnel.[513] The corps was also supplemented by volunteers who were assigned to units and to the headquarters.[514]

ii. Eastern Bosnia Corps

181. Headquartered in Bijeljina,[515] the Eastern Bosnia Corps' area of responsibility was in northeast BiH, with the Sava River to the north and Drina River to the east.[516] However, before the creation of the Drina Corps in November 1992, it also extended as far south as Zvornik and Vlasenica.[517] In May 1992, the Corps Commander was Colonel Nikola Denčić, who was replaced by Colonel Dragutin Ilić on 7 June 1992.[518] In July 1995, General Novica Simić was the Corps Commander.[519] The Chief of Security was Dušan Tanasković.[520]

182. The Eastern Bosnia Corps was a small corps in terms of troop numbers.[521] By 7 June 1992, it consisted of eight brigades, namely, the Posavina Brigade, the Brčko Brigade, the 1st Semberija Brigade, the 2nd Semberija Brigade, the 1st Majevica Brigade, the 2nd Majevica Brigade, the Zvornik Brigade, and the Birač Brigade.[522]

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513 P3914 (Ewan Brown's expert report entitled "Military Developments in the Bosanska Krajina – 1992", 27 November 2002), para. 1.81.

514 P5433 (1st Krajina Corps document analysing combat readiness in 1992, February 1993), pp. 18–19; P3914 (Ewan Brown's expert report entitled "Military Developments in the Bosanska Krajina – 1992", 27 November 2002), para. 1.82.

515 P3035 (Decision of Army of SerBiH, 15 June 1992), p. 2.

516 Momčilo Mandić, T. 5103–5104 (14 July 2010); P4919 (Map of BiH marked by Richard Butler); Richard Butler, T. 27434 (17 April 2012); P2796 (Map showing communications plan of Drina Corps).

517 P5400 (Order of Eastern Bosnia Corps, 7 June 1992), p. 1.

518 KDZ531, T. 15847–15848 (1 July 2011) (closed session); Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 21676–21677; D1457 (Order of Eastern Bosnia Corps Command, 6 June 1992); P3384 (Report of Eastern Bosnia Corps, 7 June 1992).

519 Ljubomir Obradović, P4444 (Transcript from *Prosecutor v. Tolimir*), T. 11964; P4446 (Organisational Chart of the VRS Main Staff Structure for July 1995). *See also* Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 21676–21677.

520 KDZ531, T. 15847–15848 (1 July 2011) (closed session).

521 Momčilo Mandić, T. 5103-5104 (14 July 2010); P4919 (Map of BiH marked by Richard Butler); Richard Butler, T. 27434 (17 April 2012); P2796 (Map showing communications plan of Drina Corps).

522 P5400 (Order of Eastern Bosnia Corps, 7 June 1992), pp. 3–6; P3172 (Report of Birać Brigade, 6 July 1992); P3171 (Combat Report of the Eastern Bosnia Corps, 6 July 1992), p. 2. In addition to the brigades, the Eastern Bosnia Corps had an engineering detachment, an anti-aircraft light artillery regiment, the Smoluće infantry battalion, the Okresanice infantry battalion, and the Bijeljina mixed artillery regiment, as well as a combat security and a logistics security section. P5400 (Order of Eastern Bosnia Corps, 7 June 1992), pp. 3–6; P3171 (Combat Report of the Eastern Bosnia Corps, 6 July 1992), p. 2.

iii. SRK

183. The area of responsibility of the SRK was the greater Sarajevo area between Višegrad, Kladanj, and Igman, which was the former zone of responsibility of the 4th JNA Corps.[523] The SRK's main forces were positioned around the inner ring of Sarajevo, in the areas of Ilidža, Neđarići, and Grbavica.[524] The rear command post of the SRK was immediately northwest of Pale town while the main command post was at the Lukavica barracks.[525]

184. Colonel Tomislav Šipčić was the Commander of the SRK from 8 July to early August 1992.[526] General Stanislav Galić was the Commander from 10 September 1992 until August 1994.[527] Thereafter, Dragomir Milošević, the SRK Chief of Staff, assumed command.[528] Dragomir Milošević remained Corps Commander until 1996.[529] During the period covered by the

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523 *See* Adjudicated Facts 20, 2823; P3034 (Track changes version of Reynaud Theunens's expert report entitled "Radovan Karadžić and the SRBiH TO-VRS (1992-1995)"), pp. 444–445; Richard Philipps, T. 3747 (15 June 2010), T. 3897–3899 (16 June 2010); C1 (Map of Sarajevo, Marked by Richard Philipps).

524 *See* Adjudicated Fact 21. From August 1994 to November 1995, the SRK's areas of responsibility included Ilidža, Osijek, Butila, Blažuj, Lukavica, Ilijaš, Vrace, Grbavica, Zlatište, parts of Dobrinja, the area up to Mount Trebević, the hills south and southwest of Sarajevo, Rajlovac, Špicasta Stijena, the northeast of Sarajevo, Nedžarići (north of the airport), and Vogošća. Most of Grbavica was controlled by the SRK but it was surrounded on three sides by the ABiH. On the eastern confrontation line in Grbavica, the area from the Vrbanja Bridge towards the Jewish cemetery up to Debelo Brdo was controlled by the SRK. There were two confrontations lines and control over areas of Dobrinja was divided between the SRK and ABiH. *See* Adjudicated Facts 2824, 2826, 2828, 2832, 2833, 2835, 2840, 2841. For more detail, *see* Section IV.B.1: Sarajevo component (Facts).

525 P989 (Witness statement of Richard Philipps dated 25 May 2010), pp. 11, 17; KDZ088, T. 6277–6278 (7 September 2010) (closed session).

526 P1510 (Radovan Karadžić's Order, 8 July 1992) (under seal); [REDACTED]. *See also* P993 (Organisation chart of SRK, 1992-1994); P989 (Witness statement of Richard Philipps dated 25 May 2010), p. 11. Šipčić took over command of the SRK on 19 May 1992 but his official appointment came on 8 July 1992 and he left the SRK in early August 1992. [REDACTED]; Stanislav Galić, T. 37154–37155 (15 April 2013); P1478 (Ratko Mladić's notebook, 27 May–31 July 1992), pp. 279–280.

527 Stanislav Galić, T. 37155 (15 April 2013); P993 (Organisation chart of SRK, 1992-1994); P994 (Organisation chart of SRK, 1994-1995); P989 (Witness statement of Richard Philipps dated 25 May 2010), p. 11. *See also* Adjudicated Fact 27. On 16 December 1992, the Accused awarded Galić an exceptional promotion to the rank of Major-General. P2650 (Radovan Karadžić's decree on exceptional promotion, 16 December 1992). He was awarded an early promotion to the rank of Lieutenant-General on 7 August 1994 by the Accused. P2649 (Radovan Karadžić's decree on early promotion, 7 August 1994).

528 Dragomir Milošević, T. 32503 (23 January 2013) (testifying that he was commander until early 1996); P2678 (Radovan Karadžić's decree on appointment of Dragomir Milošević as SRK Commander, 8 August 1994), p. 2 (appointing Dragomir Milošević as SRK Commander effective as of 15 August 1994); P994 (Organisation chart of SRK, 1994-1995); P989 (Witness statement of Richard Philipps dated 25 May 2010), pp. 11–12. On 24 March 1994, Dragomir Milošević was awarded an exceptional promotion to the rank of Major-General by the Accused. P2677 (Radovan Karadžić's decree on Dragomir Milošević's promotion, 24 March 1994). *See also* Adjudicated Fact 27; P2676 (Radovan Karadžić's decree on appointment of Dragomir Milošević as SRK Chief of Staff, 10 July 1993) (appointing Dragomir Milošević as Chief of Staff and Deputy Commander of the SRK).

529 Dragomir Milošević, T. 32503 (23 January 2013); P989 (Witness statement of Richard Philipps dated 25 May 2010), pp. 11–12.

Indictment, the Chiefs of Staff were Dragan Marčetić,[530] Dragomir Milošević,[531] and Čedo Sladoje,[532] successively.

185. There were four staff divisions and a liaison division within the Corps headquarters.[533] The operational division was headed by the Assistant Corps Commander for Organisation and Mobilisation.[534] Its main responsibility was ensuring the operations and training of the troops.[535] The morale division was headed by the Assistant Corps Commander for Morale, Legal, and Religious Affairs and responsible for informing the Corps Commander about the status of morale within the corps.[536] The security division was headed by the Assistant Corps Commander for Intelligence and Security and responsible for disseminating intelligence information.[537] The logistics division was headed by the Assistant Commander for Logistics and Corps Rear Services.[538] Finally, the liaison division was responsible for liaising with UNPROFOR.[539]

186. The SRK had approximately 18,000 troops.[540] The number of operative units, in particular brigades and battalions, varied between 1992 and 1995.[541] The brigades included the 1st Romanija Infantry Brigade, the 2nd Sarajevo Light Infantry Brigade, the 1st Sarajevo Mechanised (Motorised) Brigade, the Koševo Light Infantry Brigade, the 3rd Sarajevo Light Infantry Brigade,[542] the 4th

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530 From 29 September 1992 to 20 June 1993. P997 (List of SRK personnel), p. 11; P994 (Organisation chart of SRK, 1994-1995).

531 From 6 July 1993 to August 1994. P997 (List of SRK personnel), p. 13; P994 (Organisation chart of SRK, 1994-1995).

532 From August 1994 to September 1995. P994 (Organisation chart of SRK, 1994-1995).

533 P989 (Witness statement of Richard Philipps dated 25 May 2010), pp. 12–14.

534 P989 (Witness statement of Richard Philipps dated 25 May 2010), p. 13.

535 P989 (Witness statement of Richard Philipps dated 25 May 2010), p. 13.

536 P989 (Witness statement of Richard Philipps dated 25 May 2010), p. 13.

537 P989 (Witness statement of Richard Philipps dated 25 May 2010), p. 14.

538 P989 (Witness statement of Richard Philipps dated 25 May 2010), p. 14.

539 P989 (Witness statement of Richard Philipps dated 25 May 2010), p. 14.

540 Dragomir Milošević, T. 32744 (28 January 2013). KDZ304 estimated that the SRK had between 13,000 to 15,000 soldiers. P2407 (Witness statement of KDZ304), e-court p. 7. David Harland testified that the UN estimate was approximately 20,000 troops in the SRK. David Harland, T. 2106 (7 May 2010).

541 Stanislav Galić, T. 37157 (15 April 2013); D3864 (Radovan Radinović's expert report entitled "The Control Authority of Dr. Radovan Karadžić in the Strategic Command System of the VRS", 2012), para. 249. *See also* P1505 (SRK Order, 22 May 1992); P1509 (Order of JNA 4th Corps, 17 May 1992). [REDACTED]. Galić testified that when he arrived at the SRK (in September 1992), there were "nine light brigades [...] a mixed anti-armour regiment, a mixed armour artillery regiment [...] a light artillery regiment [...] a battalion, communications battalion, medical battalion, and transport battalion". Stanislav Galić, T. 37157 (15 April 2013). The areas of responsibility of each brigade were discussed by Stanislav Galić, T. 37157–37168, 37178–37185 (15 April 2013); D3381 (Map of Sarajevo marked by Stanislav Galić). KDZ304 stated that the SRK had 11 brigades "deployed within and outside the exclusion zone". P2407 (Witness statement of KDZ304), e-court p. 7. *See also* P1021 (VRS map of Sarajevo); P6295 (VRS map of Sarajevo); D718 (Map of Sarajevo and surrounding areas); D311 (VRS map of Sarajevo); P842 (VRS map of Sarajevo, 31 August 1995); P1494 (ABiH map of Sarajevo, 15 June–20 July 1992); D2788 (Map of Sarajevo marked by Dragomir Milošević).

542 In late 1993, the Vogošća Light Infantry Brigade was renamed the 3rd Sarajevo Light Infantry Brigade and both the Rajlovac Brigade and Koševo Brigade were incorporated into the 3rd Sarajevo Light Infantry Brigade. P989 (Witness statement of Richard Philipps dated 25 May 2010), pp. 9, 15; P993 (Organisation chart of SRK, 1992-

Srpska Light Infantry Brigade, the Rogatica Brigade, the Igman Infantry Brigade, the Ilidža Light Infantry Brigade, the Ilijaš Light Infantry Brigade, the Vogošća Light Infantry Brigade, and the Rajlovac Light Infantry Brigade.[543] Brigades were supported by an artillery group, an anti-aircraft defence light artillery regiment, an engineering battalion, and a medical battalion.[544] The SRK also had an MP company.[545]

187. When the Drina Corps was established in November 1992, the 1st Romanija Infantry Brigade and the Rogatica Brigade became part of the Drina Corps.[546]

188. In general, the names and areas of responsibility for the SRK brigades were based on the locations of the brigades.[547] For example, the Ilidža Light Infantry Brigade was deployed in Ilidža and held positions in Nedžarići towards Dobrinje, Alipašino Polje and the Stup Junction, as well as Golo Brdo in the southwest area of Sarajevo.[548]

189. The Igman Infantry Brigade controlled the areas of Blazuj and Hadžići.[549] The 1st Sarajevo Mechanised Brigade held positions east of Mojmilo Brdo, near eastern Dobrinja, Zlatište, and Grbavica through the Jewish cemetery until Debelo Brdo.[550] The 1st Romanija Infantry Brigade

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1994); Stanislav Galić, T. 37182–37183 (15 April 2013) (testifying that the Vogošća Brigade merged with the Rajlovac and Centar Brigades to make the 3rd Sarajevo Brigade), T. 37539 (22 April 2013) (testifying that it was the Koševo or Centar Brigade, "depending on what we called it at which point"), T. 37969 (8 May 2013); D2774 (Witness statement of Milenko Indić dated 19 January 2013), para. 21 (stating that the Koševo and Rajlovac Brigades merged to become the 3rd Sarajevo Brigade).

543 P993 (Organisation chart of SRK, 1992-1994); P994 (Organisation chart of SRK, 1994-1995); P989 (Witness statement of Richard Philipps dated 25 May 2010), pp. 9–10; D2774 (Witness statement of Milenko Indić dated 19 January 2013), para. 21.

544 P998 (SRK instructions, 7 June 1992); Stanislav Galić, T. 37156–37157 (15 April 2013); D3864 (Radovan Radinović's expert report entitled "The Control Authority of Dr. Radovan Karadžić in the Strategic Command System of the VRS", 2012), para. 249 (support units also included engineering, atomic/biological/chemical, transport, communications, etc.). *See also* P989 (Witness statement of Richard Philipps dated 25 May 2010), pp. 10, 19; P996 (List of SRK entities); P1002 (SRK report on deployments of artillery units, 14 June 1992); P1009 (Order of Chief of Artillery of SRK, 11 October 1992).

545 P2645 (Radovan Karadžić's order to VRS Main Staff, MUP and Ministry of Defence, 20 May 1992); P996 (List of SRK entities), pp. 8, 24–25.

546 Stanislav Galić, T. 37156–37158 (15 April 2013). *See also* P976 (Directive 4, 19 November 1992), p. 2 (noting the establishment of the Drina Corps).

547 Stanislav Galić, T. 37159 (15 April 2013).

548 Stanislav Galić, T. 37159, 37161–37168, 37179 (15 April 2013); D3381 (Map of Sarajevo marked by Stanislav Galić); D3382 (Map of Sarajevo). *See also* Dragomir Milošević, T. 32512 (23 January 2013), T. 32781 (28 January 2013), T. 32803 (29 January 2013); D2819 (SRK combat report, 10 July 1992); D2828 (SRK combat report, 10 August 1994); D3429 (SRK combat report, 4 September 1993), para. 5. On 10 December 1992, having taken control of the Stup junction, the Ilidža Brigade controlled the area of Oteš and Energoinvest in the west. Stanislav Galić, T. 37161–37163 (15 April 2013); D3381 (Map of Sarajevo marked by Stanislav Galić).

549 Stanislav Galić, T. 37180 (15 April 2013); Dragomir Milošević, T. 32512–32513 (23 January 2013).

550 Stanislav Galić, T. 37184 (15 April 2013), T. 37339–37340 (16 April 2013), T. 37369 (18 April 2013), T. 37540–37541 (22 April 2013); D340 (SRK combat report, 1 June 1993); D2823 (SRK combat report, 6 November 1994), para. 1; D2828 (SRK combat report, 10 August 1994); D3403 (SRK combat report, 12 February 1993), para. 2; D3456 (SRK combat report, 22 July 1994), para. 1; D3864 (Radovan Radinović's expert report entitled "The Control Authority of Dr. Radovan Karadžić in the Strategic Command System of the

controlled the areas of Grbavica to Vraca, the area below Mount Trebević and the Jewish cemetery.[551] The 2nd Sarajevo Light Infantry Brigade held positions in the southern area of Sarajevo, in Dobrinja, Grlinca, and Vojkovići towards Lukavica.[552] The Famos factory separated the 2nd Sarajevo Light Infantry Brigade from the ABiH's 104th Motorised Brigade in Hrasnica.[553] The 3rd Sarajevo Light Infantry Brigade was deployed in the southeastern area of Sarajevo and its zone of responsibility included Rajlovac, Vogošća, and an area towards Hresa.[554]

iv. Drina Corps

190. The Drina Corps' area of responsibility was the Podrinje region, which included the municipalities of Srebrenica, Bratunac, Vlasenica, Milići, Šekovići, and Zvornik.[555] The Drina Corps headquarters was first based in Han Pijesak and later moved to Vlasenica.[556] The specific objective of the Drina Corps was to secure the middle Podrinje region, including the municipalities of Srebrenica, Bratunac, and Zvornik.[557]

191. General Milenko Živanović assumed the role of Drina Corps Commander at the time of its formation in November 1992.[558] Colonel Radislav Krstić was the Chief of Staff and Deputy

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VRS", 2012), para. 256. Galić testified both that the SRK did and did not have control of the Sucuri settlement, an area near Mojmilo Brdo and Dobrinja. *See* Stanislav Galić, T. 37408 (18 April 2013), T. 37542 (22 April 2013). *See also* Blagoje Kovačević, T. 29041–29044 (18 October 2012).

551 Dragomir Milošević, T. 32499–32501 (23 January 2013); Stanislav Galić, T. 37184 (15 April 2013), T. 37360 (18 April 2013); D3412 (SRK combat report, 19 May 1993), p. 1. Stevan Veljović stated that the zone of responsibility was "Zlatište on the right, Đukića Potok on the left, and as far back as Tilava-Tvrdinići". D2351 (Witness statement of Stevan Veljović dated 19 October 2012), para. 12. Veljović testified that Zlatište became part of the 1st Sarajevo Mechanised Brigade's area of responsibility later and that the composition of a brigade would change and the zone would change slightly too. Stevan Veljović, T. 29249–29250 (23 October 2012).

552 Dragomir Milošević, T. 32523 (23 January 2013), T. 32743–32744, 32784 (28 January 2013); D3445 (SRK combat report, 7 June 1993), para. 1(c). In total, the 2nd Sarajevo Light Infantry Brigade had about 1,200 persons registered. However, Dragomir Milošević testified that he could only depend on approximately 800 to 1,000 to be ready for combat. Dragomir Milošević, T. 32523 (23 January 2013), T. 32743–32744, 32784 (28 January 2013). The 2nd Sarajevo Brigade was also referred to as the 2nd Sarajevo Light Infantry Brigade. D2809 (SRK combat report, 13 September 1993).

553 The confrontation line was a single wall in the factory. Dragomir Milošević, T. 32787–32789 (29 January 2013), T. 33179–33180 (5 February 2013); D2903 (SRK combat report, 25 May 1995).

554 Stanislav Galić, T. 37538–37539 (22 April 2013), T. 37969 (8 May 2013); Dragomir Milošević, T. 32513 (23 January 2013).

555 P4917 (Richard Butler's expert report entitled "VRS Main Staff Command Responsibility Report", 9 June 2006), paras. 3.0–3.3; P4941 (Srebrenica court binder containing maps), p. 5. *See also* P976 (Directive 4, 19 November 1992), p. 2; Adjudicated Facts 1421, 1442.

556 *See* Adjudicated Fact 1444. *See also* P6566 (Order of VRS Main Staff, 20 October 1992).

557 Richard Butler, T. 27423—27434 (17 April 2012); P976 (Directive 4, 19 November 1992), pp. 2, 5. *See also* D325 (VRS Main Staff analysis of combat readiness and army activities in 1992, April 1993), p. 73; P4941 (Srebrenica court binder containing maps), p. 5.

558 Adjudicated Fact 1450.

Commander of the Drina Corps from 29 September 1994.[559] He became the Corps Commander on 13 July 1995.[560]

192. The Security Department of the Drina Corps was headed by Lieutenant-Colonel Vujadin Popović in April 1995, and it was responsible for issues of security in the corps, including the arrest and detention of prisoners of war and other persons.[561] The MP battalion was commanded by Lieutenant Ratko Vujović.[562]

193. By July 1995, the Drina Corps was composed of the following subordinate units, including the 1st Bratunac Light Infantry Brigade ("Bratunac Brigade"), 1st Zvornik Light Infantry Brigade ("Zvornik Brigade"), 1st Vlasenica Light Infantry Brigade, 2nd Romanija Motorised Brigade, 1st Birač Infantry Brigade, 1st Milići Light Infantry Brigade, 1st Podrinje Light Infantry Brigade, 5th Podrinje Light Infantry Brigade, and Skelani Independent Battalion.[563] These units were supported by the 5th Mixed Artillery Regiment, 5th Engineer Battalion, 5th Communications Battalion, and 5th MP Battalion.[564]

194. Code names were used to refer to the corps commands and other operative units, such as "Palma" for the Zvornik Brigade, "Badem" for the Bratunac Brigade and "Zlatar" for the Command of the Drina Corps.[565]

(A) Bratunac Brigade

195. In July 1995, the Bratunac Brigade was headquartered in Bratunac town and commanded by Colonel Vidoje Blagojević.[566] Major Novica Pajić was the Chief of Staff and Deputy Commander.[567] The Bratunac Brigade branches consisted of three branches: Rear Service

559 Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*) T. 5972. *See also* Adjudicated Fact 1451. Krstić was promoted to Major-General on 2 May 1995. D3951 (Order of Drina Corps, 2 May 1995).

560 P4485 (Drina Corps information, 13 July 1995).

561 D3993 (Witness Statement of Vujadin Popović dated 2 November 2013), para. 3; Momir Nikolić, T. 24569–24570 (13 February 2012). *See also* Adjudicated Fact 1453; D2243 (Instructions from the Drina Corps, 15 April 1995); P4920 (Diagrams of various VRS Military Command structures), p. 2.

562 P4920 (Diagrams of various VRS Military Command structures), p. 2; KDZ391, P4761 (Transcript from *Prosecutor v. Popović et al.*), T. 32567–32568, 32599–32600 (under seal).

563 P4920 (Diagrams of various VRS Military Command structures), p. 2. *See also* Adjudicated Fact 1448.

564 *See* Adjudicated Fact 1448.

565 *See* Adjudicated Fact 1460.

566 P4914 (Richard Butler's expert report entitled "Srebrenica Military Narrative (Revised): Operation 'Krivaja 95'", 1 November 2002), paras. 2.8, 3.6, 13.2; Momir Nikolić, T. 24568–24569 (13 February 2012); Mile Janjić, P1194 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 9781; KW582, D4291 (Transcript from *Prosecutor v.Blagojević & Jokić*), T. 3627; D4189 (Witness statement of Vidoje Blagojević dated 8 October 2013), pp. 1–2; P4920 (Diagrams of various VRS Military Command structures), p. 4. *See also* Adjudicated Facts 1458, 1459, 1636.

567 P4920 (Diagrams of various VRS Military Command structures), p. 4; P4914 (Richard Butler's expert report entitled "Srebrenica Military Narrative (Revised): Operation 'Krivaja 95'", 1 November 2002), para. 2.8.

commanded by Major Dragoslav Trišić; Morale, Legal and Religious Affairs commanded by Major Ratomir Jevtić; and the Security and Intelligence Organ commanded by Captain Momir Nikolić, with Dragiša Jovanović as his deputy.[568]

196. The Bratunac Brigade had four infantry battalions;[569] an MP platoon commanded by Mirko Janković;[570] an Artillery Company; and a Logistics Company.[571]

197. Momir Nikolić was the Chief of the Security and Intelligence Organ from November 1992 until the end of the conflict.[572] The responsibilities of the Security and Intelligence Organ included collecting, processing, analysing, and forwarding intelligence data to commanding personnel, assessing counter-intelligence threats, and taking measures to repel sabotage of the unit's arsenal, personnel and equipment.[573] Nikolić reported to the Drina Corps Intelligence and Security Organ.[574] Nikolić also acted as liaison officer to UNMOs, UNPROFOR, and other international organisations in the Srebrenica area in 1995.[575]

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568 P4920 (Diagrams of various VRS Military Command structures), p. 4; P4914 (Richard Butler's expert report entitled "Srebrenica Military Narrative (Revised): Operation 'Krivaja 95'", 1 November 2002), para. 2.8; Momir Nikolić, T. 24715 (14 February 2012); D4189 (Witness statement of Vidoje Blagojević dated 8 October 2013), p. 4; KW582, D4291 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 3662. *See also* Adjudicated Facts 1520, 1868.

569 P4920 (Diagrams of various VRS Military Command structures), p. 4; P4914 (Richard Butler's expert report entitled "Srebrenica Military Narrative (Revised): Operation 'Krivaja 95'", 1 November 2002), para. 2.8. The battalions included: the 1st Battalion, commanded by Lazar Ostojić; the 2nd Battalion, commanded by Goran Stakić; the 3rd Battalion, commanded by Dragomir Zekić; and the 4th Battalion, commanded by Radika Petrović. P4920 (Diagrams of various VRS Military Command structures), p. 4; P4914 (Richard Butler's expert report entitled "Srebrenica Military Narrative (Revised): Operation 'Krivaja 95'", 1 November 2002), para. 2.8. The 4th Battalion operated on the Bratunac-Konjević Polje Road area since September 1993 and was assigned to the Zvornik Brigade. However, it was commanded by the Commander of the Bratunac Brigade who had operational control over combat related activities and controlled this unit until 19 July 1995. P4914 (Richard Butler's expert report entitled "Srebrenica Military Narrative (Revised): Operation 'Krivaja 95'", 1 November 2002), paras. 6.15–6.16. *See also* Momir Nikolić, T. 24563 (13 February 2013). The 3rd Infantry Battalion had an intervention platoon called the "Red Berets". P4920 (Diagrams of various VRS Military Command structures), p. 4; P4914 (Richard Butler's expert report entitled "Srebrenica Military Narrative (Revised): Operation 'Krivaja 95'", 1 November 2002), para. 2.8.

570 Momir Nikolić, T. 24570 (13 February 2012), T. 24651, 24681, 24721 (14 February 2012), T. 24864 (16 February 2012); KW582, D4290 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 3499–3500 (under seal); Mile Janjić, P372 (Transcript from *Prosecutor v. Popović et al.*), T. 17951, 17968; P4920 (Diagrams of various VRS Military Command structures), p. 4; P4914 (Richard Butler's expert report entitled "Srebrenica Military Narrative (Revised): Operation 'Krivaja 95'", 1 November 2002), para. 2.8.

571 P4920 (Diagrams of various VRS Military Command structures), p. 4.

572 Momir Nikolić, T. 24558 (13 February 2012).

573 Momir Nikolić, T. 24565, 24567–24569 (13 February 2012); D4189 (Witness statement of Vidoje Blagojević dated 8 October 2013), p. 4.

574 Momir Nikolić, T. 24569 (13 February 2012).

575 Momir Nikolić, T. 24572–24578 (13 February 2012).

(B) Zvornik Brigade

198. In July 1995, the Zvornik Brigade was headquartered at the Standard Barracks in Karakaj on the Konjević Polje-Zvornik-Bijeljina road.[576]

199. It was commanded by Lieutenant Colonel Vinko Pandurević.[577] Major Dragan Obrenović served as Chief of Staff and Deputy Commander.[578] The brigade staff included the Intelligence Section, with Duško Vukotić as the Assistant Chief.[579] The organs of the Zvornik Brigade were headed by three Assistant Commanders subordinated to Pandurević.[580] Sreten Milošević was the head of the Logistics Organ.[581] Drago Nikolić was the head of the Security Organ, with Milorad Trbić as his deputy.[582] Nikolić's immediate superior at the brigade level was Pandurević but his

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576 Ljubo Bojanović, P116 (Transcript from *Prosecutor v. Blagojević*), T. 11688, 11722; KDZ407, P378 (Transcript from *Prosecutor v. Popović et al.*), T. 6440 (under seal); Milorad Birčaković, P360 (Transcript from *Prosecutor v. Popović et al.*), T. 11011.

577 Pandurević assumed the role of the Zvornik Brigade Commander on 12 December 1992, and remained in this position until November 1996. Ljubo Bojanović, P116 (Transcript from *Prosecutor v. Blagojević*), T. 11674; Ostoja Stanišić, P382 (Transcript from *Prosecutor v. Popović et al.*), T. 11703; D3720 (Witness statement of Petar Salapura dated 17 June 2013), p. 19; P4914 (Richard Butler's expert report entitled "Srebrenica Military Narrative (Revised): Operation 'Krivaja 95'", 1 November 2002), para. 2.8; *see* Adjudicated Fact 1454.

578 Srećko Aćimović, P343 (Transcript from *Prosecutor v. Popović et al.*), T. 12939; Ljubo Bojanović, P116 (Transcript from *Prosecutor v. Blagojević*), T. 11674–11675; Ostoja Stanišić, P382 (Transcript from *Prosecutor v. Popović et al.*), T. 11703; P4920 (Diagrams of various VRS Military Command structures), p. 3; P4914 (Richard Butler's expert report entitled "Srebrenica Military Narrative (Revised): Operation 'Krivaja 95'", 1 November 2002), para. 2.8. *See also* Adjudicated Fact 1455.

579 KDZ122, T. 26149 (13 March 2012) (closed session); P4920 (Diagrams of various VRS Military Command structures), p. 3; P4914 (Richard Butler's expert report entitled "Srebrenica Military Narrative (Revised): Operation 'Krivaja 95'", 1 November 2002), para. 2.8.

580 Ljubo Bojanović, P116 (Transcript from *Prosecutor v. Blagojević*), T. 11674; Ostoja Stanišić, P382 (Transcript from *Prosecutor v. Popović et al.*), T. 11703; KDZ122, T. 26106 (12 March 2012) (closed session), T. 26152 (13 March 2012) (closed session); D3720 (Witness statement of Petar Salapura dated 17 June 2013), p. 19; P4914 (Richard Butler's expert report entitled "Srebrenica Military Narrative (Revised): Operation 'Krivaja 95'", 1 November 2002), para. 2.8; P4920 (Diagrams of various VRS Military Command structures), p. 3.

581 Ljubo Bojanović, P116 (Transcript from *Prosecutor v. Blagojević*), T. 11675, 11739; Vujadin Popović, T. 43105 (6 November 2013); KDZ122, T. 26129 (12 March 2012) (closed session); P4920 (Diagrams of various VRS Military Command structures), p. 3.

582 Ljubo Bojanović, P116 (Transcript from *Prosecutor v. Blagojević*), T. 11675, 11682–11683; Tanacko Tanić, P369 (Transcript from *Prosecutor v. Popović et al.*), T. 10338; Srećko Aćimović, P343 (Transcript from *Prosecutor v. Popović et al.*), T. 12931–12932; Milorad Birčaković, P360 (Transcript from *Prosecutor v. Popović et al.*), T. 11011–11012, 11116; KDZ122, T. 26109–26110, 26120, 26130 (12 March 2012) (closed session), T. 26155 (13 March 2012) (closed session); P4920 (Diagrams of various VRS Military Command structures), p. 3; P4914 (Richard Butler's expert report entitled "Srebrenica Military Narrative (Revised): Operation 'Krivaja 95'", 1 November 2002), para. 2.8; Nebojša Jeremić, P348 (Transcript from *Prosecutor v. Popović et al.*), T. 10418, 1042; *see* Adjudicated Fact 1457. Drago Nikolić had the authority to carry out tasks without the permission of the Zvornik Brigade Commander. The security organs had the right to use vehicles without the knowledge of the Zvornik Brigade Commander, as provided for in the book of regulations. Military police officers fell under the security organ's chain of command, separate from the command of the Zvornik Brigade. Radislav Krstić, D4136 (Transcript from *Prosecutor v. Krstić*) T. 6477–6478.

professional superior was Popović.[583] Nenad Simić was the head of the Morale, Religious, and Legal Affairs Organ.[584]

200. The infantry battalions subordinated to the Zvornik Brigade in 1995 were the following: 1st Battalion,[585] 2nd Battalion,[586] 3rd Battalion,[587] 4th Battalion,[588] 5th Battalion,[589] 6th Battalion,[590] 7th Battalion[591] 8th Battalion,[592] Logistics Battalion,[593] Light Anti-Aircraft Rocket Artillery Battalion,[594] and the Rear Battalion (also called the "R" battalion).[595]

201. The Zvornik Brigade had other units including an MP company commanded by Milomir Jasikovac; the Engineering Company, commanded by Dragan Jevtić; the Communications Company, commanded by Dragisa Radić; the Mixed Artillery Division, commanded by Miloš Maksimović; and the 1st Battalion's Work Platoon, commanded by Radivoje Lakić.[596]

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583 KDZ122, T. 26109–26110 (12 March 2012) (closed session).

584 Ljubo Bojanović, P116 (Transcript from *Prosecutor v. Blagojević*), T. 11716; KDZ122, T. 26130 (12 March 2012) (closed session); P4920 (Diagrams of various VRS Military Command structures), p. 3.

585 P4920 (Diagrams of various VRS Military Command structures), p. 3; P4914 (Richard Butler's expert report entitled "Srebrenica Military Narrative (Revised): Operation 'Krivaja 95'", 1 November 2002), para. 2.8.

586 Srećko Aćimović, P343 (Transcript from *Prosecutor v. Popović et al.*), T. 12930–12931; Veljko Ivanović, P384 (Transcript from *Prosecutor v. Popović et al.*), T. 18174; Mitar Lazarević, P363 (Transcript from *Prosecutor v. Popović et al.*), T. 13362; P4920 (Diagrams of various VRS Military Command structures), p. 3; P4914 (Richard Butler's expert report entitled "Srebrenica Military Narrative (Revised): Operation 'Krivaja 95'", 1 November 2002), para. 2.8.

587 P4920 (Diagrams of various VRS Military Command structures), p. 3; P4914 (Richard Butler's expert report entitled "Srebrenica Military Narrative (Revised): Operation 'Krivaja 95'", 1 November 2002), para. 2.8.

588 P4920 (Diagrams of various VRS Military Command structures), p. 3; P4914 (Richard Butler's expert report entitled "Srebrenica Military Narrative (Revised): Operation 'Krivaja 95'", 1 November 2002), para. 2.8.

589 P4920 (Diagrams of various VRS Military Command structures), p. 3; P4914 (Richard Butler's expert report entitled "Srebrenica Military Narrative (Revised): Operation 'Krivaja 95'", 1 November 2002), para. 2.8.

590 Ostoja Stanišić, P382 (Transcript from *Prosecutor v. Popović et al.*), T. 11594; P4920 (Diagrams of various VRS Military Command structures), p. 3; P4914 (Richard Butler's expert report entitled "Srebrenica Military Narrative (Revised): Operation 'Krivaja 95'", 1 November 2002), para. 2.8.

591 P4920 (Diagrams of various VRS Military Command structures), p. 3; P4914 (Richard Butler's expert report entitled "Srebrenica Military Narrative (Revised): Operation 'Krivaja 95'", 1 November 2002), para. 2.8.

592 P4920 (Diagrams of various VRS Military Command structures), p. 3; P4914 (Richard Butler's expert report entitled "Srebrenica Military Narrative (Revised): Operation 'Krivaja 95'", 1 November 2002), para. 2.8.

593 P4920 (Diagrams of various VRS Military Command structures), p. 3.

594 P4920 (Diagrams of various VRS Military Command structures), p. 3.

595 Damjan Lazarević, P352 (Transcript from *Prosecutor v. Popović et al.*), T. 14462; Milenko Tomić, P390 (Transcript from *Prosecutor v. Popović et al.*), T. 20998–20999.

596 Cvijetin Ristanović, P652 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 5363; KDZ122, T. 26112, 26142–36144 (12 March 2012) (closed session), T. 26174 (13 March 2012) (closed session); Jevto Bogdanović, P385 (Transcript from *Prosecutor v. Popović et al.*), T. 11314; Milorad Birčaković, P360 (Transcript from *Prosecutor v. Popović et al.*), T. 11012, 11115–11116, 11171; Srećko Aćimović, P343 (Transcript from *Prosecutor v. Popović et al.*), T. 12987; D2266 (Nada Stojanović's interview with OTP), pp. 5–6; Nebojša Jeremić, P348 (Transcript from *Prosecutor v. Popović et al.*), T. 10418; P4920 (Diagrams of various VRS Military Command structures), p. 3; P4914 (Richard Butler's expert report entitled "Srebrenica Military Narrative (Revised): Operation 'Krivaja 95'", 1 November 2002), paras. 2.8, 7.7. *See also* Adjudicated Fact 1775 (the Chamber notes that Milomir Jasikovac's name is misspelled in the Adjudicated Fact).

202. The so-called "Drina Wolves" was a special unit of the Zvornik Brigade housed in Kiseljak.[597] It could be deployed when necessary in order to defend certain territories.[598] The unit was commanded by Dragan Jolović, also referred to as "Legenda".[599] Members of the Drina Wolves were identified by a patch of a wolf head on the left shoulder of their uniforms.[600]

f. Command and control principles

203. The VRS system of command and control had three levels: strategic, operational, and tactical.[601] Applying the same definition and principles of command and control as the JNA,[602] the VRS organised unified and centralised command according to the following: (i) a "corps-brigade-battalion" model directly subordinated to a corps command;[603] (ii) a subordinate-commander relationship in which every superior had the responsibility to monitor and assess the work of their subordinates and subordinates had to follow strict procedures of reporting and actions;[604] and (iii) centralised decisions that followed a unified chain of command.[605] For example, based on directives from the Main Staff, the SRK Commander would issue and/or approve orders to the subordinate commands.[606] Subordinate commands would report back to the SRK command.[607] On

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597 KDZ407, P378 (Transcript from *Prosecutor v. Popović et al.*), T. 6437 (under seal); Dražen Erdemović, P332 (Transcript from *Prosecutor v. Popović et al.*), T. 10944-10945; Milorad Birčaković, P360 (Transcript from *Prosecutor v. Popović et al.*), T. 11170.

598 KDZ407, P378 (Transcript from *Prosecutor v. Popović et al.*), T. 6437; Dražen Erdemović, P332 (Transcript from *Prosecutor v. Popović et al.*), T. 10944–10945.

599 KDZ340, T. 17551–17552 (19 August 2011) (private session); KDZ508, P388 (Transcript from *Prosecutor v. Popović et al.*), T. 8876–8877 (under seal); Momir Nikolić, T. 24626 (13 February 2012). *See also* Dražen Erdemović, P332 (Transcript from *Prosecutor v. Popović et al.*), T. 10944–10945; D3927 (Witness statement of Franc Kos dated 26 July 2013), p. 7.

600 KDZ084, P4904 (Transcript from *Prosecutor v. Popović et al.*), T. 14811 (under seal).

601 D3864 (Radovan Radinović's expert report entitled "The Control Authority of Dr. Radovan Karadžić in the Strategic Command System of the VRS", 2012), para. 2.

602 P034 (Track changes version of Reynaud Theunens's expert report entitled "Radovan Karadžić and the SRBiH TO-VRS (1992-1995)"), e-court pp. 310–311; D3864 (Radovan Radinović's expert report entitled "The Control Authority of Dr. Radovan Karadžić in the Strategic Command System of the VRS", 2012), paras. 57–66.

603 P4915 (Richard Butler's expert report entitled "VRS Brigade Command Responsibility Report", 31 October 2002), para. 1.1.

604 Ljubomir Obradović, P4444 (Transcript from *Prosecutor v. Tolimir*), T. 11945–11946.

605 P3914 (Ewan Brown's expert report entitled "Military Developments in the Bosanska Krajina - 1992", 27 November 2002), para. 1.62. *See also* Manojlo Milovanović, T. 25477–25478, (29 February 2012), T. 25632 (1 March 2012). *See also* Ljubomir Obradović, T. 25106–25107 (22 February 2012) (specifying that he did not know of any specific instances in which such bypassing the normal chain of command occurred but that this possibility was envisaged within the rules).

606 Stanislav Galić, T. 37429, 37432 (18 April 2013). *See, e.g.*, D3430 (Letter from Stanislav Galić to SRK members, undated); D2800 (SRK Order, 18 February 1994) (an order issued by Galić based on the cease-fire agreement reached by the Accused and Akashi on 18 February 1994); D2567 (SRK Order, 22 May 1993); D2813 (VRS Main Staff Order, 8 August 1995); D2814 (SRK Order, 19 August 1995); (while Dragomir Milošević was on sick leave from mid-August until 9 or 10 September 1995, his Chief of Staff Čedomir Sladoje issued the order); Dragomir Milošević, T. 32750, 32755 (28 January 2013)); D2815 (SRK report, 30 August 1995); P1201 (SRK Order, 6 April 1995) (written by Chief of Artillery Tadija Manojlović, approved by Dragomir Milošević); D2840 (SRK request for information, 15 July 1993) (request for information, based on order from VRS Main Staff, sent to all brigades); Dragomir Milošević, T. 32876 (29 January 2013); P1309 (SRK Order, 21 April 1995); P1201 (SRK Order, 6 April 1995); P1670 (SRK Order, 21 August 1994. *See also*

occasion, the SRK Commander would receive information and directives directly from the Supreme Command and the Accused.[608]

204. On 1 June 1992, the Law on the Army was issued by the SerBiH Presidency; it provided that the command in the VRS "shall be founded on principles of a unified command regarding the use of forces and means, single authority, obligations to enforce decisions, command and orders issued by superior commanders".[609] It vested the President, as Commander-in-Chief, with the authority to command the army, establish plans for its development and deployment, establish the system of command, and issue a variety of regulations.[610] The Main Staff Commander would command the VRS in compliance with the authority that the President delegated to him.[611]

205. There were two parallel chains of command in the VRS: the regular chain of command and the professional chain of command.[612] With regard to the security and intelligence organs, for instance, their chain of command was largely based on the work of the organs, the majority of which included intelligence and counter-intelligence activities and a smaller portion of military police tasks and criminal investigative tasks.[613] Along the regular chain of command, the security and intelligence organs were directly subordinated to the commander of the VRS unit or institution of which they formed a part.[614] However, with regards to their professional activities, they were controlled by the security and intelligence organs of the superior command authorised to command

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D2812 (Warning of SRK, 27 October 1994); D232 (VRS Main Staff Order, 6 June 1992) (a directive for further action issued by Mladić of the Main Staff to his commanders); P998 (SRK instructions, 7 June 1992) (instructions for further activities issued by SRK command); P1498 (Order of 2nd Motorised Brigade, 8 June 1992) (order, based on the SRK command instructions, issued by the commander of the 2nd Motorised Brigade to his units).

607 *See, e.g.,* P4498 (Report of 1st Romanija Infantry Brigade, 3 September 1992); D2795 (1st Romanija Brigade report, 1 October 1992).

608 Stanislav Galić, T. 38033 (9 May 2013). *See, e.g.,* P4925 (Supplement to Directive 6, 12 December 1993).

609 P2603 (SerBiH Law on the Army, 1 June 1992), art. 173. The Law on the Army was verified by the Bosnian Serb Assembly at its 17th session. P1356 (Minutes of 17th session of SerBiH Assembly, 24-26 July 1992), p. 8.

610 P2603 (SerBiH Law on the Army, 1 June 1992), art. 174.

611 P2603 (SerBiH Law on the Army, 1 June 1992), art. 175. *See also* KDZ088, T. 6299–6302 (7 September 2010) (closed session); Stanislav Galić, T. 38033 (9 May 2013).

612 P4480 (VRS Main Staff Order, 24 October 1994); Ljubomir Obradović, P4444 (Transcript from *Prosecutor v. Tolimir*), T. 11960–11962.

613 P4480 (VRS Main Staff Order, 24 October 1994) (for the security and intelligence organs), p. 1; Ljubomir Obradović, P4444 (Transcript from *Prosecutor v. Tolimir*), T. 12191–12194; Petar Salapura, T. 40236–40237 (24 June 2013) (testifying about the 10th Sabotage Detachment).

614 P4480 (VRS Main Staff Order, 24 October 1994), p. 1; Ljubomir Obradović, P4444 (Transcript from *Prosecutor v. Tolimir*), T. 12194–12195. *See also* P4478 (SFRY Rules of Service of Security Organs in the Armed Forces, 1994), para. 16 (rules which were adopted by the VRS); Ljubomir Obradović, P4444 (Transcript from *Prosecutor v. Tolimir*), T. 12163–12165.

it.[615] Intelligence and counter-intelligence tasks were part of the security organs specialised work and professional competence.[616]

g. Communication and reporting in the VRS

206. The military reporting chain in the VRS followed a hierarchical structure with the information originating from the lower military units being reported up to the intermediate military units, then to the Main Staff, and finally to the Supreme Commander.[617] The VRS used the *vojni post*, military post. numbers to identify operative units and these numbers also indicated the command and control relationship between units.[618]

207. For daily combat and situations reports, all the brigade reports were integrated into one report at the corps level that provided an overview of the situation on the ground as well as an overview of the situation within the corps, *i.e.*, combat readiness, operations, and other relevant information at approximately 4 or 5 p.m.[619] The corps would integrate the brigade reports into a corps report which would be sent to the Main Staff at approximately 6 p.m.[620] Similarly, the Main

615 P4480 (VRS Main Staff Order, 24 October 1994), p. 1; Ljubomir Obradović, P4444 (Transcript from *Prosecutor v. Tolimir*), T. 12195–12201. *See also* P4478 (SFRY Rules of Service of Security Organs in the Armed Forces, 1994), para. 16

616 *See* P4478 (SFRY Rules of Service of Security Organs in the Armed Forces, 1994), para. 18.

617 Ljubomir Obradović, P4444 (Transcript from *Prosecutor v. Tolimir*), T. 11973–11974; KDZ088, T. 6299–6302 (7 September 2010) (closed session); D232 (Directive 1, 6 June 1992); [REDACTED]; P998 (SRK instructions, 7 June 1992); P1498 (Order of 2nd Motorised Brigade, 8 June 1992); Stanislav Galić, T. 38033–38034 (9 May 2013) (testifying that sometimes directives came directly from the Supreme Command and the Accused, as the President, however most of the information, orders, and directives went through the Main Staff); Stevan Veljović, T. 29241 (23 October 2012). *See also* D2774 (Witness statement of Milenko Indić dated 19 January 2013), para. 33; P4446 (Organisational Chart of the VRS Main Staff Structure for July 1995); Ljubomir Obradović, T. 25092–25093 (22 February 2012).

618 Richard Philipps, T. 3750 (15 June 2010). Each corps, brigade, battalion and sub-unit had a specific VP number that consisted of four numbers, a stroke and then two other numbers in order to be identified by others notably in written documents. Richard Philipps, T. 3750 (15 June 2010).

619 Ljubomir Obradović, P4444 (Transcript from *Prosecutor v. Tolimir*), T. 11973–11974; Ljubomir Obradović, T. 25093–25096 (22 February 2012). *See also* Ewan Brown, T. 21542–21543 (17 November 2011); Momir Nikolić, T. 24605–24607 (13 February 2012); Stevan Veljović, T. 29239–29243 (23 October 2012). *See e.g.* P3042 (Report of VRS Main Staff, 11 April 1994); D1940 (Report of 1st Krajina Corps, 6 May 1992); D1942 (Report of 1st Krajina Corps, 14 July 1992); P3931 (Report of 1st Krajina Corps, 16 December 1992); P3043 (VRS Main Staff Report, 12 April 1994); P3054 (VRS Main Staff Report, 12 July 1995); P4930 (Combat Report of Drina Corps, 8 July 1995); P4456 (Drina Corps report, 14 July 1995); P2256 (SRK combat report, 12 March 1995); P4500 (VRS Zvornik Brigade report to Main Staff, 4 March 1993); D2838 (SRK Order, 16 September 1992). Stevan Veljović testified that the latest the reports would be sent was 8 p.m. Steven Veljović, T. 29242 (23 October 2012); D2774 (Witness statement of Milenko Indić dated 19 January 2013), para. 30. Reports to the SRK Command were to include, "(i) situation and activities of the enemy, (ii) combat readiness of units, (iii) security and morale, (iv) decision for further action, (v) situation in the territory of the zone of responsibility, (vi) situation and problems in the rear, (vii) unusual incidents and casualties, and (viii) proposals and requests". D2838 (SRK Order, 16 September 1992). *See also* Stevan Veljović, T. 29242–29243 (23 October 2012).

620 Ljubomir Obradović, P4444 (Transcript from *Prosecutor v. Tolimir*), T. 11973. *See, e.g.*, D1970 (Drina Corps report, 13 July 1995). IKMs were required to write daily operations and combat reports, just like all other units for the area for which they had been established; this information was sent in encrypted form to the operations centre of the Main Staff, which was a third body within the administration for operations and training of the

Staff would integrate reports from the corps into its daily combat reports, which were sent to the Supreme Commander and Corps Commanders.[621] Extraordinary and interim reports, often in relation to a specific area or event, were also sent, when necessary, by the corps to the Main Staff or by the Main Staff to the Supreme Commander.[622] Intelligence reports were also used to share information within the VRS.[623] In particular, the Accused received both military intelligence reports and state security intelligence reports on a daily basis.[624]

208. By the end of 1992 there was regular phone and radio communication within the VRS, and in particular between the corps or other operative units and the Main Staff; within the corps; and between the Main Staff and the Supreme Commander.[625] Meetings and briefings within the corps and between the corps and the Main Staff were held to share information.[626]

Main Staff. Ljubomir Obradović, T. 25093–25095 (22 February 2012). As regulated, daily combat reports from the SRK command would go to the Main Staff every evening. *See, e.g.,* D3396 (SRK combat report, 15 January 1993); D3403 (SRK combat report, 12 February 1993); D3404 (SRK combat report, 14 February 1993); D3405 (SRK combat report, 15 March 1993). As Chief of Staff, Dragomir Milošević occasionally sent the combat reports to the VRS Main Staff. Dragomir Milošević, T. 32723–32724 (28 January 2013); D2811 (SRK combat report, 20 October 1993); D2796 (SRK combat report, 14 August 1993); D2797 (SRK combat report, November 1994); D2798 (SRK combat report, July 1993); D2799 (SRK combat report, 30 September 1993); D2805 (SRK combat report, 9 January 1994); D2806 (SRK combat report, 23 January 1994); D2808 (SRK combat report, 1 July 1994). When Dragomir Milošević was the Chief of Staff for the SRK, he would occasionally sign the combat reports on behalf of Galić. Dragomir Milošević, T. 32719 (28 January 2013); D2809 (SRK combat report, 13 September 1993); D2823 (SRK combat report, 6 November 1994); D2819 (SRK combat report, 10 July 1993); D2820 (SRK combat report, 16 July 1993); D2821 (SRK combat report, 3 August 1993); D2822 (SRK combat report, 10 August 1993); D2827 (SRK combat report, 19 August 1993); D2831 (SRK combat report, 10 November 1994); D2903 (SRK combat report, 25 May 1995). Interim reports would go to the Main Staff daily, usually around 2 p.m. Stanislav Galić, T. 37216 (15 April 2013). *See, e.g.,* D3393 (SRK combat report, 25 December 1992); D3394 (SRK combat report, 31 December 1992). Dragomir Milošević testified that he believed that the reporting system in 1995 "functioned meticulously". Dragomir Milošević, T. 32879 (29 January 2013).

621 Ljubomir Obradović, P4444 (Transcript from *Prosecutor v. Tolimir*), T. 11973–11974; Ljubomir Obradović, T. 25100 (22 February 2012); Manojlo Milovanović, T. 25646 (1 March 2012). *See e.g.* P4449 (VRS Main Staff Report, 10 July 1995); P4450 (VRS Main Staff Report, 11 July 1995); P4464 (VRS Main Staff Report 13 July 1995); P4457 (VRS Main Staff Report, 14 July 1995); P4460 (VRS Main Staff Report, 15 July 1995); D2101 (VRS Main Staff Report, 16 July 1995); D2102 (VRS Main Staff Report, 17 July 1995); P4459 (VRS Main Staff Report, 18 July 1995); P4461 (VRS Main Staff Report, 19 July 1995)); D3453 (VRS Main Staff report, 25 May 1994). Obradović testified that the Main Staff reports would be sent to Milovanović, who would review and forward them to the Accused. Ljubomir Obradović, P4444 (Transcript from *Prosecutor v. Tolimir*), T. 11974, 11979. These reports contained information about the possible intentions and situation of the enemy, as well as information about the grouping intentions and task of the VRS, along with losses in materiel and personnel and any new corps commanders' decisions. Ljubomir Obradović, T. 25144–25145 (23 February 2012). *See, e.g.,* P4455 (VRS Main Staff Report, 5 July 1995).

622 Ljubomir Obradović, T. 25100–25102 (22 February 2012).). *See, e.g.,* P5943 (VRS Main Staff Report, 7 April 1995).

623 KDZ122, T. 26154-26156 (13 March 2012) (closed session). *See, e.g.,* D2168 (Drina Corps Intelligence Report, 13 December 1993); D2171 (VRS Main Staff Intelligence Report, 8 November 1994).

624 John Zametica, T. 42443 (29 October 2013); D3695 (Witness statement of Bogdan Subotić dated 16 June 2013), paras. 2, 51, 82 (Subotić also served as the Chief of the Military Office of the President and the Accused's military advisor). When asked whether the Accused would have had direct communication with an assistant commander of the Main Staff deployed to an IKM, Obradović replied that IKMs had established means of communication with the Main Staff. Ljubomir Obradović, T. 25105–25106 (22 February 2012).

625 Ljubomir Obradović, P4444 (Transcript from *Prosecutor v. Tolimir*), T. 11966–11967, 11973–11974; Ljubomir Obradović, T. 25095–25097 (22 February 2012); Richard Butler, T. 27537–27538 (18 April 2012); D325 (VRS

209. In general, after the establishment of the Republican Communications Centre in Pale in April 1992, there was communication between the municipalities, the MUP, and the VRS.[627] The three main types of communications existed: (i) the telephone system ("PTT"); (ii) radio and radio relay communications; and (iii) coded communications.[628] The PTT was the civilian telephone system.[629] The VRS could protect certain PTT lines for their own use.[630] Radio was used for both encrypted and unprotected communication.[631] When the radio system was not working, the radio relay system was used.[632] Coded communication was used for confidential information sent over the radio on unprotected lines and it was a back-up system for communication for both the VRS and MUP.[633] At the Republican Communications Centre, the Accused used a direct secure telephone line to communicate to the Main Staff Communications Centre at Crna Rijeka.[634] Additionally, Mladić had permanent direct and encrypted communication with the Corps Commands, as well as relay communication with the IKMs.[635]

2. Territorial Defence

210. As part of the SFRY military doctrine known as the "All People's Defence", the TO was comprised of organised armed formations that were not part of the JNA or the police.[636] The TO

Main Staff analysis of combat readiness and army activities in 1992, April 1993), pp. 30–35; Dragan Kezunović, T. 14967–14968 (20 June 2011); P4445 (1st Podrinje Light Infantry Brigade Report, 14 July 1995); P4568 (Zvornik Brigade telephone booklet); Ranko Vuković, T. 15091–15098 (21 June 2011) in connection with P2796 (Map showing communications plan of Drina Corps); Richard Philipps, T. 3860–3865 (16 June 2010).

626 Mile Sladoje, T. 30565–30566 (28 November 2012); Stevan Veljović, T. 29245–29248 (23 October 2012).

627 P2794 (Witness statement of Ranko Vuković dated 24 May 2011), pp. 3–4. The communications systems included use of telephone, short wave and ultra-short wave radio, fax machines, teleprinters, radio relay communications, wire communications, and a courier system. P2794 (Witness statement of Ranko Vuković dated 24 May 2011), pp. 4–5.

628 P2794 (Witness statement of Ranko Vuković dated 24 May 2011), pp. 5–6; D325 (VRS Main Staff analysis of combat readiness and army activities in 1992, April 1993), pp. 28–38.

629 P2794 (Witness statement of Ranko Vuković dated 24 May 2011), p. 5.

630 P2794 (Witness statement of Ranko Vuković dated 24 May 2011), p. 5.

631 P2794 (Witness statement of Ranko Vuković dated 24 May 2011), p. 5. *See also* P2794 (Witness statement of Ranko Vuković dated 24 May 2011), e-court pp. 36, 45; P2823 (Dispatch of SerBiH Ministry of Defence to SAOs and ARK, undated).

632 P2794 (Witness statement of Ranko Vuković dated 24 May 2011), p. 5.

633 P2794 (Witness statement of Ranko Vuković dated 24 May 2011), p. 6.

634 P2794 (Witness statement of Ranko Vuković dated 24 May 2011), pp. 7–8. *See also* P2795 (Diagram of the VRS radio relay communications); P2796 (Map showing communications plan of Drina Corps); P2797 (Diagram of radio-relay and wire communications of Drina Corps); P2798 (Map showing VRS radio-relay lines and command posts).

635 Ljubomir Obradović, T. 25095–25097 (22 February 2012) (explaining that once established, the communications lines to the corps commands were permanent and contrasting that with the IKMs which were by definition mobile). Obradović estimated that Mladić spoke to the corps commanders approximately every afternoon. Ljubomir Obradović, T. 25097 (22 February 2012).

636 D1358 (SFRY Law on All People's Defence); Gojko Kličković, T. 46925–46926 (12 February 2014); P3034 (Track changes version of Reynaud Theunens's expert report entitled "Radovan Karadžić and the SRBiH TO-VRS (1992-1995)"), e-court pp. 51–53. *See also* Adjudicated Fact 415; KDZ088, T. 6352–6353 (closed session) (8 September 2010); Ranko Vuković, T. 15118–15119 (21 June 2011); Bogdan Subotić, T. 40019–

was comprised of units, institutions, staff, and other organisations of individuals "for a general popular armed resistance" that could be mobilised during times of war.[637] The TO was organised with staff at both the republic level and the municipal level.[638]

211. On 27 March 1992, before the Bosnian Serb Assembly, the Accused gave instructions to the newly-formed municipalities to "organise the people so that they can defend themselves" as a TO and place them under the command of the JNA present at that time.[639]

212. On 15 April 1992, an imminent threat of war was declared by the SerBiH Presidency and the following day, the mobilisation of the TO was ordered.[640] The TO was declared to be part of the armed forces.[641] Accordingly, all military conscripts were to put themselves at the disposal of the municipal TO staffs in the territory of the RS, and the newly formed TO units were to "cooperate with the JNA units, and where possible, put them under single command".[642] Colonel Vidoje Lukić was appointed as Chief of the SerBiH TO.[643] In April 1992, it was decided that the Accused, as President of the SNB, was to co-ordinate command over the TO forces.[644] The SerBiH TO was composed of reserve men who carried out their regular jobs and who, in case of war, were called up to defend a certain territory.[645]

213. Until the TO was integrated into the VRS, all defence activities were under the competence of the TO and organised by the Crisis Staffs in the municipalities.[646] The TO units were equipped

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40020 (19 June 2013). There was a distinct TO in each Republic, funded by that Republic and under the control of the Minister of Defence of that Republic. Adjudicated Fact 419.

637 D1358 (SFRY Law on All People's Defence), art. 102.

638 Manojlo Milovanović, T. 25450–254511 (28 February 2012); D1358 (SFRY Law on All People's Defence), art. 102; P3034 (Track changes version of Reynaud Theunens's expert report entitled "Radovan Karadžić and the SRBiH TO-VRS (1992-1995)"), e-court pp. 51–53.

639 P1634 (Minutes of 14th Session of SerBiH Assembly, 27 March 1992), p. 23; P3914 (Ewan Brown's expert report entitled "Military Developments in the Bosanska Krajina – 1992", 27 November 2002), para. 2.26.

640 P3922 (Decision of SerBiH Presidency, 15 April 1992); P2412 (SerBiH Ministry of Defence Decision, 16 April 1992); P3034 (Track changes version of Reynaud Theunens's expert report entitled "Radovan Karadžić and the SRBiH TO-VRS (1992-1995)"), e-court pp. 274–277; Ewan Brown, T. 21570–21571 (17 November 2011); Ranko Vuković, T. 15119 (21 June 2011).

641 P2412 (SerBiH Ministry of Defence Decision, 16 April 1992), p. 1.

642 P2412 (SerBiH Ministry of Defence Decision, 16 April 1992), p. 2.

643 D3709 (Decision of SerBiH Government, 15 April 1992).

644 P3051 (Minutes of expanded meeting of SNB and SerBiH Government, 22 April 1992), p. 1; P3034 (Track changes version of Reynaud Theunens's expert report entitled "Radovan Karadžić and the SRBiH TO-VRS (1992-1995)"), e-court p. 279. *See also* para. 91.

645 KDZ192, P3416 (Transcript from *Prosecutor v. Brđanin*), T. 11710–11711 (under seal); Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 9110–9111.

646 Manojlo Milovanović, T. 25451–25453 (28 February 2012); Momir Nikolić, T. 24703–24704 (14 February 2012); Milomir Šoja, T. 7209–7210 (30 September 2010); Ranko Vuković, T. 15118–15119 (21 June 2011); Bogdan Subotić, T. 40021–40022 (19 June 2013); Branko Davidović, T. 45929–45930 (23 January 2014); Richard Philipps, T. 3828 (16 June 2010); Ranko Vuković, T. 15118–15119 (21 June 2011). *See, e.g.,* D1195 (Ilidža Crisis Staff order, 10 April 1992). *See also* D1358, (SFRY Law on All People's Defence), art. 102. *See also* para. 145.

with infantry weapons, rifles, light machine-guns, some small calibre artillery, mortars, and anti-personnel mines.[647] The uniforms worn by the SerBiH TO were similar to JNA uniforms.[648]

214. On 12 May 1992, after the formal establishment of the VRS, the SerBiH TO was directly integrated into the VRS.[649] The Accused, as the President, would determine the organisation of the integrated SerBiH TO units and staff.[650]

3. Bosnian Serb MUP

a. Establishment and structure

215. On 28 February 1992, the Bosnian Serb Assembly passed the Law on Internal Affairs, which established the MUP, effective 31 March 1992.[651] On 24 March 1992. Mićo Stanišić was appointed Minister of the MUP and he was in this position until the end of 1992 and again from January 1994 until July 1994.[652] Momčilo Mandić was the Assistant Minister of the MUP from April until May 1992.[653] Tomislav Kovač was the Assistant Minister of the MUP in August 1992

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647 Adjudicated Fact 420. The TOs did not have tanks and TO weapons were stored locally, within each municipality. *See* Adjudicated Facts 421, 422.

648 Isak Gaši, P3002 (Transcript from *Prosecutor v. Krajišnik*), T. 548–549.

649 P956 (Transcript of 16th session of SerBiH Assembly, 12 May 1992), pp. 53–56; P3914 (Ewan Brown's expert report entitled "Military Developments in the Bosanska Krajina – 1992", 27 November 2002), para. 2.32; P3034 (Track changes version of Reynaud Theunens's expert report entitled "Radovan Karadžić and the SRBiH TO-VRS (1992-1995)"), e-court pp. 289, 316–318. *See, e.g.,* P5548 (Decision of Prijedor Crisis Staff, 29 May 1992). For example, on 22 May 1992, the SRK Commander Šipčić issued an order requesting that the existing TO units be restructured into discrete TO brigades, formed from locals of distinct territories. P1505 (SRK Order, 22 May 1992). On 28 May 1992, the Birač Brigade commander ordered the subordination of the local Bosnian Serb TOs into the VRS. P3055 (Order of Birač Brigade, 28 May 1992). In the area of responsibility of the Drina Corps, men were mobilised from the summer 1992 to join the TO and after 1992, the TO was divided into units that were integrated into the Drina Corps battalions and companies. Mile Simanić, P355 (Transcript from *Prosecutor v. Popović et al.*), T. 14621.

650 P956 (Transcript of 16th session of SerBiH Assembly, 12 May 1992), pp. 53. *See also* D3864 (Radovan Radinović's expert report entitled "The Control Authority of Dr. Radovan Karadžić in the Strategic Command System of the VRS", 2012), paras. 79–80.

651 P2964 (SerBiH Decree on the promulgation on the Law of Internal Affairs, 23 March 1992); P2958 (Christian Nielsen's expert report entitled "The Bosnian Serb Ministry of Internal Affairs: Genesis, Performance and Command and Control 1990-1992", 19 May 2011), para. 95. *See also* Adjudicated Facts 514, 2147. According to Article 130, the law would enter into effect eight days after its publication but Nielsen notes that in practice the Bosnian Serb MUP began functioning on 1 April 1992. P2958 (Christian Nielsen's expert report entitled "The Bosnian Serb Ministry of Internal Affairs: Genesis, Performance and Command and Control 1990-1992", 19 May 2011), para. 172. This new Law on Internal Affairs was almost identical to the law on internal affairs of the Socialist Republic of Bosnia and Herzegovina. P2958 (Christian Nielsen's expert report entitled "The Bosnian Serb Ministry of Internal Affairs: Genesis, Performance and Command and Control 1990-1992", 19 May 2011), paras. 96, 98.

652 Mićo Stanišić, T. 46327, 46353 (3 February 2014), T. 46440 (4 February 2014); P1354 (Minutes of 13th session of SerBiH Assembly, 24 March 1992). *See also* Adjudicated Fact 2146.

653 Momčilo Mandić, T. 4426–4427 (30 June 2010). *See also* P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 101; Mandić informed all security centres and all public security stations that the SerBiH established a MUP on 27 March 1992. *See also* Adjudicated Fact 515.

and again from 1994 to September 1995, and he was acting Minister from September 1993 until January 1994.[654]

216. The location of the MUP was moved four times in 1992.[655] First it was located in Vraca, near Sarajevo, then moved to Mount Jahorina, Pale, and finally to Bijeljina.[656]

217. The Law on Internal Affairs, which was largely based on the April 1990 SerBiH Law on Internal Affairs,[657] established a network of Security Services Centres ("CSB") to carry out the work of the MUP and set out the structure and functions of the Public Security Stations ("SJB") and the National Security Service.[658]

218. The CSBs were considered important as they united both the SJBs and the National Security Service while directing and co-ordinating the functions relating to the SJBs.[659] There were five locations for the CSBs: Banja Luka (for the ARK), Trebinje (for the SAO Herzegovina), Doboj (for the SAO of Nothern BiH), Sarajevo (for the SAO of Romanija-Birač), and Bijeljina (for the SAO of Semberija).[660] Each CSB covered a certain territory and each municipality within that territory had a subordinate SJB.[661] Each CSB consisted of the following organisational units: (i) Sector of the National Security Service; (ii) Sector of the Public Security Service; (iii) Department for Communications; (iv) Department for Foreigners, Legal, Administrative and Personnel Affairs; (v)

654 D3960 (Witness Statement of Tomislav Kovać dated 28 October 2013), paras. 4–5; Christian Nielsen, T. 16300 (7 July 2011). *See also* Ljubomir Borovčanin, T. 39435–39437 (6 June 2013); P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 101.

655 Mićo Stanišić, T. 46359 (3 February 2014). *See* Adjudicated Fact 2153.

656 Mićo Stanišić, T. 46359 (3 February 2014).

657 P2958 (Christian Nielsen's expert report entitled "The Bosnian Serb Ministry of Internal Affairs: Genesis, Performance and Command and Control 1990-1992", 19 May 2011), paras. 96–98. *See also* Adjudicated Fact 2125.

658 P2964 (SerBiH Decree on the promulgation on the Law of Internal Affairs, 23 March 1992); P2958 (Christian Nielsen's expert report entitled "The Bosnian Serb Ministry of Internal Affairs: Genesis, Performance and Command and Control 1990-1992", 19 May 2011), paras. 112, 115; *see* Adjudicated Fact 518. The National Security Service was previously known as the State Security Service ("SDB") and was renamed the National Security Service in the 1992 Law on Internal Affairs. P2958 (Christian Nielsen's expert report entitled "The Bosnian Serb Ministry of Internal Affairs: Genesis, Performance and Command and Control 1990-1992", 19 May 2011), para. 112; P2964 (SerBiH Decree on the promulgation on the Law of Internal Affairs, 23 March 1992), Section II. *See also* Adjudicated Fact 2126.

659 P2964 (SerBiH Decree on the promulgation on the Law of Internal Affairs, 23 March 1992); P2958 (Christian Nielsen's expert report entitled "The Bosnian Serb Ministry of Internal Affairs: Genesis, Performance and Command and Control 1990-1992", 19 May 2011), para. 8; P2962 (Document entitled "Possible ways of decentralising Internal Affairs in BH", undated), p. 1.

660 P2964 (SerBiH Decree on the promulgation on the Law of Internal Affairs, 23 March 1992), art. 28; P2958 (Christian Nielsen's expert report entitled "The Bosnian Serb Ministry of Internal Affairs: Genesis, Performance and Command and Control 1990-1992", 19 May 2011), para. 116; P2965 (RS Rulebook on internal organisation of the MUP under the circumstances of immediate threat of war and war, September 1992), art. 3; Adjudicated Fact 2129.

661 P2958 (Christian Nielsen's expert report entitled "The Bosnian Serb Ministry of Internal Affairs: Genesis, Performance and Command and Control 1990-1992", 19 May 2011), paras. 115, 179.

Department for Material-Financial and Technical Affairs; and (vi) Police Station.[662] Stojan Župljanin was the Chief of the CSB in Banja Luka from 1991 until 1994.[663] In 1994, Župljanin left the MUP and was promoted as the advisor to the President, namely the Accused, on security matters.[664]

219. The SJBs were established within the territory of each municipality.[665] The SJBs were tasked with dealing with all public security issues, including protecting citizens, preventing and detecting criminal acts, and maintaining law and order.[666] Information gathered by the SJBs was reported to the Bosnian MUP officials.[667]

220. The National Security Service was organised into five Sectors which operated at each CSB, *i.e.*, in Banja Luka, Bijeljina, Doboj, Sarajevo, and Trebinje.[668] It dealt with all issues of state security, including intelligence, such as gathering information on individuals or groups who conspire to violate the constitutional order and state security.[669]

221. In 1994, due to re-structuring of the MUP, the Public Security Service ("RJB") and the State Security Service ("RDB") were separated.[670] Milenko Karišik was the head of the RJB.[671] Dragan Kijac was the head of the RDB.[672]

222. The civilian police were organised into two sections: the regular police force and the Special Police Brigade ("SBP").[673] The SBP functioned as a combat unit and was divided into five detachments located in Banja Luka, Trebinje, Doboj, Sarajevo, and Bijeljina.[674] Goran Sarić was

662 P2965 (RS Rulebook on internal organisation of the MUP under the circumstances of immediate threat of war and war, September 1992), art. 19.

663 Christian Nielsen, T. 16301 (7 July 2011).

664 Christian Nielsen, T. 16301, 16343 (7 July 2011).

665 P2964 (SerBiH Decree on the promulgation on the Law of Internal Affairs, 23 March 1992), art. 26.

666 P2958 (Christian Nielsen's expert report entitled "The Bosnian Serb Ministry of Internal Affairs: Genesis, Performance and Command and Control 1990-1992", 19 May 2011), paras. 109–110.

667 P2958 (Christian Nielsen's expert report entitled "The Bosnian Serb Ministry of Internal Affairs: Genesis, Performance and Command and Control 1990-1992", 19 May 2011), para. 236; P2964 (SerBiH Decree on the promulgation on the Law of Internal Affairs, 23 March 1992), art. 22.

668 P5557 (Report of the Bijeljina National Security Service, 30 April 1993), p. 3.

669 P2958 (Christian Nielsen's expert report entitled "The Bosnian Serb Ministry of Internal Affairs: Genesis, Performance and Command and Control 1990-1992", 19 May 2011), para. 343.

670 Christian Nielsen, T. 16320 (7 July 2011). Nielsen explained that at the beginning of 1994, the CSBs were renamed as CJBs and that the Public Security Service was in the CJB at the regional level and the State Security Service was in the CRDB at the regional level. Christian Nielsen, T. 16320 (7 July 2011).

671 D3749 (Witness statement of Milenko Karišik dated 23 June 2013), para. 5. Christian Nielsen, T. 16308 (7 July 2011).

672 Christian Nielsen, T. 16308–16309 (7 July 2011).

673 *See* Adjudicated Fact 1464.

674 P2965 (RS Rulebook on internal organisation of the MUP under the circumstances of immediate threat of war and war, September 1992), arts. 10, 23; P2958 (Christian Nielsen's expert report entitled "The Bosnian Serb

the Commander of the SBP.[675] On 24 February 1994, Ljubomir Borovčanin was appointed to the position of Deputy Commander of the SBP.[676] Borovčanin remained Deputy Commander through June and July 1995.[677]

223. Beginning in April 1992, special police units ("PJP") were organised by the CSBs at the regional level.[678] These units were lightly armed and participated in combat activities.[679] From 1992 until 1994, Milenko Karišik was the Commander.[680] The PJPs had five detachments, one located at each of the five CSBs.[681] By 1995, the Zvornik CJB had six PJP companies subordinated to it.[682] Dragomir Vasić was the Chief of the Zvornik CJB and Mendeljev, a.k.a. "Mane", Đurić was his deputy.[683] The Commander of the PJP units was Danilo Zoljić.[684]

224. One of the SBP detachments was the 2nd Šekovići Detachment.[685] From mid-June 1995, the Commander was Rade Čuturić, also known as "Oficir".[686] In July 1995, the 2nd Šekovići Detachment had three infantry platoons.[687]

225. The SBP had a training centre in Mount Jahorina, which catered for between 300 and 350 men ("Jahorina Recruits").[688] Duško Jević, *a.k.a.* "Stalin", was the director of the Jahorina

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Ministry of Internal Affairs: Genesis, Performance and Command and Control 1990-1992", 19 May 2011), paras. 183, 220. *See also* Adjudicated Fact 2158.

675 Ljubomir Borovčanin, T. 39436 (6 June 2013); Milenko Pepić, P373 (Transcript from *Prosecutor v. Popović et al.*), T. 13539, 13543.

676 Ljubomir Borovčanin, T. 39435–39436 (6 June 2013); D3660 (Decision of RS MUP, 24 February 1994).

677 Milenko Pepić, P373 (Transcript from *Prosecutor v. Popović et al.*), T. 13539–13540, 13543.

678 P2958 (Christian Nielsen's expert report entitled "The Bosnian Serb Ministry of Internal Affairs: Genesis, Performance and Command and Control 1990-1992", 19 May 2011), para. 220; P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 56.

679 P2958 (Christian Nielsen's expert report entitled "The Bosnian Serb Ministry of Internal Affairs: Genesis, Performance and Command and Control 1990-1992", 19 May 2011), paras. 218, 220–222.

680 D3749 (Witness statement of Milenko Karišik dated 23 June 2013), para. 33; P2958 (Christian Nielsen's expert report entitled "The Bosnian Serb Ministry of Internal Affairs: Genesis, Performance and Command and Control 1990-1992", 19 May 2011), para. 219; P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 56.

681 P2958 (Christian Nielsen's expert report entitled "The Bosnian Serb Ministry of Internal Affairs: Genesis, Performance and Command and Control 1990-1992", 19 May 2011), para. 220.

682 P4914 (Richard Butler's expert report entitled "Srebrenica Military Narrative (Revised): Operation 'Krivaja 95'", 1 November 2002), paras. 2.16–2.17; P4970 (Report of Zvornik CJB, 28 July 1995). *See also* P4949 (Report of Zvornik CJB, 14 July 1995); Nenad Deronjić, D3760 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 8201–8202.

683 P4914 (Richard Butler's expert report entitled "Srebrenica Military Narrative (Revised): Operation 'Krivaja 95'", 1 November 2002), para. 2.16. *See also* Dušan Mićić, T. 36244–36245 (27 March 2013).

684 D3196 (Witness statement of Dušan Mićić dated 24 March 2013), para. 16; P4960 (Combat report signed by Ljubiša Borovčanin, 10–20 July 1995), p. 5.

685 Milenko Pepić, P373 (Transcript from *Prosecutor v. Popović et al.*), T. 13538. *See also* P4960 (Combat report signed by Ljubiša Borovčanin, 10–20 July 1995), p. 1.

686 Milenko Pepić, P373 (Transcript from *Prosecutor v. Popović et al.*), T. 13539.

687 Milenko Pepić, P373 (Transcript from *Prosecutor v. Popović et al.*), T. 13540. The 3rd platoon was based in Skelani and also referred to as the Skelani platoon. Milenko Pepić, P373 (Transcript from *Prosecutor v. Popović et al.*), T. 13541.

Training Centre.[689] The Jahorina Recruits wore a two-piece camouflage uniform and a light blue bullet-proof vest.[690] They were divided in two companies and each company was divided into four platoons; each of these four platoons was in turn divided into four smaller units.[691] The 1st Company was commanded by Mendeljev Đurić, also called "Mane".[692] The 2nd Company was commanded by Neđo Ikonić.[693]

226. On 11 July 1995, the Accused ordered the establishment of an SJB for "Serb Srebrenica after the [RS] control has been established in the municipality of Serb Srebrenica".[694] This SJB was to carry out its duties in accordance with the Law of Internal Affairs and establish close co-operation with Miroslav Deronjić, the Civilian Commissioner for the municipality of "Serb Srebrenica".[695]

b. MUP communications

227. The MUP communication centre was established in Pale and Bijeljina.[696] Methods of communication employed by the MUP included shortwave radio, ultra shortwave radio, telephone, telegraph, teleprinter, courier, and fax.[697] Communications were sent and received through a

688 D3903 (Witness statement of Mendeljev Đurić dated 26 July 2013), para. 4; KDZ084, T. 27331 (11 April 2012) (closed session); KDZ084, P4904 (Transcript from *Prosecutor v. Popović et al.*), T. 14789–14790 (under seal). *See also* D3903 (Witness statement of Mendeljev Đurić dated 26 July 2013), para. 4; P4906 (RS MUP letter to Radovan Karadžić, 23 June 1995). The training facility was located at the Jahorina hotel. KDZ084, P4904 (Transcript from *Prosecutor v. Popović et al.*), T. 14788 (under seal). The Jahorina Recruits received fitness training, weapons training, and training in hostage situations. KDZ084, P4904 (Transcript from *Prosecutor v. Popović et al.*), T. 14797–14798 (under seal).

689 KDZ084, T. 27332 (11 April 2012) (closed session); KDZ084, P4904 (Transcript from *Prosecutor v. Popović et al.*), T. 14789, 14798–14800 (under seal). *See also* Ljubomir Borovčanin, T. 39459 (7 June 2013); D3903 (Witness statement of Mendeljev Đurić dated 26 July 2013), para. 7.

690 KDZ084, P4904 (Transcript from *Prosecutor v. Popović et al.*), T. 14790 (under seal).

691 KDZ084, P4904 (Transcript from *Prosecutor v. Popović et al.*), T. 14791, 14794–14796 (under seal).

692 Mendeljev Đurić, T. 42076–42077 (29 July 2013). *See also* Ljubomir Borovčanin, T. 39459 (7 June 2013); KDZ084, P4904 (Transcript from *Prosecutor v. Popović et al.*), T. 14791 (under seal); P4960 (Combat report signed by Ljubiša Borovčanin, 10–20 July 1995), p. 5.

693 KDZ084, P4904 (Transcript from *Prosecutor v. Popović et al.*), T. 14792 (under seal); Mendeljev Đurić, T. 42076–42078 (29 July 2013); Tomasz Blaszcyk, T. 23566 (25 January 2012). *See also* P4960 (Combat report signed by Ljubiša Borovčanin, 10–20 July 1995), p. 5.

694 P2994 (Radovan Karadžić's Order, 11 July 1995); P2995 (Radovan Karadžić's Order, 12 July 1995).

695 P2994 (Radovan Karadžić's Order, 11 July 1995); P2995 (Radovan Karadžić's Order, 12 July 1995).

696 P2743 (Witness statement of Dragan Kezunović dated 14 June 2011), pp. 2–3, 12, 28–29 (prior to April 1992, it was based at Vrača; P2760 (SerBiH MUP performance report, April to June 1992), p. 8. Dragan Kezunović was the chief of communications for the MUP and appointed by Mićo Stanišić. P2743 (Witness statement of Dragan Kezunović dated 14 June 2011), pp. 11–12.

697 P2743 (Witness statement of Dragan Kezunović dated 14 June 2011), pp. 3–4, pp. 20–21. Communications could be encrypted and decrypted. P2743 (Witness statement of Dragan Kezunović dated 14 June 2011), pp. 3, 5; P2769 (Telegram from Sanski Most SJB to Banja Luka CSB, 2 July 1992).

network connecting the MUP headquarters in Pale to the CSBs and the SJBs.[698] The MUP communications centre had a telephone connection to the Republican Communications Centre.[699]

228. The system of reporting within the MUP consisted of daily reports and other reports about more significant security information.[700] Information was collected from the municipal level by the SJB, then sent to the regional level to the CSB, and finally sent to the MUP.[701] The information was also sent from the MUP to the RS government, including to the Presidency.[702] From February 1994, Gordan Milinić was appointed as the security advisor to the Accused for state security matters.[703] He collected, processed, and reported information on military intelligence and state security intelligence to the Accused.[704]

c. Re-subordination of MUP personnel to the VRS

229. On 22 April 1995, the Accused issued an order clarifying the MUP re-subordination to the VRS.[705] He ordered that the Main Staff must precisely and concretely define their requests for engagement and employment of MUP units in combat.[706] The order reiterated that police units shall participate in combat operations by order of the Supreme Commander and the MUP.[707] While the police units are engaged in combat activities, they "shall be subordinated to the commander of the unit in whose area of responsibility they are conducting combat operations".[708]

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698 P2743 (Witness statement of Dragan Kezunović dated 14 June 2011), pp. 2–3, 5–6; P2760 (SerBiH MUP performance report, April to June 1992); P2771 (Order of SerBiH MUP, 23 July 1992); P2774 (Order of Banja Luka CSB to all SJBs, 27 August 1992).

699 P2794 (Witness statement of Ranko Vuković dated 24 May 2011), para. 13.

700 P2958 (Christian Nielsen's expert report entitled "The Bosnian Serb Ministry of Internal Affairs: Genesis, Performance and Command and Control 1990-1992", 19 May 2011), paras. 236. *See, e.g.*, P2749 (SerBiH MUP daily report, 25 April 1992); P2753 (SerBiH MUP daily report, 22 May 1992); P2754 (SerBiH MUP daily report, 23 May 1992); P2755 (SerBiH MUP daily report, 25 May 1992); P2756 (SerBiH MUP daily report, 27 May 1992); P2762 (SerBiH MUP daily report, 18 May 1992); P2789 (SerBiH MUP daily report, 13 May 1992); P2790 (SerBiH MUP daily report, 12 May 1992); P2791 (SerBiH MUP daily report, 15 May 1992); P2792 (SerBiH MUP daily report, 16 May 1992); P2989 (Record of coded telegrams of the RS Republican Communications Centre, 1995); P2990 (Excerpt of logbook of telegrams received, 12-18 July 1995); P2991 (Excerpt of logbook of telegrams sent, 8-16 July 1995).

701 Christian Nielsen, T. 16270 (7 July 2011).

702 Christian Nielsen, T. 16271 (7 July 2011).

703 D3682 (Witness statement of Gordan Milinić dated 8 June 2013), paras. 1A, 9–10; John Zametica, T. 42443 (29 October 2013). Milinić stated that he did not have any connection to the MUP because Stojan Župljanin was the advisor to the President for the MUP. However, Milinić did receive regular reports from the state security department and submit this information to the Accused. D3682 (Witness statement of Gordan Milinić dated 8 June 2013), paras. 9–10.

704 Gordan Milinić, T. 39729–39730 (11 June 2013).

705 P4923 (RS Presidential Order, 22 April 1995).

706 P4923 (RS Presidential Order, 22 April 1995), p. 1.

707 P4923 (RS Presidential Order, 22 April 1995), p. 1 (referring to article 13 of the Law on Application of the Law on Interior Affairs during imminent threat of war and state of war).

708 P4923 (RS Presidential Order, 22 April 1995), p. 2; Adjudicated Fact 1465.

230. On 15 May 1992, Mićo Stanišić issued an order that the MUP personnel would be organised into "war units" for the purpose of defending the territory.[709] It authorised all the chiefs of the CSBs to organise the MUP personnel in their territory accordingly.[710] This order formalised the co-operation of the MUP with the VRS.[711] Stanišić further ordered that while participating in combat activities, the units of the MUP would be subordinated to the command of the VRS.[712] However, these units would be directly commanded by MUP officials.[713] Reserve police officers were made available for transfer to the frontlines and assignment into the VRS.[714] In 1992, over 50% of policemen were engaged in combat activities through their re-subordination to the VRS.[715] Units of the MUP were engaged in specialist operative duties, such as "neutralising sabotage and terrorist groups, organised criminal activities of armed individuals" in co-operation with the VRS.[716]

4. Paramilitaries

231. In December 1991, it was reported that Serbian paramilitary groups were operating in the RS.[717] According to a Main Staff report in July 1992, the paramilitaries lacked a cohesive unity, expressed hatred of non-Serbs, were motivated by war profiteering or looting, had links to corrupt political leaderships, and were not affiliated with the SDS but with opposition parties from Serbia (*e.g.*, the Serbian Renewal Movement or Serbian Radical Party).[718] It further reported that the paramilitaries did not partake in directly fighting with the enemy, but instead operated behind the lines of the regular VRS units, engaging in the killing of civilians as well as in looting and burning property.[719]

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709 P2966 (Order of SerBiH MUP, 15 May 1992), p. 1. *See also* Adjudicated Fact 2162.

710 P2966 (Order of SerBiH MUP, 15 May 1992); P6633 (Guidelines of SerBiH MUP, 6 July 1992); Christian Nielsen, T. 16268–16269 (7 July 2011); P2958 (Christian Nielsen's expert report entitled "The Bosnian Serb Ministry of Internal Affairs: Genesis, Performance and Command and Control 1990-1992", 19 May 2011), para. 215; Mićo Stanišić, T. 46481–46484 (4 February 2014).

711 P1096 (SerBiH MUP Report on Some Aspects of Work Done to Date and the Tasks Ahead, 17 July 1992); P2958 (Christian Nielsen's expert report entitled "The Bosnian Serb Ministry of Internal Affairs: Genesis, Performance and Command and Control 1990-1992", 19 May 2011), para. 215. *See also* Adjudicated Fact 2163.

712 P2966 (Order of SerBiH MUP, 15 May 1992), para. 7.

713 P2966 (Order of SerBiH MUP, 15 May 1992), para. 7; Mićo Stanišić, T. 46483–46484 (4 February 2014); P6633 (Guidelines of SerBiH MUP, 6 July 1992); Christian Nielsen, T. 16264 (7 July 2011); P2958 (Christian Nielsen's expert report entitled "The Bosnian Serb Ministry of Internal Affairs: Genesis, Performance and Command and Control 1990-1992", 19 May 2011), para. 216.

714 D1532 (Order of RS MUP, 23 October 1992).

715 Mićo Stanišić, T. 46360 (3 February 2014).

716 P6633 (Guidelines of SerBiH MUP, 6 July 1992); Mićo Stanišić, T. 46482–46484 (4 February 2014).

717 P2958 (Christian Nielsen's expert report entitled "The Bosnian Serb Ministry of Internal Affairs: Genesis, Performance and Command and Control 1990-1992", 19 May 2011), paras. 49–54.

718 P2855 (VRS Main Staff report on paramilitary formations, 28 July 1992), pp. 1–2.

719 P2855 (VRS Main Staff report on paramilitary formations, 28 July 1992), p. 2.

232. Arkan's men were a Serbian paramilitary group named after their commander Željko Ražnatović, a.k.a. Arkan.[720] According to Milorad Davidović, Arkan's men were controlled and subordinated to the Serbian MUP.[721] They referred to themselves as the "Serbian Tigers".[722] Arkan's men were also known as the Serb Volunteer Guard.[723] Marko Pejić was the deputy commander of Arkan's men.[724] In the spring of 1992, they operated in Bijeljina[725] and Zvornik;[726] they wore camouflage uniforms bearing an emblem with a tiger and red berets.[727]

233. Mauzer's Panthers, commanded by Ljubiša Savić, a.k.a. Mauzer, were a paramilitary formation operating in Bijeljina, Zvornik, and Brčko.[728] They referred to themselves as the Serbian National Guard.[729] Savić was an influential member of the SDS and a leader of the Bijeljina Crisis Staff.[730] The core of this unit were SDS members and close to the leadership of the Crisis Staff in Bijeljina and most of the members had been trained by Arkan on the border between the municipality and Serbia.[731] It was estimated that there were over 1,000 men in the Mauzer's

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720 Svetozar Mihaljović, T. 35720–35721 (20 March 2013); P2858 (Video footage of Radovan Karadžić and Arkan at award ceremony in Bijeljina) at 00:28–03:00; KDZ446, P29 (Transcript from *Prosecutor v. S. Milošević*), T. 21055; P6211 (Four video clips of interviews with Arkan and others, with transcript); Cvijetin Simić, T. 35659–35660 (20 March 2013). *See also* Adjudicated Fact 2241.

721 P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 125.

722 P2021 (BBC news report re interview with Arkan, with transcript).

723 Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 21652–21653.

724 KDZ446, P29 (Transcript from *Prosecutor v. S. Milošević*), T. 21006.

725 P6209 (JNA 2nd Military District report, 1 April 1992), p. 3; Manojlo Milovanović, T. 25447 (28 February 2012); Aleksandar Vasiljević, T. 34700–34701 (4 March 2013); P2848 (Witness statement of Milorad Davidović dated 22 June 2011), paras. 64, 66, 117–118. *See also* Cvijetin Simić, T. 35671–35672 (20 March 2013); D3065 (Witness statement of Aleksandar Vasiljević dated 26 February 2013), para. 174. *See* paras. 611–616.

726 Čedomir Zelenović, T. 40341–40342 (25 June 2013); Branko Grujić, T. 40362–40365 (25 June 2013). *See* paras. 1242–1243, 1245–1246, 1249–1252.

727 KDZ446, P29 (Transcript from *Prosecutor v. S. Milošević*), T. 21006; Isak Gaši, P3002 (Transcript from *Prosecutor v. Krajišnik*), T. 468; KDZ240, P2935 (Transcript from *Prosecutor v. Krajišnik*), T. 6990 (under seal); Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2878; Milorad Davidović, T. 15822 (1 July 2011); P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 80; Suad Dzafić, T. 18187–18188 (1 September 2011).

728 Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 21436–21438, 21652–21654; Milorad Davidović, T. 15479–15480 (28 June 2011); P2848 (Witness statement of Milorad Davidović dated 22 June 2011), paras. 89, 93, 120–123; P2856 (Video footage of Radovan Karadžić at public ceremony); Pero Marković, T. 34737 (4 March 2013); Isak Gaši, P3002 (Transcript from *Prosecutor v. Krajišnik*), T. 488–490; Dušan Spasojević, T. 35902–35903 (22 March 2013); Manojlo Milovanović, T. 25446–25447 (28 February 2012). *See* paras. 608, 611–612, 798, 824, 1244, fn. 2691.

729 Milorad Davidović, T. 15479–15480 (28 June 2011); Pero Marković, T. 34735 (4 March 2013); KDZ446, P29 (Transcript from *Prosecutor v. S. Milošević*), T. 21055–21056; Zivan Filipović, T. 35815–35816 (21 March 2013); Dušan Spasojević, T. 35902–35903 (22 March 2013). *See also* Adjudicated Fact 2237.

730 Milorad Davidović, T. 15583–15584 (29 June 2011); Cvijetin Simić, T. 35698 (20 March 2013); KDZ446, P29 (Transcript from *Prosecutor v. S. Milošević*), T. 21056.

731 P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 89; D1612 (Video footage of Arkan in "My Guest, His Truth", July/August 1994), pp. 11–12; Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić and Župljanin*), T. 21817, 21563.

Panthers.[732] In June 1992, an order of the Commander of the Eastern Bosnia Corps was issued that Mauzer's Panthers were to be integrated into the Corps.[733]

234. Men affiliated with Vojislav Šešelj, president of the SRS, operated throughout BiH and most notably with regard to the Municipalities, in Bijeljina, Zvornik, Brčko, Ilidža, and Novo Sarajevo.[734] In Ilidža, a group of Šešelj's men was commanded by Branislav Gavrilović, also called Brne.[735] In Vogošća, there was a group of "Šešelj's men" commanded by Vaske Vidović and another group commanded by Jovo Ostojić called the "Šoša Detachment".[736] In Novo Sarajevo, Gavrilović and his group were also present and Slavko Aleksić led another group of Šešelj's men.[737]

235. The White Eagles operated in Ključ, Zvornik, Foča, and Ilidža.[738] They were a paramilitary formation from Serbia.[739] They were commanded by Desimir Dida.[740] The members of the White

732 Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 21817.

733 D1458 (Order of Eastern Bosnia Corps, 3 June 1992); Manojlo Milovanović, T. 25454–25455 (28 February 2012). *But see* Milorad Davidović, T. 15812–15814 (1 July 2011) (testifying that although the order was issued, it was not carried out in practice). The Accused submits that Mauzer's unit acted independent of government command. Defence Final Brief, para. 1381 (referring to Cvijetin Simić, T. 35698–35699 (20 March 2013)). The Chamber does not consider that the evidence cited nor the other evidence received in this case supports this proposition. Dragomir Ljubojević testified that Mauzer's Panthers was a unit of the VRS and "never a party army" and consisted of people from all areas including from Bijeljina itself and it was not formed by the SDS but by the staff of the TO of the municipality. Dragomir Ljubojević, T. 35902–35903 (22 March 2013). The Chamber notes his evidence but does not accept that Mauzer's unit was initially formed as a unit of the VRS.

734 *See* paras. 608, 611, 824, 1249, fn. 2691. *See also* P6388 (Excerpt from video of interview with Vojislav Šešelj for "Death of Yugoslavia" documentary, with transcript) (stating that his volunteers were in Zvornik); P5035 (Order of Vojislav Šešelj, 13 May 1993), pp. 1–2.

735 *See* paras. 2131, 2255. *See also* P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), para. 74; Momčilo Mandić, T. 4644–4645 (5 July 2010); P6640 (Certificate of SerBiH MUP, 11 April 1992) (SerBiH MUP authorisation from Mićo Stanišić noting that Gavrilović is an active participant in the TO and issuing him weapons and ammunition); P2302 (Approval of the War Board of Commissioners of Ilidža Municipality, 9 July 1992) (authorisation from Nedeljko Prstojević in Ilidža to allow Gavrilović and his "Serbian volunteer units" the use of facilities for training); P5035 (Order of Vojislav Šešelj, 13 May 1993), p. 3; P2228 (Intercept of conversation between Vojislav Šešelj and Branislav Gavrilović, April 1992). *See also* D3665 (Witness statement of Vojislav Šešelj dated 1 June 2013), para. 58.

736 *See* para. 2382. *See also* P3033 (Reynaud Theunens's expert report entitled "Radovan Karadžić and the SRBiH TO-VRS (1992-1995)"), para. 56; P5035 (Order of Vojislav Šešelj, 13 May 1993), p. 5.

737 *See* para. 2255.

738 Asim Egrlić, P3570 (Transcript from *Prosecutor v. Krajišnik*), T. 4888–4889 (under seal); KDZ340, T. 17490 (19 August 2011) (private session); KDZ379, P3332 (Transcript from *Prosecutor v. Krnojelac*), T. 3111; Ferid Spahić, P61 (Transcript from *Prosecutor v. Vasiljević*), T. 351; P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), para. 73. *See also* paras. 855, 1244,1249, 1498, 1511, 2142.

739 KDZ379, P3332 (Transcript from *Prosecutor v. Krnojelac*), T. 3111; P2296 (Witness statement of Tihomir Glavaš dated 13 February 2011), para. 73.

740 KDZ379, T. 18874–18875 (15 September 2011).

Eagles wore uniforms with white ribbons on their sleeves and on their heads.[741] The insignia of the White Eagles was a symbol of a skull and cross bones.[742]

236. The Red Berets were a paramilitary group which operated in Brčko and Zvornik.[743] They were commanded by Dragan Vasilkjović, a.k.a. Captain Dragan.[744]

237. The Yellow Wasps consisted of around 100 to 300 men.[745] They were commanded by Vojin (Žućo) Vučković[746] and operated in Zvornik from April to May 1992.[747] They had close co-operation with the TO and were issued arms by the TO's logistics staff.[748]

238. In the spring of 1992, some paramilitary formations worked in co-ordination with the TO and municipal Crisis Staffs.[749] The Bosnian Serb leadership and military commanders increasingly expressed opposition to having units that were outside of the command and control of the army.[750] This led to various VRS and Bosnian Serb MUP leaders attempting to control paramilitary groups in the RS territory.[751] The Main Staff recommended that every armed Serb should be placed under

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741 KDZ041, T. 12104 (17 February 2011).

742 Suad Džafić, T. 18188 (1 September 2011).

743 D1412 (Report of Republic of Serbia MUP, 8 August 1992), pp. 7–8; P2888 (Brčko's War Presidency Summary of events in Brčko Municipality), p. 3; Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 21414–21415; P104 (Witness statements of Fadil Banjanović dated 30 March 2002), para. 19; Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2923. This unit arrived in Zvornik some time after 25 May 1992.

744 Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 21414–21415, 21668; P4263 (Video footage of award ceremony of the Red Berets) at 00:43:20–00:43:50; Milan Martić, T. 38120 (13 May 2013); D1412 (Report of Republic of Serbia MUP, 8 August 1992), pp. 7–8; P2888 (Brčko's War Presidency Summary of events in Brčko Municipality), p. 3.

745 *See* Adjudicated Fact 2108. *See also* Reynaud Theunens, T. 17090–17092, 17093–17095 (21 July 2011). The MUP in Bijeljina reported, in July 1992, that the group had approximately 100 armed men. P36 (Report by CSB Bijeljina re security situation in the Zvornik Municipality, 20 July 1992) (under seal), p. 1, reference to the group commanded by "Žućo". Milorad Davidović states that there were approximately 300 men in Zvornik. P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 126.

746 *See* Adjudicated Fact 2109. *See also* Milorad Davidović, T. 15491 (28 June 2011); P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 126; D3695 (Witness statement of Bogdan Subotić dated 16 June 2013), para. 205.

747 Reynaud Theunens, T. 17090–17095 (21 July 2011); Aleksandar Vasiljević, T. 34700–34701 (4 March 2013); P2848 (Witness statement of Milorad Davidović dated 22 June 2011), paras. 126–129. *See also* Adjudicated Fact 2108.

748 *See* Adjudicated Fact 2108. *See also* Reynaud Theunens, T. 17090–17092 (21 July 2011); Milorad Davidović, T. 15491 (28 June 2011).

749 *See generally* Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2887–2889; Milorad Davidović, T. 15492–15495 (28 June 2011); P2862 (Yellow Wasps payroll, 1 May 1992); P2863 (Yellow Wasps payroll, June 1992); P2865 (White Eagles' payroll, June 1992). *See also* Adjudicated Facts 2107, 2108.

750 Momčilo Krajišnik, T. 43334–43335 (12 November 2013); P2958 (Christian Nielsen's expert report entitled "The Bosnian Serb Ministry of Internal Affairs: Genesis, Performance and Command and Control 1990-1992", 19 May 2011), para. 362.

751 P2958 (Christian Nielsen's expert report entitled "The Bosnian Serb Ministry of Internal Affairs: Genesis, Performance and Command and Control 1990-1992", 19 May 2011), paras. 361–378; D1933 (Fax from Radovan Karadžić to Boutros Ghali, 13 June 1992); P3914 (Ewan Brown's expert report entitled "Military Developments in the Bosanska Krajina - 1992", 27 November 2002), paras. 2.57–2.58, 2.62–2.64; Ewan Brown, T. 21699–21701 (22 November 2011); Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 9119;

the exclusive command of the VRS, or else be disarmed with "legal measures taken".[752] The MUP also attempted to integrate paramilitaries into the existing police units where it was possible.[753]

239. On 13 June 1992, the Accused banned the formation and operation of armed groups and individuals on the territory of the RS which were not under the control of the VRS.[754] The Accused also stated that he disowned groups that continued independent operation and those groups would suffer the strictest sanctions for their operations.[755] Following this order, Arkan's men left BiH, Captain Dragan's unit was driven out by the VRS, and Mauzer's Panthers were to be integrated into the Eastern Bosnia Corps.[756] A group of individuals, referred to as "Chetniks", remained around Sarajevo and according to Milovanović sometimes co-operated with the VRS but may have been under the control of the MUP.[757]

240. On 28 July 1992, Mladić ordered the disarming of paramilitaries.[758] He noted that paramilitaries engaged in looting were operating in all territories under Bosnian Serb control and ordered that all paramilitary formations with "honest" intentions be placed under the command of

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Momčilo Mandić, T. 4649–4650 (5 July 2010), T. 5147–5148, 5157–5158 (14 July 2010), T. 5179 (15 July 2010); Momčilo Krajišnik, T. 43334–43335 (12 November 2013).

752 P2855 (VRS Main Staff report on paramilitary formations, 28 July 1992), p. 6. P2958 (Christian Nielsen's expert report entitled "The Bosnian Serb Ministry of Internal Affairs: Genesis, Performance and Command and Control 1990-1992", 19 May 2011), para. 363. For instance, at a meeting held on 18 May 1992, the Crisis Staff of the ARK concluded that all formations not in the VRS or in the Banja Luka Services Centre, but located in the ARK, would be considered paramilitary formations and would be disarmed. P3924 (Decision of ARK Executive Council, 5 May 1992; Conclusions of ARK Crisis Staff, 8–18 May 1992), p. 5. On 21 May 1992, Talić issued an order to the 1st Krajina Corps with the instruction, "[d]o not allow the presence of any paramilitary formations or other special organisations within the zones of responsibility. Disperse individual members among various units as volunteers, but if they refuse that, break them up and, if necessary, destroy them". P3920 (Order of 1st Krajina Corps, 21 May 1992), p. 3.

753 P2958 (Christian Nielsen's expert report entitled "The Bosnian Serb Ministry of Internal Affairs: Genesis, Performance and Command and Control 1990-1992", 19 May 2011), para. 361. *See also* Nedeljko Prstojević, T. 12986, 12988 (8 March 2011); P2302 (Approval of the War Board of Commissioners of Ilidža Municipality, 9 July 1992); D3960 (Witness statement of Tomislav Kovač dated 28 October 2013), para. 74; Tihomir Glavaš, T. 11803–11805 (14 February 2011).

754 P3057 (Radovan Karadžić's Decision, 13 June 1992), p. 2. *See also* D1933 (Fax from Radovan Karadžić to Boutros Ghali, 13 June 1992); P3034 (Track changes version of Reynaud Theunens's expert report entitled "Radovan Karadžić and the SRBiH TO-VRS (1992-1995)"), e-court p. 321; P2958 (Christian Nielsen's expert report entitled "The Bosnian Serb Ministry of Internal Affairs: Genesis, Performance and Command and Control 1990-1992", 19 May 2011), para. 362.

755 P3057 (Radovan Karadžić's Decision, 13 June 1992), p. 2. *See also* P3034 (Track changes version of Reynaud Theunens's expert report entitled "Radovan Karadžić and the SRBiH TO-VRS (1992-1995)"), e-court p. 321.

756 Manojlo Milovanović, T. 25454–25455 (28 February 2012). However, Arkan's men returned to Bijeljina from time to time. *See* para. 616.

757 Manojlo Milovanović, T. 25455 (28 February 2012); John Hamill, P1994 (Transcript from *Prosecutor v. Galić*), T. 6218–6219.

758 P1500 (VRS Main Staff Order, 28 July 1992); P3034 (Track changes version of Reynaud Theunens's expert report entitled "Radovan Karadžić and the SRBiH TO-VRS (1992-1995)"), e-court pp. 325–326. *See also* Adjudicated Fact 2114.

the VRS.[759] No individual or group responsible for crimes was to be incorporated into the army, and any member of a paramilitary unit who refused to submit to the unified command of the VRS was to be disarmed and arrested.[760]

241. On 30 July 1992, the 1st Krajina Corps Commander Talić issued an instruction, ordering that all paramilitary formations be offered an opportunity to join the VRS except for individuals or groups involved in criminal activity.[761] Talić further ordered co-operation with the Bosnian MUP to disarm or arrest those individuals or groups who refuse to come under the unified command of the VRS.[762] By the end of August 1992, the 1st Krajina Corps reported that paramilitary formations were either disarming or placing themselves under the control of the Corps' units.[763]

242. In the other Corps there were serious attempts to control the paramilitary forces.[764] For instance, Mauzer's Panthers were initially placed under Main Staff command and then subsequently integrated into the Eastern Bosnia Corps.[765]

5. Volunteers

243. The SFRY Law on All People's Defence specifically provided that volunteers were "persons not subject to military service who have been accepted in and joined in the Armed Forces at their own request".[766] Article 9 of the Law on the Army provided that during a state of war, imminent threat of war, or state of emergency, the army may be replenished with volunteers who

759 P1500 (VRS Main Staff Order, 28 July 1992); P3034 (Track changes version of Reynaud Theunens's expert report entitled "Radovan Karadžić and the SRBiH TO-VRS (1992-1995)"), e-court pp. 325–326. *See also* Adjudicated Fact 2115.

760 P1500 (VRS Main Staff Order, 28 July 1992). *See also* Adjudicated Fact 2116.

761 P3914 (Ewan Brown's expert report entitled "Military Developments in the Bosanska Krajina – 1992", 27 November 2002), para. 2.63.

762 P3914 (Ewan Brown's expert report entitled "Military Developments in the Bosanska Krajina – 1992", 27 November 2002), para. 2.63.

763 P3914 (Ewan Brown's expert report entitled "Military Developments in the Bosanska Krajina – 1992", 27 November 2002), para. 2.64. Nonetheless, in at least one case, the 1st Krajina Corps incorporated a group, led by Veljko Milanković, despite the VRS Main Staff Report on paramilitaries stating that the group had been engaging in "extensive looting". P3914 (Ewan Brown's expert report entitled "Military Developments in the Bosanska Krajina – 1992", 27 November 2002), paraa. 2.65–2.70; P2855 (VRS Main Staff report on paramilitary formations, 28 July 1992), p. 4.

764 Hussein Abdel-Razek, T. 5492–5493 (19 July 2010); P1006 (SRK Order, 12 September 1992); KDZ088, T. 6310 (7 September 2010) (closed session).

765 Manojlo Milovanović, T. 25454–25455 (28 February 2012).

766 D1358 (SFRY Law on All People's Defence), art. 119; P3034 (Track changes version of Reynaud Theunens's expert report entitled "Radovan Karadžić and the SRBiH TO-VRS (1992-1995)"), e-court pp. 53–54.

were defined as "persons joining the Army at their own request" and enjoying the same rights and duties as members of the military.[767]

244. The term "volunteers" was also used by individuals in paramilitary formations when referring to themselves.[768] Nevertheless according to the Law on the Army, volunteers were individuals who placed themselves under the command of the army without a wartime assignment, while paramilitary formations were groups outside of anyone's control at least in the early days of the war.[769] VRS commanders used the concept of volunteers to integrate members of paramilitary formations into VRS operative units.[770]

D. JUSTICE SYSTEMS

1. Civilian justice system

a. Functions and obligations under the Constitution

245. The Bosnian Serb Constitution provided for courts that are "independent and autonomous and are trying in accordance [with] the Constitution and the Law".[771] The Constitution further stated: "Courts are protecting human rights and freedoms, determined rights and interests of legal subjects and legality."[772]

246. Under the Constitution, the Supreme Court of the Republic, "as the highest court in the Republic", was to "secure [...] the uniform application of the law".[773] Lower courts were to ensure

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767 P2603 (SerBiH Law on the Army, 1 June 1992), art. 9. *See also* P3034 (Track changes version of Reynaud Theunens's expert report entitled "Radovan Karadžić and the SRBiH TO-VRS (1992-1995)"), e-court p. 321.

768 KDZ072, P68 (Transcript from *Prosecutor v. Šešelj*), T. 8717–8718 (under seal); P2958 (Christian Nielsen's expert report entitled "The Bosnian Serb Ministry of Internal Affairs: Genesis, Performance and Command and Control 1990-1992", 19 May 2011), paras. 49–52.

769 P2603 (SerBiH Law on the Army, 1 June 1992), art. 9; Ratomir Maksimović, T. 31611 (17 December 2012); Tihomir Glavas, T. 11991–11992 (16 February 2011); KDZ555, T. 17387–17388 (17 August 2011). *See also* P3034 (Track changes version of Reynaud Theunens's expert report entitled "Radovan Karadžić and the SRBiH TO-VRS (1992-1995)"), e-court p. 321.

770 D1076 (MUP Administration for the Police Duties and Affairs report, 3 August 1992), p. 2; Dragomir Milošević, T. 32864–32865 (29 January 2013); P3920 (Order of 1st Krajina Corps, 21 May 1992). For instance, on 21 May 1992, the Commander of the 1st Krajina Corps, Talić, issued an order forbidding the presence of any paramilitary formations and instructing that, instead, individual members be dispersed among various units as volunteers. P3920 (Order of 1st Krajina Corps, 21 May 1992).

771 P5578 (Amended Text of the Constitution of RS and Rules of Procedure of RS Assembly, 17 December 1992), art. 121 (p. 25). *See also* Adjudicated Facts 2066, 2067.

772 P5578 (Amended Text of the Constitution of RS and Rules of Procedure of RS Assembly, 17 December 1992), art. 121 (p. 25). *See also* Adjudicated Fact 2067.

773 P5578 (Amended Text of the Constitution of RS and Rules of Procedure of RS Assembly, 17 December 1992), art. 123 (p. 25). Below the Supreme Court, there were High Courts and Lower Courts. *See* P1358 (Minutes of 19th session of SerBiH Assembly, 12 August 1992), pp. 1–2; D456 (Transcript of 20th session of RS Assembly, 14-15 September 1992), pp. 107–110, 112–115; P1468 (Minutes of 21st session of RS Assembly, 30 October-1 November 1992), pp. 14–21; P1361 (Minutes of 22nd session of RS Assembly, 23-24 November 1992), p. 9; P1362 (Shorthand Record of 22nd session of RS Assembly, 23-24 November 1992), pp. 96, 99.

that all coercive actions on behalf of the state authorities were conducted in accordance with the rule of law.[774] No one could be deprived of his or her freedom without a valid court decision.[775] Furthermore, the Constitution set forth the principle of fair trial in criminal proceedings.[776] This included that accused persons had the right to be informed of the nature of the allegation against them in the shortest time provided by the law, and guilt could not be established except by pronouncement of a valid court verdict.[777] An official could enter an apartment or other premises against the will of their owner and conduct a search only on the basis of a court order, unless such entry and search were necessary to capture a criminal or save the lives of people and property.[778]

247. The Bosnian Serb Constitution defined the Public Prosecutor's Office as an "independent state body that prosecutes perpetrators of criminal and other activities punishable by law and applies legal means for the protection of legality".[779]

248. The Supreme Court and other courts, as well as the public prosecutors, submitted reports to the Bosnian Serb Assembly.[780]

249. According to the Bosnian Serb Constitution, the Constitutional Court, comprising seven judges, was vested with the power to, *inter alia*, decide on the conformity of laws with the Constitution; resolve conflict of authority among the legislative, executive, and judicial bodies and among the republican, regional, and municipal bodies; and decide on the conformity of the program and statute of political organisations with the Constitution and the law.[781] Reports from the Constitutional Court about matters of constitutionality and legality were to be considered by the Constitutional Committee of the Bosnian Serb Assembly and then by the Bosnian Serb Assembly itself.[782]

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774 *See* Adjudicated Fact 2070.

775 Adjudicated Fact 2072.

776 *See* Adjudicated Fact 2073. *See also* P5578 (Amended Text of the Constitution of RS and Rules of Procedure of RS Assembly, 17 December 1992), art. 18 (p. 5).

777 *See* Adjudicated Fact 2074. *See also* P5578 (Amended Text of the Constitution of RS and Rules of Procedure of RS Assembly, 17 December 1992), arts. 18, 20 (p. 5).

778 *See* P5578 (Amended Text of the Constitution of RS and Rules of Procedure of RS Assembly, 17 December 1992), art. 24 (p. 6). *See also* Adjudicated Fact 2071.

779 P5578 (Amended Text of the Constitution of RS and Rules of Procedure of RS Assembly, 17 December 1992), art. 128 (p. 26).

780 P5578 (Amended Text of the Constitution of RS and Rules of Procedure of RS Assembly, 17 December 1992), art. 232 (pp. 73–74).

781 P5578 (Amended Text of the Constitution of RS and Rules of Procedure of RS Assembly, 17 December 1992), arts. 115–116 (p. 24). *See also* Adjudicated Fact 2066.

782 P5578 (Amended Text of the Constitution of RS and Rules of Procedure of RS Assembly, 17 December 1992), arts. 59–60, 228 (pp. 42–43, 72–73). The Assembly Chairman was to inform the Constitutional Court of the Assembly's position when the Assembly found it necessary to change or amend a law, regulation, or general

250. Judges and public prosecutors were to be elected or appointed and dismissed by the Bosnian Serb Assembly.[783]

b. Establishment

i. General judicial organs

251. Momčilo Mandić was appointed Minister of Justice and Administration at the meeting of the SNB and Government on 22 April 1992.[784] He served as Minister of Justice until 23 November 1992.[785] As Minister of Justice, Mandić carried out the organisation of the courts, prosecutor's offices, and correctional institutions of the civilian justice system.[786] According to Mandić, the military justice system was completely separate and located within the Ministry of Defence, with the Main Staff organising it.[787]

252. On 27 April 1992, a session of the SNB and Government adopted a decision "to organise the prosecutor's office, judicial organs and prisons".[788] On 10 May 1992, another SNB-Government session decided "to take the necessary measures to gather professionals and ensure conditions for the work of the state and judicial organs".[789]

253. A decision of the SerBiH Presidency dated 16 May 1992, signed by the Accused as the President of the Presidency, established a lower court in Vlasenica with jurisdiction over four Serbian municipalities, including Vlasenica, and a lower court in Sokolac for the areas of the Serbian municipalities of Pale, Rogatica, and Sokolac.[790] A 20 May 1992 decision of the SerBiH Presidency stated that "[l]ower courts have subject-matter jurisdiction to conduct legal proceedings in the first instance for all criminal offences".[791] The decision further stated that "[h]igh courts are

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legal document. P5578 (Amended Text of the Constitution of RS and Rules of Procedure of RS Assembly, 17 December 1992), art. 229 (p. 73).

783 Adjudicated Fact 2068; P5578 (Amended Text of the Constitution of RS and Rules of Procedure of RS Assembly, 17 December 1992), art. 130 (p. 27).

784 P3051 (Minutes of expanded meeting of SNB and SerBiH Government, 22 April 1992), p. 3. According to Mandić, he was appointed and took the oath at an Assembly meeting in Banja Luka on 12 May 1992. Momčilo Mandić, T. 4532, 4535 (1 July 2010), T. 4895–4896 (8 July 2010).

785 Momčilo Mandić, T. 4428 (30 June 2010). *See also* P1361 (Minutes of 22nd session of RS Assembly, 23-24 November 1992), p. 5.

786 Momčilo Mandić, T. 4575–4576 (5 July 2010). However, on 8 August 1992, the Government tasked Deputy Prime Minister Milan Trbojević and Mandić with providing assistance in finding staff for military judicial organs. D453 (Minutes of 45th session of Government of SerBiH, 7 August 1992), p. 4. *See also* Momčilo Mandić, T. 5197 (15 July 2010).

787 Momčilo Mandić, T. 4576 (5 July 2010).

788 D406 (Minutes of meeting of SNB and SerBiH Government, 27 April 1992), p. 1.

789 D409 (Minutes of SNB and the Government of the SerBiH session, 10 May 1992), p. 2.

790 P2617 (SerBiH Presidency Decision on subject-matter jurisdiction of regular courts, 8 June 1992), p. 2.

791 P2617 (SerBiH Presidency Decision on subject-matter jurisdiction of regular courts, 8 June 1992), p. 1.

obliged to conclude criminal proceedings in cases where indictments were submitted prior to the date when this decision takes effect".[792]

254. Mandić tried to create a single justice system during 1992 and asked in July and August 1992 that the Assembly amend the law to form a single justice system, but he was not successful.[793] In a letter dated 10 July 1992 signed by Mandić, the Ministry of Justice informed the President of the Presidency that it had organised and set up regular courts, public prosecutor's offices, and municipal misdemeanour courts in the territory of the SerBiH, "except for the Northern Bosnia District (Doboj Region) where the work could not be done due to war activities", though preparations were under way.[794] The letter also stated that a large number of the criminal offences came under the subject-matter jurisdiction of the military judiciary, which had not yet been established.[795] The Ministry proposed that, until the military judicial bodies were established, regular judicial bodies temporarily take over the role of the former, stating, "[t]his would to a considerable degree help prevent the commission of these criminal offences and help establish legal order and legal security throughout the [SerBiH]".[796] The Ministry also proposed that "the Law on the Enforcement of Criminal and Misdemeanour Sanctions should be amended so as to include the possibility of staying the enforcement of prison sentences until the end of the war, by means of assigning convicts to military units".[797] The Ministry requested that the Presidency examine these proposals and "communicate its position to the Ministry which would move for the adoption of appropriate decisions".[798]

255. In a 5 August 1992 letter to the SerBiH Presidency and the Accused in particular, signed by Mandić, the Ministry of Justice reiterated its proposal that regular courts and public prosecutor's offices take over the competence of military courts and military prosecutor's offices until the establishment of military legal organs, combining the military and civilian justice systems into one.[799]

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792 P2617 (SerBiH Presidency Decision on subject-matter jurisdiction of regular courts, 8 June 1992), p. 1.

793 Momčilo Mandić, T. 4576–4577 (5 July 2010).

794 D442 (SerBiH Ministry of Justice letter to Radovan Karadžić, 10 July 1992), p. 1. *See also* Momčilo Mandić, T. 5115–5116 (14 July 2010).

795 D442 (SerBiH Ministry of Justice letter to Radovan Karadžić, 10 July 1992), p. 1. *See also* Momčilo Mandić, T. 5116 (14 July 2010).

796 D442 (SerBiH Ministry of Justice letter to Radovan Karadžić, 10 July 1992), p. 1. *See also* Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 8920; Momčilo Mandić, T. 5116–5117 (14 July 2010).

797 D442 (SerBiH Ministry of Justice letter to Radovan Karadžić, 10 July 1992), p. 1. *See also* Momčilo Mandić, T. 5117–5118 (14 July 2010).

798 D442 (SerBiH Ministry of Justice letter to Radovan Karadžić, 10 July 1992), p. 2.

799 P1136 (Letter from Ministry of Justice of SerBiH to Radovan Karadžić, 5 August 1992). *See also* Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 8920–8923; Momčilo Mandić, T. 5118–5119, 5121 (14 July 2010).

256. Between August and November 1992, the Assembly discussed and voted on the appointment and dismissal of judges and prosecutors.[800] The appointments included the republican Public Prosecutor; judges of the Supreme Court of the RS; judges of the Lower Court in Banja Luka, Prijedor, Vlasenica, Zvornik, Foča, Sokolac, Sarajevo, Brčko, and Bosanski Novi; judges of the High Court in Banja Luka and Bijeljina; public prosecutors in Zvornik, Sokolac, Vlasenica, Prijedor, Sarajevo, Bijeljina, Višegrad, and Bosanski Novi; deputy public prosecutors in Banja Luka, Zvornik, Foča, Sarajevo, Bosanski Novi, and Prijedor; and a senior public prosecutor and deputy senior public prosecutor in Sarajevo.[801]

257. The appointment of judges and prosecutors proceeded by way of the Ministry of Justice asking SAOs to nominate candidates meeting the formal and legal requirements and inform the Ministry of the ethnic make-up of the municipality from which the candidates came.[802] The Ministry would then send the nominations to the Assembly, which would appoint the nominees; if the Assembly could not meet, nominations would be sent to the President, who would proceed with the appointments.[803]

ii. Organs specific to war crimes and genocide

258. On 16 April 1992, the SNB decided to form a "Commission to Determine War Crimes".[804] On 24 April 1992, a session of the SNB and the Government adopted the decision to set up a state

800 *See* Adjudicated Fact 2069; P1357 (18th session of SerBiH Assembly, 11 August 1992), pp. 30–32; P1358 (Minutes of 19th session of SerBiH Assembly, 12 August 1992), pp. 1–2; D422 (19th session of SerBiH Assembly, 12 August 1992), pp. 10–29; P1359 (Minutes of 20th session of SerBiH Assembly, 14-15 September 1992), pp. 2–3; D456 (Transcript of 20th session of RS Assembly, 14-15 September 1992), pp. 107–117; P1468 (Minutes of 21st session of RS Assembly, 30 October-1 November 1992), pp. 2–4; P1361 (Minutes of 22nd session of RS Assembly, 23-24 November 1992), pp. 8–9; P1362 (Shorthand Record of 22nd session of RS Assembly, 23-24 November 1992), pp. 95–99.

801 P1357 (18th session of SerBiH Assembly, 11 August 1992), p. 32; P1358 (Minutes of 19th session of SerBiH Assembly, 12 August 1992), pp. 1–2; D456 (Transcript of 20th session of RS Assembly, 14-15 September 1992), pp. 107–110, 112–117; P1468 (Minutes of 21st session of RS Assembly, 30 October-1 November 1992), pp. 14–21; P1361 (Minutes of 22nd session of RS Assembly, 23-24 November 1992), p. 9; P1362 (Shorthand Record of 22nd session of RS Assembly, 23-24 November 1992), pp. 96–97, 99. Records in evidence indicate that there was also a lower court in Sanski Most. *See* P3518 (Report of Sanski Most's Lower Court Investigating Judge, 9 November 1992); D1785 (Banja Luka Military Court's Decision, 13 December 1993) (under seal), p. 1.

802 *See* Momčilo Mandić, T. 5018 (13 July 2010). For an example of the proposal of candidates from the local level, *see* D417 (Proposal from Presidency of Bijeljina Municipal Assembly to the Ministry of Justice of the SerBiH, 5 June 1992). *See also* Momčilo Mandić, T. 5018–5019 (13 July 2010).

803 Momčilo Mandić, T. 5020 (13 July 2010); P5578 (Amended Text of the Constitution of RS and Rules of Procedure of RS Assembly, 17 December 1992), art. 130 (p. 27). The Assembly would have to verify the appointment decisions of the Presidency or President. *See* P5578 (Amended Text of the Constitution of RS and Rules of Procedure of RS Assembly, 17 December 1992), art. 81 (p. 17); Momčilo Mandić, T. 5020 (13 July 2010). For examples of the Presidency adopting decisions on the appointment of judges and prosecutors under article 81 of the Bosnian Serb Constitution, *see* D418 (Decisions on appointment of judges in Bijeljina and Banja Luka, 20 June 1992) and D419 (Decisions on appointment of prosecutors in Bijeljina, 20 June 1992). *See also* Momčilo Mandić, T. 5020–5025 (13 July 2010).

804 D405 (Minutes of extended session of the SNB, 16 April 1992), p. 2.

commission for war crimes and to compile instructions for the commission's work.[805] On 3 June 1992, the Government concluded that "[a] procedure for determining war crimes should be initiated" and assigned the task to the MUP and the Commission for War Crimes formed by the Government.[806]

259. On 16 May 1992, Mićo Stanišić instructed the five CSBs to submit to the MUP daily fax reports containing, *inter alia*, information on measures and activities to document war crimes.[807]

260. On 17 June 1992, the SerBiH Presidency decided that the Government would draft a decision on the establishment of a State Documentation Centre "which will gather all genuine documents on crimes committed against the Serbian people during this war".[808] On 17 June 1992, the Accused, as President of the Presidency, issued a decree forming the State Documentation Centre for Investigating War Crimes against Serb People.[809] The State Documentation Centre was to, *inter alia*, "collect [...] and keep [...] evidence on preparation and encouragement of crimes against Serb people in the [SerBiH], committed shortly before, during, and after war clashes".[810] At its next session, on 21 June 1992, the SerBiH Presidency appointed Miroslav Toholj as the director of the State Documentation Centre of the SerBiH.[811] According to Mandić, the documentation institute was not involved with investigations in the criminal or legal sense and its task was to document events in BiH at the time.[812]

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805 P1087 (Minutes of meeting between SNB and SerBiH Government, 24 April 1992), p. 1.

806 D415 (Minutes of 20th session of Government of SerBiH, 3 June 1992), p. 3. *See also* Momčilo Mandić, T. 5015 (13 July 2010).

807 P2715 (SerBiH MUP dispatch, 16 May 1992), pp. 1, 3. *See also* P6641 (Order of SerBiH MUP, 17 July 1992); P6642 (Dispatch from Banja Luka CSB to all SJBs, 14 December 1992). The 16 May 1992 dispatch further stated that "[t]hese activities must involve collection of information and documents on war crimes against the Serbs". P2715 (SerBiH MUP dispatch, 16 May 1992), p. 3.

808 P3064 (Minutes of the 8th session of the SerBiH Presidency, 17 June 1992), p. 1.

809 D3990 (Decree of Radovan Karadžić's, 17 June 1992), e-court pp. 2–3. *See also* D3981 (Witness statement of Miroslav Toholj dated 31 October 2013), para. 3.

810 D3990 (Decree of Radovan Karadžić's, 17 June 1992), e-court p. 3.

811 P3065 (Minutes of the 9th session of the SerBiH Presidency, 21 June 1992). *See also* D3990 (Decree of Radovan Karadžić's, 17 June 1992), e-court pp. 1–2; D3981 (Witness statement of Miroslav Toholj dated 31 October 2013), paras. 3, 65.

812 Momčilo Mandić, T. 4967–4968 (8 July 2010), T. 5015 (13 July 2010). The decree of 17 June 1992 suggests a possible consultative role in legal proceedings, however; the Documentation Centre's enumerated duties include "engag[ing] experts and propos[ing] to the state institutions of the [SerBiH] bringing criminal proceedings and other sanctions against individuals, who have encouraged or participated in war crimes and violence against the Serb people". D3990 (Decree of Radovan Karadžić, 17 June 1992), e-court p. 3. Toholj's statement suggests that the Documentation Centre gathered and filed information on crimes but that it was the MUP which had the authority to conduct investigations of crimes. D3981 (Witness statement of Miroslav Toholj dated 31 October 2013), para. 72.

261. On 11 July 1992, the Presidency decided that the Commission for Investigating War Crimes Committed against the Serbian People in BiH should be established and appointed Mandić, Momir Tošić, and Jovan Šarac as deputy members of the Commission.[813]

262. On 11 July 1992, senior MUP officials tasked the National Security Service and Crime Investigation Service with preventing and documenting war crimes and filing criminal reports.[814] The MUP report on the meeting to the President of the Presidency and Prime Minister several days later noted that "[d]ocuments are also provided for war crimes committed by Serbs".[815]

263. The Operative Programme of Measures to Prevent Social Disruption in Conditions of a State of War, issued by the Government on 17 July 1992, stated that the work of the State Commission for the Identification of Crimes and Genocide against the Civilian Population and of Victims of War was to be intensified, with the Ministry of Justice responsible for the action.[816] According to Mandić, the purpose of the state commission was to establish whether there were instances of such crime or genocide in the territory of the RS.[817]

264. On 22 April 1993, the Government established a "Commission for War and Other Crimes related to war operations in the territory of [RS]" and appointed Dragan Dangubić as its president.[818] The Commission's duties were the investigation of events that took place in the territory of the RS that could be classified as "war crimes and other war-related crimes" and the "collection of evidence on the aforementioned crimes, its analysis, legal qualification and safe-keeping".[819]

265. On 3 December 1993, the Government established a "Commission for Gathering Information on Crimes Committed against Humanity and International Law", with the task of investigating and gathering documentation on events in the territory of the RS that could qualify as "war crimes related to war operations".[820]

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813 D444 (Minutes of 17th session of SerBiH Presidency, 11 July 1992), pp. 1–2. *See also* Momčilo Mandić, T. 5132 (14 July 2010).

814 D447 (SerBiH MUP, Analysis of functioning of the MUP, July 1992), e-court p. 22; P1096 (SerBiH MUP Report on Some Aspects of Work Done to Date and the Tasks Ahead, 17 July 1992), pp. 3, 6.

815 P1096 (SerBiH MUP Report on Some Aspects of Work Done to Date and the Tasks Ahead, 17 July 1992), p. 3.

816 D448 (Government of SerBiH, Operative programme to prevent social disruption in conditions of a state of war, 17 June 1992), p. 15. *See also* Momčilo Mandić, T. 5170–5171 (14 July 2010).

817 Momčilo Mandić, T. 5171 (14 July 2010).

818 D3577 (Decision of RS Government, 22 April 1993), p. 1; D3563 (Witness statement of Vladimir Lukić dated 18 May 2013), para. 40 (stating that the Commission was to "determine war crimes regardless of the ethnicity of the victims and perpetrators").

819 D3577 (Decision of RS Government, 22 April 1993), p. 1.

820 D3595 (Second report on the work of RS Commission for Gathering Information on Crimes against Humanity and International Law, 15 May 1994), p. 1.

266. On 15 September 1994, the Bosnian Serb Government adopted a decision authorising the MUP and the Ministry of Justice "to collect information on crimes against humanity and international law that had been committed".[821] According to Dušan Kozić, this decision related to victims of all nationalities and had the support of the Accused.[822]

c. Competence, structure, and procedures

267. When an incident involving a crime was reported, the police, usually civilian, would conduct an on-site investigation under the direction of the investigating judge.[823] The police would determine if the incident fell under the jurisdiction of the military or the civilian justice system.[824] Investigating judges would then send a report of all the evidence collected to the prosecutor, who would determine whether the elements of crime were sufficiently met to initiate criminal proceedings.[825] At this stage, the prosecutor could submit to the investigating judge of the lower court a request to open an investigation.[826]

268. The Operative Programme issued by the Government on 17 July 1992 tasked the Ministry of Justice with issuing instructions "to the organs of justice to intensify and decide cases by summary procedure".[827] The Programme stated under this task: "Priority shall be given to

821 D3373 (Excerpt from minutes of 4th session of RS Government, 15 September 1994), p. 2. *See also* D3364 (Witness statement of Dušan Kozić dated 7 April 2013), para. 18.

822 D3364 (Witness statement of Dušan Kozić dated 7 April 2013), para. 18.

823 Momčilo Mandić, T. 5126–5127 (14 July 2010). *See also* Mićo Stanišić, T. 46354–46355 (3 February 2014). *See, e.g.*, D1733 (Investigation report of Ključ Lower Court, 28 April 1992); D1734 (Investigation report of Ključ Lower Court, 2 May 1992); D4680 (Ključ Lower Court on-site investigation report, 30 May 1992); D3784 (Investigation report of Bijeljina Lower Court, 2 June 1992); D3193 (Investigation report of Sokolac Lower Court, 20 July 1992); D1735 (Investigation report of Ključ Lower Court, 30 July 1992); D4366 (Report of Ključ Public Prosecutor's Office, 1 February 1993; Ključ Lower Court's on-site investigation report, 30 July 1992), pp. 2–4; D4381 (Prijedor Basic Court's on-site investigation report, 29 August 1992); P3518 (Report of Sanski Most's Lower Court Investigating Judge, 9 November 1992); D4355 (Sanski Most Lower Court's on-site investigation report, 4 December 1992); D48 (Zvornik Lower Court's on-site investigation report, 22 February 1993); D4386 (Prijedor Lower Court's on-site investigation report, 3 March 1993). *See also* D4382 (Prijedor SJB record of on-site investigation, 29 October 1992); D4348 (Sanski Most SJB record of on-site investigation, 3 December 1992) (under seal); D2949 (Milići SJB record of on-site investigation, 26 May 1993); D4351 (Sanski Most SJB record of on-site investigation, 22 July 1993) (under seal); P2931 (Bijeljina Military Court indictment of Zoran Tomić and Dragan Matović, 24 June 1993), e-court pp. 3–6. As the on-site investigation reports indicate, usually members of SJBs and/or CSBs and lower court investigating judges and sometimes a member of the prosecutor's office were present at on-site investigations.

824 Momčilo Mandić, T. 5126–5127 (14 July 2010).

825 Momčilo Mandić, T. 5128 (14 July 2010). *See also* Mićo Stanišić, T. 46355 (3 February 2014).

826 *See* P6597 (Request from Prijedor Prosecutor's Office, 3 July 1992); D4236 (Report of Banja Luka Lower Court, 24 September 1992). *See* paras. 301–308 for a more detailed description of the criminal process and detention procedures.

827 D448 (Government of SerBiH, Operative programme to prevent social disruption in conditions of a state of war, 17 June 1992), p. 14.

decisions on misdemeanours and criminal offences that weaken the Republic's power of defence".[828]

269. The Accused, as President of the Presidency, issued orders to MUP that investigations be conducted and perpetrators brought to account for specific incidents.[829]

270. According to Krajišnik, the Bosnian Serb MUP, the Ministry of Justice, and the military were the three main institutions, aside from separate commissions, responsible for investigating matters related to alleged crime, establishing the truth, and punishing the perpetrators.[830] He stated that the Presidency and the Assembly did not have any investigative instruments at their disposal and that no one outside of the three institutions could influence investigative and judicial work.[831] He also stated that *ex officio* nobody was supposed to inform the Assembly President or Republic President about crimes and that crimes were to be reported to the competent institutions.[832] He stated that only if the relevant institutions refused to take measures in response to the information, those reporting crimes would have the right to inform the prime minister, the government, and the president of the republic.[833]

271. There are instances in which lower courts issued decisions releasing for military service people who had been detained on suspicion of crime.[834]

272. Lower courts transferred cases to the military courts when the accused was a member of the military and the case therefore beyond their subject-matter jurisdiction.[835]

d. Policies and orders relating to the rule of law and crimes

273. In addition to evidence referred to in other sections of this Judgement in relation to specific municipalities, the Chamber makes the following findings below.

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828 D448 (Government of SerBiH, Operative programme to prevent social disruption in conditions of a state of war, 17 June 1992), p. 14.

829 *See* P3609 (Radovan Karadžić's Order to RS MUP, 19 August 1992).

830 Momčilo Krajišnik, T. 43316–43318 (12 November 2013).

831 Momčilo Krajišnik, T. 43317–43318 (12 November 2013).

832 *See* Momčilo Krajišnik, T. 43934 (20 November 2013).

833 Momčilo Krajišnik, T. 43935 (20 November 2013).

834 *See* P6598 (Decision of Prijedor Lower Court, 9 July 1992).

835 *See* D1775 (Srbac Lower Court's Ruling, 12 October 1992) (under seal); KDZ492, T. 20119 (18 October 2011) (closed session). Conversely, military courts transferred cases to the civilian courts when the accused was not a member of the military at the time the charged crime was committed. *See* D1489 (Bijeljina Military Court decision, April 1993), pp. 1–2 (under seal); D1785 (Banja Luka Military Court's Decision, 13 December 1993) (under seal), pp. 1–2.

274. Mićo Stanišić issued an order on 15 April 1992 that "[i]ndividuals involved in seizure, robbery, [...] or in any other criminal activity aimed at acquiring property and proceeds by unlawful conduct, ought to be identified and most rigorously prosecuted, including arrest and detention".[836] On 26 May 1992, he instructed the five CSBs to send a report containing, *inter alia*, the total number of criminal offences against life and limb, crimes of degradation of personhood and property, and crimes against property, and the total number of such cases which were solved.[837]

275. On 5 June 1992, Assistant Minister for Crime Prevention and Detection Planojević, in a document to the five CSBs, noted that in the previous two months after the outbreak of war in BiH, a sharp increase had been observed in the rate of property crimes, war profiteering, and especially war crimes.[838] Planojević requested that "vigorous measures be taken against the perpetrators of all types of crimes, and in more extreme cases, orders should be issued on their detention".[839] The document called for "establish[ing] maximum cooperation with judicial organs and the Military Police" and "[p]ay[ing] special attention to discovering the perpetrators of war crimes, documenting the criminal activities of individuals and groups, arresting them and bringing them to justice".[840] The document also stated that the CSBs would likely face obstacles to their work and directed them to make official notes of all information to allow criminal prosecution to be brought later.[841] Further, it told the CSBs that they were required to strictly observe the international laws of war in the treatment of civilians and prisoners of war.[842]

276. On 5 July 1992, Mićo Stanišić asked the Command of the Eastern Bosnia Corps to use the authority of its organs and help prevent and detect crimes and their perpetrators, especially members of the VRS, after noting "the increasingly frequent and serious crimes committed by individuals and groups, usually armed" and the inability of the crime investigation service and police to carry out the duties within the competence of the internal affairs organs.[843]

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836 D404 (SerBiH MUP Order, 15 April 1992). On 17 April 1992, Mićo Stanišić sent to the CSBs and SJBs a related communication stating that cases of unlawful appropriation of property by members of MUP had been recorded in certain SJBs and that in the future "the most stringent measures", including criminal prosecution, would be taken against such individuals. D1671 (Warning of SerBiH MUP, 17 April 1992); Mićo Stanišić, T. 46364–46365 (3 February 2014).

837 P6240 (SerBiH MUP request for information, 26 May 1992).

838 D1527 (Report of SerBiH MUP, 5 June 1992), pp. 1–2. Stojan Župljanin, Chief of the Banja Luka CSB, forwarded the communication to SJBs. D425 (CSB Banja Luka dispatch to all SJBs, 8 June 1992).

839 D1527 (Report of SerBiH MUP, 5 June 1992), p. 1.

840 D1527 (Report of SerBiH MUP, 5 June 1992), p. 1.

841 D1527 (Report of SerBiH MUP, 5 June 1992), pp. 1–2.

842 D1527 (Report of SerBiH MUP, 5 June 1992), p. 2.

843 D1408 (Request of SerBiH MUP, 5 July 1992), p. 1. *See also* Milorad Davidović, T. 15608–15609 (29 June 2011). According to Mandić, the MUP and the corps on whose territory the paramilitaries were, as well as the military police of that corps, had the competence to investigate their acts. *See* Momčilo Mandić, T. 5102–5103 (14 July 2010). On 3 July 1992, the Presidency issued an order, signed by the Accused as President of the

277. On 19 July 1992, Mićo Stanišić ordered that CSBs submit information on, *inter alia*, "[p]roblems related to activities of some paramilitary units, especially in cases where crimes have been committed or the public peace and order violated to a large extent, [...] [p]roblems related to the prevention and detection of crimes and perpetrators, and [...] [p]rocedures and jurisdiction in the treatment and custody of prisoners, persons evacuated from the combat-operation zones, collection camps into which the Army brings Muslim residents".[844] On 27 July 1992, in an order addressed to, *inter alia*, CSBs, Stanišić instructed that individuals who had been held criminally responsible for officially prosecuted crimes and "individuals who committed crimes during the war in the former [BiH] but against whom, for known reasons, criminal proceedings [had] still not been initiated", be removed from the MUP.[845] He also ordered the removal of all groups and individuals not under VRS control from areas where they were active and the collection of information about anyone having committed a crime, as well as the handover of such individuals to the competent institutions and taking of measures in accordance with the Law on Criminal Procedure.[846]

278. In its session of 6 August 1992, the SerBiH Presidency noted, in the discussion of detainees in prisons in Serb territory, that the treatment of prisoners of war had to abide by international conventions and concluded that the MUP would be ordered to examine through its municipal branches the behaviour of all civilian authorities and individuals guarding prisoners of war.[847] The information was to be passed to the MUP and then to the SerBiH Presidency.[848]

279. On 8 August 1992, Deputy MUP Minister for Police Affairs and Tasks, Tomislav Kovač, wrote to the Accused and Đerić that a major problem in the field was that people were not "properly categorised in the facilities or collection centres" as civilians or prisoners of war, and among the latter, prisoners of war who have committed criminal acts.[849] He stated that prisoners of war suspected of having committed criminal acts and war crimes were to be treated as detainees,

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Presidency, that the Bosnian Serb MUP conduct an investigation into paramilitary group activities in the area of the Gacko and Nevesinje municipalities and thereafter "submit an exhaustive report to the Presidency on the established state of facts in the area of the two municipalities". D439 (Order of SerBiH Presidency, 3 July 1992). *See also* D438 (Minutes of 14th session of SerBiH Presidency, 3 July 1992), p. 1.

844 D450 (Letter from SerBiH MUP to CSB Chiefs in Banja Luka, Bijeljina, Doboj, Sarajevo, Trebinje, 19 July 1992), pp. 1–2.

845 D4273 (Order of SerBiH MUP, 27 July 1992), pp. 1–2.

846 D4273 (Order of SerBiH MUP, 27 July 1992), p. 2.

847 D465 (Minutes of 24th session of SerBiH Presidency, 6 August 1992), p. 2. *See also* D3105 (Witness statement of Slobodan Avlijaš dated 9 March 2013), para. 54; D3796 (SerBiH MUP instructions to CSBs, 8 August 1992); D3795 (Romanija-Birač CSB request to SJBs, 9 August 1992); D3817 (Bijeljina SJB dispatch to Eastern Bosnia Corps, 11 August 1992). Based on the decision by the SerBiH Presidency, the Government set up two commissions to examine the situation in the detention centres and prisons in Manjača and Bileća. D3105 (Witness statement of Slobodan Avlijaš dated 9 March 2013), para. 55.

848 D465 (Minutes of 24th session of SerBiH Presidency, 6 August 1992), p. 2.

849 P1100 (Letter from SerBiH MUP to Radovan Karadžić and Branko Đerić, 8 August 1992), p. 1. *See also* D3960 (Witness Statement of Tomislav Kovač dated 28 October 2013), para. 84.

held exclusively in prison facilities, and investigated by the judicial organs and the police.[850] On 9 August 1992, the Government decided to establish commissions for the inspection of collection centres and other facilities for prisoners in the SerBiH.[851]

280. In August 1992, Mićo Stanišić issued other orders regarding the application and conditions of detention and the treatment of prisoners of war and civilians.[852]

281. On 23 July 1992, the Accused issued an order which stated, *inter alia*: "The Serbian authorities must act in accordance with the law and the Geneva Convention towards the civilian population of any ethnicity who do not exert aggression and combat operations against our army and the civilian population."[853] At the end of July 1992, before the Bosnian Serb Assembly, he criticised crimes such as robbery and unlawful acquisition of property.[854] At a session in September 1992, the Accused spoke of the need to abide by the Geneva Conventions with respect to captured persons.[855] At the 34th Assembly session in August to October 1993, the Accused stated that the courts and the legality of their work were to be monitored constantly.[856] He also stated that the work of the Bosnian Serb MUP was to be strengthened in all its departments and that all abuses of power and other criminal acts that were committed in the MUP were to be investigated and punished by law.[857] He stated: "Legal state exists when you don't have to intervene in order for someone to be prosecuted. Legal state exists when one is not allowed to intervene when a person is to be prosecuted."[858]

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850 P1100 (Letter from SerBiH MUP to Radovan Karadžić and Branko Đerić, 8 August 1992), p. 1.

851 D466 (Decision of Government of SerBiH on establishment of Commission for Inspection of Collection Centres and Other Facilities for Prisoners, 9 August 1992). *See also* D3960 (Witness Statement of Tomislav Kovač dated 28 October 2013), para. 85.

852 D467 (Order of SerBiH MUP to CSBs Sarajevo, Trebinje, Doboj, Bijeljina, Banja Luka, 10 August 1992); D469 (Order of SerBiH MUP, 17 August 1992); D4280 (Letter from RS MUP to all CSBs, 17 August 1992). *See also* D474 (CSB Banja Luka dispatch to all SJBs, 20 August 1992); D473 (SerBiH MUP, Summary from the MUP management meeting held on 20 August 1992), pp. 3, 15.

853 D96 (Radovan Karadžić's Order to Serbian authorities, 23 July 1992). *See also* D94 (Radovan Karadžić's letter to SDS members, 11 July 1992) (the Chamber refers to the date of 11 July 1992 appearing on the document in the original language as opposed to the date of 7 July 1992 appearing on the English version).

854 *See* D92 (Transcript of 17th session of SerBiH Assembly, 24-26 July 1992), p. 17.

855 *See* D456 (Transcript of 20th session of RS Assembly, 14-15 September 1992), p. 55.

856 P1379 (Transcript of 34th session of RS Assembly, 27-29 August, 9-11 September, 29 September to 1 October 1993), p. 408.

857 P1379 (Transcript of 34th session of RS Assembly, 27-29 August, 9-11 September, 29 September to 1 October 1993), p. 408.

858 P1379 (Transcript of 34th session of RS Assembly, 27-29 August, 9-11 September, 29 September to 1 October 1993), p. 408.

2. Military justice system

a. Establishment

282. On 8 May 1992, a session of the SNB and the Government decided to establish courts martial.[859]

283. On 12 May 1992, the Bosnian Serb Assembly adopted a decision promulgating an amendment to the SerBiH Constitution such that Article 112 read: "Military courts and military prosecutors are established by law. Military courts are independent courts and conduct trials on the basis of the law."[860]

284. On 31 May 1992, a decision signed by the Accused as President of the Presidency established three military courts of first instance and a Supreme Court in Sarajevo at the appeal level.[861] The decision also established three regional military prosecutors' offices,[862] one each for the 1st Krajina Corps Command seated in Banja Luka, the SRK Command seated in Sarajevo, and the Eastern Bosnia Corps Command seated in Bijeljina, as well as a Senior Military Prosecutor's Office with the VRS[863] Main Staff.[864] The three military courts of first instance were to operate "[w]ithin the framework of their subject matter jurisdiction" in the territory of the Corps designated for the corresponding military prosecutor's office: the Military Court in Banja Luka in the territory of the 1st and 2nd Krajina Corps, the Military Court in Sarajevo in the territory of the SRK and Herzegovina Corps, and the Military Court in Bijeljina in the territory of the Eastern Bosnia Corps.[865] A Presidency decision added the Drina Corps to the territorial jurisdiction of the Military

859 P3078 (Minutes of meeting of the National Security Council and the SerBiH Government, 8 May 1992), p. 1.

860 P5416 (Decision of the Assembly of Serbian People in BiH, 12 May 1992), p. 1.

861 P3602 (Radovan Karadžić's Decision on the Establishment, Seat and Jurisdiction of Military Courts and Military Prosecutors' Offices, 31 May 1992), p. 1. *See also* D1756 (The Law on Military Courts, published in the RS Official Gazette, 31 December 1993), art. 9.

862 The Report on the Work of the VRS Military Prosecutor's Offices for 1992 mentions a fourth lower military prosecutor's office, that attached to the Command of the Herzegovina Corps and mandated to deal with persons under the jurisdiction of the Military Court in Bileća. P3629 (Report on the work of the VRS Military Prosecutor's Office for 1992), p. 4. *See also* D1756 (The Law on Military Courts, published in the RS Official Gazette, 31 December 1993), art. 9.

863 For ease of reference the acronym "VRS" will be used throughout this section to also cover the period prior to 12 August 1992, when the Army of SerBiH was renamed the VRS. *See* fn. 422.

864 P3602 (Radovan Karadžić's Decision on the Establishment, Seat and Jurisdiction of Military Courts and Military Prosecutors' Offices, 31 May 1992), p. 1.

865 P3602 (Radovan Karadžić's Decision on the Establishment, Seat and Jurisdiction of Military Courts and Military Prosecutors' Offices, 31 May 1992), pp. 1–2. *See also* KDZ531, T. 15847–15848, 15862–15863 (1 July 2011) (closed session); Momčilo Mandić, T. 5007–5008 (13 July 2010), T. 5128 (14 July 2010); D3076 (Witness statement of Savo Bojanović dated 2 March 2013), para. 5; Dragomir Milošević, T. 32859 (29 January 2013). The Banja Luka Military Court's territorial jurisdiction included the municipalities Banja Luka, Prijedor, and the municipalities of Ključ and Sanski Most were within territory controlled by the 1st Krajina Corps. [REDACTED].

Court in Sarajevo.[866] On 5 August 1992, General Milan Gvero informed Prime Minister Đerić that the VRS had established these first-instance military courts and prosecutor's offices as well as the Supreme Military Court and Senior Military Prosecutor's Office with the VRS Main Staff.[867]

285. The 31 May 1992 decision provided that until the passing of the Criminal Code, Law on Criminal Procedure, Law on Military Courts, and Law on Military Prosecutors' Offices, *inter alia*, of the SerBiH, the Criminal Code, Law on Criminal Procedure, Law on Military Courts, and Law on Military Prosecutor's Offices, *inter alia*, of the FRY were to be applied in proceedings before military courts.[868] On 30 December 1993, the Accused, as RS President, proclaimed the Law on Military Courts as approved by the RS Assembly.[869]

286. Reports discussed at the Government session of 8 July 1992 indicate that the military judicial organs had not begun operating as of that time, resulting in "one of the greatest obstacles in establishing order, legality and a state ruled by law in present conditions".[870] The Government concluded that "it be proposed to the authorised organs to form and qualify the Public Prosecutor's Office and the courts for work as soon as possible" and that, for emergency reasons, the possibility of delegating authority from the military to regular judicial organs would be examined.[871] The Government assigned this task to the Ministry of Defence and the Ministry of Justice.[872] As previously mentioned, on 10 July 1992 and again on 5 August 1992, Mandić proposed that the civilian and military justice systems be combined but this was not carried out.[873] At a meeting on

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866 D412 (RS Presidency Amendment to the Decision on Establishment of Military Courts and Prosecutors, 31 May 1992). *See also* Momčilo Mandić, T. 5007 (13 July 2010). According to a 15 December 1994 order signed by the Accused as President of the Republic, the territorial jurisdiction of the military courts comprised: the Banja Luka Military Court responsible for the territory within the zone of responsibility of the First and Second Krajina Corps, the Bijeljina Military Court responsible for the same of the Eastern Bosnia and Drina Corps, the Sarajevo Military Court responsible for the same of the Sarajevo-Romanija Corps, and the Bileća Military Court responsible for the same of the Herzegovina Corps. D1492 (Radovan Karadžić's order to VRS Military Prosecutor's Office, 15 December 1994).

867 D1752 (Request from VRS Main Staff, 5 August 1992). The Accused, at the proposal of the Minister of Defence, later moved the military courts to the authority of the Ministry of Defence while leaving the military prosecutor's offices within the army system. Momčilo Mandić, T. 5008 (13 July 2010); P3149 (Minutes of 14th session of Supreme Command, 31 March 1995), pp. 10–11.

868 P3602 (Radovan Karadžić's Decision on the Establishment, Seat and Jurisdiction of Military Courts and Military Prosecutors' Offices, 31 May 1992), p. 2. *See* P3603 (SFRY Law on Military Courts, published in SFRY's Official Gazette, 14 January 1977); P3604 (SFRY Law on the Office of Military Prosecution, published in SFRY's Official Gazette, 14 January 1977).

869 D1756 (The Law on Military Courts, published in the RS Official Gazette, 31 December 1993).

870 D441 (Minutes of 37th session of Government of SerBiH, 8 July 1992), p. 5.

871 D441 (Minutes of 37th session of Government of SerBiH, 8 July 1992), p. 5.

872 D441 (Minutes of 37th session of Government of SerBiH, 8 July 1992), p. 5.

873 *See* paras. 254–255.

11 July 1992, senior MUP officials discussed the fact that the military courts and prosecutor's offices were not functioning.[874]

287. The Operative Programme issued by the Government on 17 July 1992 ordered the military judicial organs[875] and military police organs to "intensify activities of discovering and arresting perpetrators of misdemeanours and criminal offences, and especially in controlling theft, war profiteering and other crimes", in co-operation with the state justice organs.[876] The Programme made the MUP, in co-operation with the Ministry of Justice and Ministry of Defence, responsible for this action.[877]

288. The Chamber received diverging evidence as to when the military courts were established and began operating. Savo Bojanović stated that military courts were established in June or July 1992 in the entire territory under Bosnian Serb control and that the Bijeljina Military Court was established in mid-July 1992 and began investigations in August 1992.[878] There is also evidence that the Banja Luka Military Court was functioning from May to July 1992[879] and that criminal proceedings took place from as early as September and October 1992.[880] According to Novak Todorović, the president of the Supreme Military Court,[881] however, the establishment of the first military courts began in the autumn of 1992 and these courts were operating as of 1993.[882]

289. Records indicate that the Military Prosecutor's Office attached to the Command of the 1st Krajina Corps issued requests for investigation and indictments[883] and that the Banja Luka Military

874 D447 (SerBiH MUP, Analysis of functioning of the MUP, July 1992), e-court pp. 8, 9, 11, 14. *See also* Momčilo Mandić, T. 5140–5142 (14 July 2010).

875 These organs were not yet functioning in July 1992. *See* paras. 286, 288, 292.

876 D448 (Government of SerBiH, Operative programme to prevent social disruption in conditions of a state of war, 17 June 1992), p. 12.

877 D448 (Government of SerBiH, Operative programme to prevent social disruption in conditions of a state of war, 17 June 1992), pp. 12–13.

878 D3076 (Witness statement of Savo Bojanović dated 2 March 2013), paras. 4–5; Savo Bojanović, T. 34845–34846 (5 March 2013). *See also* [REDACTED].

879 *See* [REDACTED]. *But see* KDZ492, T. 20056–20058, 20061 (18 October 2011) (closed session) (stating that the military courts were not operational between May 1992 and the end of August 1992).

880 *See* [REDACTED]. *See also* P3605 (Report of 1st Krajina Corps, 2 September 1992), p. 2; D2999 (Article from Politika entitled "Serbs, Muslims and Croats are All before the Court", 13 December 1992).

881 D2986 (Witness statement of Novak Todorović dated 17 February 2013), para. 2.

882 Novak Todorović, T. 34071 (20 February 2013); D2986 (Witness statement of Novak Todorović dated 17 February 2013), para. 3. *See also* D4226 (Witness statement of Dragan Radetić dated 17 January 2014), para. 8 (stating that no military court had been established until September or October 1992); KDZ492, T. 20057, 20061 (18 October 2011) (closed session) (stating that between May 1992 and the end of August 1992 the military courts were not operational and that the first military court judges were appointed in August 1992 and they became seised of cases only in early September).

883 *See, e.g.*, P3630 (Indictment of the Military Prosecutor of the 1st Krajina corps, 5 January 1993); P3513 (Request for investigation by the 1st Krajina Corps Military Prosecutor's Office, 8 March 1993); P3519 (Indictment of the 1st Krajina Corps Military Prosecutor's Office, 2 June 1993); D1757 (Indictment of the Military Prosecutor's Office attached to the 1st Krajina Corps, 18 July 1993); P3623 (Excerpt of logbook of Banja Luka Military

Court issued rulings and judgements.[884] The Military Prosecutor's Office in Banja Luka also submitted proposals to the Banja Luka Military Court to halt or resume investigative proceedings.[885] During the course of 1992, the Military Prosecutor's Office attached to the Command of the SRK also submitted requests to initiate investigations.[886] Records further indicate that the Military Prosecutor's Office attached to the Command of the Eastern Bosnia Corps issued requests for investigation and indictments[887] and that the Bijeljina Military Court issued decisions and rulings.[888] Finally, records indicate that, in 1992, the Military Prosecutor's Office attached to the Command of the Herzegovina Corps submitted requests to carry out investigations and six indictments were issued against six soldiers.[889]

290. The Report on the Work of the VRS Military Prosecutor's Offices for 1992 indicates that, for the period from the beginning of the work of the military prosecutor's offices until 31 December 1992, criminal reports against 4,008 persons, including 3,228 soldiers, 37 non-commissioned officers, 49 officers, 688 civilians, and 6 unknown perpetrators, were submitted to all of the military prosecutor's offices.[890] The Report states that in the specified period, military prosecutors submitted requests to carry out investigations against 1,983 persons and indictments were issued against 376 persons.[891]

291. An order of 22 September 1993, signed by the Accused as President of the Republic and Supreme Commander of the VRS and sent to the VRS Main Staff Commander, the President of the

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Prosecutor's Office, 1992), p. 6. *See also* P3629 (Report on the work of the VRS Military Prosecutor's Offices for 1992), p. 12; P6595 (Cover page of 1st Krajina Corps Military Prosecutor case, 24 August 1992).

884 *See, e.g.*, P6599 (Decision of Banja Luka Military Court, 29 August 1992); P6601 (Decision of Banja Luka Military Court, 8 October 1992); [REDACTED].

885 *See* P3616 (Proposal of the Military Prosecutor's Office attached to the 1st Krajina Corps, 29 July 1993); P3774 (Order of Banja Luka Military Prosecutor's Office, 31 May 1996).

886 P3629 (Report on the work of the VRS Military Prosecutor's Offices for 1992, 10 February 1993), p. 6. *See* D2832 (1st Romanija Brigade combat report, 4 July 1992), p. 3 (stating that four criminal reports had been processed against soldiers who committed theft in the area of responsibility of the brigade and that the reports would be passed on to the military prosecutor for further action); Dragomir Milošević, T. 32860–32861 (29 January 2013).

887 *See, e.g.*, D1473 (Bijeljina Military Prosecutor request re Rade Mihajlović case, 30 September 1992); P6182 (Request for investigation by Bijeljina Military Prosecutor's Office, 9 November 1992); P6183 (Request for investigation by Bijeljina Military Prosecutor's Office, 17 November 1992); D1476 (Bijeljina Military Court indictment of Rade Mihajlović, 5 January 1993); D1465 (Bijeljina Military Court indictment of Radovan Mićanović, 17 August 1993). *See also* P3629 (Report on the work of the VRS Military Prosecutor's Offices for 1992), pp. 23–24.

888 *See, e.g.*, D1485 (Bijeljina Military Court ruling in Cvjetković/Jurošević case, 20 November 1992); P6179 (Bijeljina Military Court's Decision, 30 December 1992); P6180 (Bijeljina Military Court's Decision, 5 January 1993); D1478 (Bijeljina Military Court order in Rade Mihajlović case, 21 February 1993); D3082 (Bijeljina Military Court's Verdict, 24 June 1993); D1466 (Bijeljina Military Court judgement in Radovan Mićanović case, 22March 1995).

889 P3629 (Report on the work of the VRS Military Prosecutor's Offices for 1992), p. 19.

890 P3629 (Report on the work of the VRS Military Prosecutor's Offices for 1992), p. 5.

891 P3629 (Report on the work of the VRS Military Prosecutor's Offices for 1992), p. 5.

VRS Supreme Military Court, and the VRS Prosecutor's Office, stated: "Until the final adoption and passing of legislation on the organisation and work of military disciplinary courts, I am placing the Supreme Military Court and the Prosecutor's Office attached to the [VRS] Main Staff under my direct authority."[892] The order made the Commander of the Main Staff and the President of the Supreme Military Court responsible for the implementation of the task.[893]

292. The Chamber finds that the military courts were established between June and August 1992 and began functioning around August 1992.

b. Competence, structure, and procedures

293. The military courts had jurisdiction over any crime committed by a member of the military, namely, the VRS.[894] The military courts also had jurisdiction over civilians accused of committing particular crimes, including acts against a military installation or a member of the military[895] and the crime of armed rebellion.[896]

294. According to some witnesses, military courts did not have jurisdiction over cases of war crimes, which the State Commission of the Investigation of Crimes against Serbs had authority to investigate.[897] However, in at least one case, a military prosecutor's office submitted a request to open an investigation against individuals for a suspected crime under Article 142 of the adopted Criminal Code of the SFRY,[898] war crimes against the civilian population, and a military court ordered detention of the said individuals.[899]

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892 P3776 (Radovan Karadžić's order to VRS Commander and President of VRS Supreme Military Court, 22 September 1993), p. 2. *See also* P1379 (Transcript of 34th session of RS Assembly, 27-29 August, 9-11 September, 29 September to 1 October 1993), p. 427.

893 P3776 (Radovan Karadžić's order to VRS Commander and President of VRS Supreme Military Court, 22 September 1993), p. 2.

894 P3773 (Witness statement of KDZ532 dated 31 October 2011), para. 10 (under seal); D1756 (Law on Military Courts, published in the RS Official Gazette, 31 December 1993), art. 10. KDZ532 stated that paramilitaries, as persons in uniform, were also under the jurisdiction of the military courts. P3773 (Witness statement of KDZ532 dated 31 October 2011), paras. 10, 24 (under seal). Mandić stated that paramilitaries, as "armed persons in wartime", fell under the jurisdiction of the military justice system. Momčilo Mandić, T. 5101 (14 July 2010). *See also* Mićo Stanišić, T. 46386–46387 (3 February 2014) (stating that paramilitaries' "affiliation with the military" excluded MUP jurisdiction over them). According to Mandić, the military justice system's jurisdiction extended to persons who committed a crime in a war zone, in combat operations, or related to war activities. Momčilo Mandić, T. 4579 (5 July 2010), T. 5125–5126 (14 July 2010). Mandić also stated that all military conscripts from age 16 to 50 or 60, during an imminent threat of war, fell under the jurisdiction of the military justice system. Momčilo Mandić, T. 4579 (5 July 2010).

895 D1756 (Law on Military Courts, published in the RS Official Gazette, 31 December 1993), art. 10.

896 *See* D1773 (Teslić Lower Court Ruling, 7 December 1992), p. 1. [REDACTED].

897 P2929 (Witness statement of KDZ531 dated 25 June 2011), p. 11 (under seal); Momčilo Mandić, T. 5015 (13 July 2010). *See* para. 258.

898 The RS utilised the SFRY Criminal Code. D2986 (Witness statement of Novak Todorović dated 17 February 2013), para. 27; Novak Todorović, T. 34080 (20 February 2013). *See also* KDZ492, T. 20059 (18 October

295. Under the Law on Military Courts, military courts were to "determine the status of prisoners-of-war and try them for criminal acts committed against humanity and international law as described in Articles 141 through 155 of the Criminal Code of [RS] as well as for criminal acts committed by them while prisoners-of-war".[900] Military courts of first instance were to, *inter alia*, conduct investigations, hear indictment appeals, first-instance criminal cases and appeals against rulings by military court investigating judges, and handle certain matters concerning the execution of sentences.[901] The Supreme Military Court was to, *inter alia*, consider appeals against rulings by first-instance military courts in cases determined by law, rule against the enactments of military organs, resolve conflicts of jurisdiction among the first-instance military courts, and provide fundamental legal interpretations of issues significant to the uniform application of laws by the military courts.[902]

296. A first-instance military court was composed of three to five judges.[903] The corresponding prosecutor's office usually had one prosecutor and two deputy prosecutors.[904] The Supreme Military Court had five judges by the end of the war.[905]

297. The Accused as President appointed all prosecutors and judges of the military courts.[906] Under the Law on Military Courts, candidates for the posts of military court judges were to be proposed by the Ministry of Defence upon recommendations from the Supreme Military Court's president and the military court to which they would be appointed.[907] Military court judges were to

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2011) (closed session) (stating that the judicial administration law of the RS allowed for the application of relevant SFRY and BiH legislation).

899 P6143 (Excerpt from ruling of Banja Luka Military Court, 29 July 1993), e-court pp. 1, 3–4. *See also* Novak Todorović, T. 34072–34073 (20 February 2013); D3002 (The Criminal Code of the SFRY, 1990).

900 D1756 (Law on Military Courts, published in the RS Official Gazette, 31 December 1993), art. 10.

901 D1756 (Law on Military Courts, published in the RS Official Gazette, 31 December 1993), art. 14.

902 D1756 (Law on Military Courts, published in the RS Official Gazette, 31 December 1993), art. 20.

903 D2986 (Witness statement of Novak Todorović dated 17 February 2013), para. 6.

904 D2986 (Witness statement of Novak Todorović dated 17 February 2013), para. 6.

905 D2986 (Witness statement of Novak Todorović dated 17 February 2013), para. 6.

906 P3773 (Witness statement of KDZ532 dated 31 October 2011), paras. 12 (under seal); KDZ532, T. 21009–21011 (8 November 2011) (closed session); D3076 (Witness statement of Savo Bojanović dated 2 March 2013), para. 5; D1756 (Law on Military Courts, published in the RS Official Gazette, 31 December 1993), art. 27. *See* D2986 (Witness statement of Novak Todorović dated 17 February 2013), para. 3; KDZ492, T. 20055 (18 October 2011) (closed session).

907 D1756 (Law on Military Courts, published in the RS Official Gazette, 31 December 1993), art. 27. The Chamber notes that KDZ532 described a different process ending in appointments by the President, wherein the corps commanders forwarded proposals for appointments, which went to the VRS Main Staff and then to the Accused. P3773 (Witness statement of KDZ532 dated 31 October 2011), paras. 12, 43 (under seal); KDZ532, T. 21009–21011 (8 November 2011) (closed session).

be dismissed by the President of the Republic.[908] Proposals to dismiss military court judges were to be submitted by the Defence Minister.[909]

298. The military prosecutor's offices attached to the four corps commands were required to submit monthly reports on crime trends for the preceding period to the Senior Military Prosecutor's Office with the VRS Main Staff.[910] The reports were to include, *inter alia*, the number of criminal reports received by the prosecutor's office and against whom as well as the number rejected and the reason for such rejection.[911] The three highest priority crimes, in order, were crimes against the state order, crimes against the armed forces, and crimes against humanity and violations of international law.[912]

299. The Banja Luka Military Court sent monthly reports to the 1st Krajina Corps Command and the appellate military court, namely the Supreme Military Court.[913] The Military Court and Military Prosecutor's Office for Banja Luka had meetings with the Command of the 1st Krajina Corps in which they discussed how cases were proceeding and how the Court and Prosecutor's Office functioned.[914] In these meetings, the Corps Command asked that the cases of those not responding to mobilisation calls and those avoiding military service be prioritised.[915] The Military Court for Banja Luka also had meetings with the Supreme Military Court as needed and some meetings were attended by the other military courts as well.[916] Bogdan Subotić, an advisor of the President, the Accused, in the beginning of 1992 and later the Minister of Defence, made visits to the Military Prosecutor for the 1st Krajina Corps, Srboljub Jovičinac, a number of times.[917] At the

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908 D1756 (Law on Military Courts, published in the RS Official Gazette, 31 December 1993), arts. 27, 36.

909 D1756 (Law on Military Courts, published in the RS Official Gazette, 31 December 1993), art. 36.

910 P3627 (Report of the VRS Military Prosecutor's Office, 9 September 1992), p. 4. *See, e.g.*, P3628 (Monthly Report of the Military Prosecutor's Office attached to the 1st and 2nd Krajina Corps, October 1992).

911 *See* P3627 (Report of the VRS Military Prosecutor's Office, 9 September 1992), p. 4.

912 P3627 (Report of the VRS Military Prosecutor's Office, 9 September 1992), p. 4.

913 [REDACTED].

914 [REDACTED].

915 [REDACTED]. The applicable provisions for these offences were Articles 214 and 217 of the Criminal Code. P3606 (Guidelines for the Establishment of Criteria for Criminal Prosecution, VRS Military Prosecutor's Office, 1992), pp. 2–3. The Guidelines highlighted and addressed three types of crimes: the crime of failure to report in response to a call-up and evasion of military service, the crime of unauthorised departure and desertion from the armed forces, and crimes against humanity and international law. *See* P3606 (Guidelines for the Establishment of Criteria for Criminal Prosecution, VRS Military Prosecutor's Office, 1992). The Guidelines were to be implemented by all officers, military judicial organs, military police, security organs, and all organs required to detect and report perpetrators of crimes and authorised to conduct proceedings against them, for a consistent policy on prosecution. *See* D2833 (SRK instructions, 15 October 1992, with 1992 Guidelines for the Establishment of Criteria for Criminal Prosecution), p. 1; Dragomir Milošević, T. 32861–32862 (29 January 2013).

916 [REDACTED].

917 [REDACTED].

Military Court in Bijeljina, the priority cases were those that involved non-response to mobilisation and desertion from the military, under articles 214 and 217.[918]

300. The procedures for military courts were the same as those for civilian courts and the RS rules and regulations were taken from the Yugoslav rules and regulations.[919] According to the Law on Military Courts, provisions of the Law of Criminal Procedure were to apply to military courts' criminal procedure if not otherwise stipulated by the Law on Military Courts.[920] Todorović instructed the judges of the Supreme Military Court to prepare guidelines for criminal prosecution and the criteria for criminal prosecution.[921]

301. With respect to VRS military justice system procedures, first, the prosecutor's office received the criminal report by the police[922] and then the prosecutor determined whether there was sufficient evidence to initiate criminal proceedings.[923] If so, the prosecutor would send a request for investigation to the investigating judge.[924] If there was none, with the assistance of the police and other organs, the prosecutor collected all the information and forwarded it to the Court.[925] Under the Law on Military Courts, the investigation was to be conducted by the military court investigating judge.[926] After completing his investigation, the investigating judge sent the case

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918 [REDACTED].

919 [REDACTED].

920 D1756 (The Law on Military Courts, published in the RS Official Gazette, 31 December 1993), art. 56. The powers and regulations of organs of internal affairs under the Law on Criminal Procedure also applied to the security organs of the VRS and the military police. D1892 (Instruction re authorities of military police), p. 1.

921 D2986 (Witness statement of Novak Todorović dated 17 February 2013), para. 7.

922 If the civilian police investigated, it would, upon completion of its investigation, hand over the case to the relevant prosecutor's office, civilian or military. Momčilo Mandić, T. 5103–5104 (14 July 2010). *See also* D2986 (Witness statement of Novak Todorović dated 17 February 2013), para. 13 (stating that the military prosecutor could act upon a criminal report by the civilian or military police).

923 [REDACTED]; D2986 (Witness statement of Novak Todorović dated 17 February 2013), para. 13; Dragan Radetić, T. 45697 (21 January 2014); [REDACTED]. The military prosecutor had the authority to dismiss a criminal report without giving an explanation for the decision. D2986 (Witness statement of Novak Todorović dated 17 February 2013), para. 13; [REDACTED].

924 [REDACTED]; D2986 (Witness statement of Novak Todorović dated 17 February 2013), para. 13. *See, e.g.*, D1473 (Bijeljina Military Prosecutor request re Rade Mihajlović case, 30 September 1992); P6182 (Request for investigation by Bijeljina Military Prosecutor's Office, 9 November 1992); P6183 (Request for investigation by Bijlejina Military Prosecutor's Office, 17 November 1992); P3513 (Request for investigation by the 1st Krajina Corps Military Prosecutor's Office, 8 March 1993); D1896 (Letter re Banja Luka Military Prosecution request to conduct investigation, 16 November 1993). A request for investigation by the military prosecutor followed an on-site investigation report compiled by the investigating judge of the military court, the filing of a criminal report by the military police with the military prosecutor, and a report of forensic documentation by the military police. *See* KDZ531, T. 15893–15896 (1 July 2011); D1470 (Bijeljina Military Court on-site investigation report, 28 September 1992); D1471 (Bijeljina Military Police criminal report in Rade Mihajlović case, 29 September 1992); D1472 (Bijeljina Military Police forensic-technical report, 30 September 1992).

925 [REDACTED].

926 D1756 (Law on Military Courts, published in the RS Official Gazette, 31 December 1993), art. 64. *See also* D2986 (Witness statement of Novak Todorović dated 17 February 2013), para. 13.

back to the prosecutor, who could decide to discontinue the proceedings, bring an indictment, or request additional investigation.[927]

302. In accordance with his legal responsibility to institute process against every person who committed a crime, the prosecutor could also initiate criminal proceedings once he became aware of a crime.[928] A soldier of any rank or a civilian victim could inform the Prosecutor of a crime, but the investigation had to be initiated by the prosecutor.[929] For cases of failure to respond to a call to military service, the Ministry of Defence would file a criminal report against the individual.[930] The military court could not act without first a request from the military prosecutor and an indictment issued by the prosecutor.[931]

303. According to the Law on Military Courts, the military court's investigating judge or, under exceptional circumstances as prescribed by the Law of Criminal Procedure, authorised superior officers in the security organs of the VRS or those in the MP could require the detention of a member of the military, an employee of the VRS, or a civilian for a criminal offence falling under the jurisdiction of a military court.[932] In the latter case, the officers were to immediately inform a military prosecutor or the military court investigating judge of their detention decision.[933]

304. Under the Law on Criminal Proceedings, the duration of custody was to be "kept to the shortest necessary time" and throughout the proceedings custody was to be terminated as soon as the grounds on which it was ordered ceased to exist.[934]

305. When a person was arrested by the MP and a criminal report was given to the Prosecutor's Office, the person could be initially detained by the MP for three days.[935] The military prosecutor

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927 D2986 (Witness statement of Novak Todorović dated 17 February 2013), para. 13. For instances where the prosecutor decided to discontinue the prosecution after the investigating judge's investigation, *see* P2930 (Bijeljina Military Court file for Slavan Lukić et al., 8 September 1992), e-court pp. 6, 7; P6180 (Bijeljina Military Court's Decision, 5 January 1993).

928 P3773 (Witness statement of KDZ532 dated 31 October 2011), para. 9 (under seal); KDZ532, T. 21014 (8 November 2011) (closed session).

929 *See* P3773 (Witness statement of KDZ532 dated 31 October 2011), para. 9 (under seal); KDZ532, T. 21014–21015 (8 November 2011) (closed session).

930 P3773 (Witness statement of KDZ532 dated 31 October 2011), para. 7 (under seal).

931 KDZ531, T. 15848 (1 July 2011) (closed session); P3773 (Witness statement of KDZ532 dated 31 October 2011), paras. 23, 30 (under seal); KDZ532, T. 20998–20999 (8 November 2011) (closed session); D2986 (Witness statement of Novak Todorović dated 17 February 2013), paras. 12–13; Novak Todorović, T. 34077 (20 February 2013); KDZ492, T. 20091 (18 October 2011) (closed session).

932 D1756 (Law on Military Courts, published in the RS Official Gazette, 31 December 1993), art. 67.

933 D1756 (Law on Military Courts, published in the RS Official Gazette, 31 December 1993), art. 67.

934 P6178 (Excerpt from SFRY Law on Criminal Proceedings), art. 190. Article 191(2) laid out specific conditions under which custody could be ordered against a person suspected of having committed a criminal act, where the conditions for mandatory custody did not exist. P6178 (Excerpt from SFRY Law on Criminal Proceedings), art. 191(2). *See also* KDZ532, T. 21019 (8 November 2011) (closed session). Custody was mandatory "if there

could then recommend to the investigative judge that the accused be detained for one month, during which an investigation would begin, and then a panel of judges could decide to extend detention for another two months.[936] For alleged criminal acts for which more than five years' sentence or a more severe penalty was prescribed, the prosecutor could next propose, to the Supreme Military Court, another three months of detention.[937] During this six-month pre-trial detention, the prosecutor could propose, to the investigating judge, the termination of detention.[938] The prosecutor could also propose, to the judge, to drop the case during the investigative stage.[939] If the prosecutor dropped the charges by withdrawing the indictment, the court could not reinstate proceedings for the charges without the prosecutor initiating proceedings.[940]

306. Todorović stated that release from custody was distinct from a discontinuation of proceedings and might occur, for example, after witnesses were questioned and the risk of the suspect influencing witnesses ceased to exist.[941] Persons accused of serious crimes such as murder were to remain in custody until the end of the trial.[942] According to Todorović, courts had the discretion to grant a prosecutor's request for release of a person from custody.[943]

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is founded suspicion that he has committed a criminal act for which the law prescribes the death penalty". P6178 (Excerpt from SFRY Law on Criminal Proceedings), art. 191(1).

935 P3773 (Witness statement of KDZ532 dated 31 October 2011), para. 23 (under seal). *See also* KDZ492, T. 20063 (18 October 2011) (closed session). Likewise, the police could detain civilians for a period of three days before they had to be taken before an investigative judge. *See* Mladen Tolj, T. 34632, 34647 (1 March 2013). According to Tolj, the same procedure applied to "prisoners of war". Mladen Tolj, T. 34647 (1 March 2013).

936 *See* [REDACTED]; P6178 (Excerpt from SFRY Law on Criminal Proceedings), art. 197(1)–(2); [REDACTED]; D1485 (Bijeljina Military Court ruling in Cvjetković/Jurošević case, 20 November 1992); D1800 (Banja Luka Military Court's Ruling, 24 August 1995) (under seal). The same procedures appear to have been used in the civilian courts. *See, e.g.*, P2905 (Decision of Bijeljina Lower Court, 28 August 1992), p. 2.

937 P3773 (Witness statement of KDZ532 dated 31 October 2011), para. 23 (under seal); P6178 (Excerpt from SFRY Law on Criminal Proceedings), art. 197(2).

938 P3773 (Witness statement of KDZ532 dated 31 October 2011), para. 23 (under seal); KDZ492, T. 20064 (18 October 2011) (closed session). *See also* P6178 (Excerpt from SFRY Law on Criminal Proceedings), art. 198.

939 P3773 (Witness statement of KDZ532 dated 31 October 2011), para. 23 (under seal); D2986 (Witness statement of Novak Todorović dated 17 February 2013), para. 13. *See* P3616 (Proposal of the Military Prosecutor's Office attached to the 1st Krajina Corps, 29 July 1993); Novak Todorović, T. 34073–34074 (20 February 2013).

940 [REDACTED]. *See also* D1894 (Ruling of RS Military Court, Banja Luka, 27 May 1993); [REDACTED].

941 D2986 (Witness statement of Novak Todorović dated 17 February 2013), para. 14. *See also* KDZ532, T. 20997 (8 November 2011) (closed session) (stating that lower-ranking commanders would request that soldiers detained for alleged crimes be released and sent back to their units and their criminal liability be determined at a later point in time).

942 D2986 (Witness statement of Novak Todorović dated 17 February 2013), para. 14.

943 Novak Todorović, T. 34074–34075 (20 February 2013); D2986 (Witness statement of Novak Todorović dated 17 February 2013), para. 14.

307. According to KDZ532, all military organs had an obligation to report every criminal act to the military prosecutor, and failure to report a crime for which more than five years' imprisonment was prescribed would itself constitute a criminal act.[944] The Law on Military Courts stated:

> Every superior officer is obligated to take steps to prevent the person who has committed an act which is subject to criminal prosecution from hiding or fleeing, to preserve the traces of the crime and items which may serve as evidence, and to collect all information which may prove useful for the proceedings. The superior officer is obliged to inform the military prosecutor, directly or through a higher-ranking officer, of the criminal offence.[945]

308. The 1992 Guidelines for the Establishment of Criteria for Criminal Prosecution of the Military Prosecutor's Office of the VRS Main Staff explained the specific provisions of the Criminal Code relevant to the category of crimes against humanity and violations of international law and specific acts which entailed criminal responsibility.[946] The Guidelines spoke of the responsibility of VRS officers, as individuals in commanding positions and whose subordinates are capable of, or are, committing some of the crimes, to deal with and prevent such conduct.[947] The Guidelines also discussed the corresponding duty of officers to write reports on all cases possibly qualifying as crimes against humanity and to submit them to the command.[948] The commands would then be responsible for informing the military prosecutor's office, which would then "take the appropriate steps prescribed by law and the policy on prosecution".[949] The Guidelines stated that all the commands must, *inter alia*, "work on uncovering all cases of war crimes against humanity and international law in the territories and zones of their responsibility", "inform the nearest military police, security and military judicial organs of the discovered crime", and secure the crime scene until the aforementioned organs arrived to conduct the on-site investigation.[950]

c. Policies and orders relating to the rule of law and crimes

309. On 13 June 1992, the Accused as President of the SerBiH Presidency issued an order that in an armed conflict the VRS and Bosnian Serb MUP "shall apply and respect the rules of the

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944 P3773 (Witness statement of KDZ532 dated 31 October 2011), paras. 9, 27 (under seal).

945 D1756 (Law on Military Courts, published in the RS Official Gazette, 31 December 1993), art. 65.

946 P3606 (Guidelines for the Establishment of Criteria for Criminal Prosecution, VRS Military Prosecutor's Office, 1992), p. 7.

947 P3606 (Guidelines for the Establishment of Criteria for Criminal Prosecution, VRS Military Prosecutor's Office, 1992), p. 8.

948 P3606 (Guidelines for the Establishment of Criteria for Criminal Prosecution, VRS Military Prosecutor's Office, 1992), p. 8.

949 P3606 (Guidelines for the Establishment of Criteria for Criminal Prosecution, VRS Military Prosecutor's Office, 1992), p. 8.

950 P3606 (Guidelines for the Establishment of Criteria for Criminal Prosecution, VRS Military Prosecutor's Office, 1992), p. 9.

international law of war".[951] The order stated that commanders of all units, as well as each member of the army or other armed formation who takes part in combat activities, were responsible for the application of the rules.[952] The order further stated that it was the duty of the competent superior officer to initiate proceedings for legal sanctions against individuals who violate the rules.[953] In accordance with the 13 June 1992 order, Bogdan Subotić as Minister of Defence, prepared and issued instructions on the treatment of captured persons.[954] Early in the summer of 1992, the Accused issued an order to all local civilian and police authorities regarding the authority of ICRC delegates to visit all prisons and included a statement that any soldier who did not comply with the instructions would be punished.[955]

310. On 19 August 1992, the Accused issued an order addressed to the VRS Main Staff, MUP, and all CSBs, and with reference to the 13 June 1992 order, that all actors carry out their obligation to observe international humanitarian law, especially the Third and Fourth Geneva Conventions.[956] The order issued the general instruction that "[i]n case of any suspicion or sign that international humanitarian rights have been violated, all organs of the Army and Police shall conduct energetic investigation in the zone of responsibility".[957]

311. On 4 January 1995, the Accused as RS President promulgated the Law on the Mandatory Submission of Information on Crimes against Humanity and International Law, which the Bosnian Serb Assembly had passed at its session on 29 to 30 December 1994.[958] The law required that anyone in possession of information that could serve as evidence of "crimes against humanity and international law committed during the internal armed conflicts and civil war in [RS] and other parts of the former [BiH] which began in 1992" make the information available for inspection and, if necessary, submit them to the body in charge of gathering information on such crimes.[959]

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951 D434 (Radovan Karadžić's Order on the application of laws of war, 13 June 1992).

952 D434 (Radovan Karadžić's Order on the application of laws of war, 13 June 1992).

953 D434 (Radovan Karadžić's Order on the application of laws of war, 13 June 1992).

954 P1134 (Ministry of Defence of SerBiH Instructions on the Treatment of Captured Persons, 13 June 1992); D434 (Radovan Karadžić's Order on the application of laws of war, 13 June 1992). *See also* D3695 (Witness statement of Bogdan Subotić dated 16 June 2013), paras. 191–192.

955 D477 (Order of SerBiH Presidency, undated); Momčilo Mandić, T. 5271–5273 (15 July 2010).

956 D101 (Radovan Karadžić's Order to VRS Main Staff and RS MUP, 19 August 1992), pp. 1–2.

957 D101 (Radovan Karadžić's Order to VRS Main Staff and RS MUP, 19 August 1992), p. 2.

958 D1424 (Radovan Karadžić's Decree on promulgation of Law on mandatory submission of information on crimes against humanity and international law, 4 January 1995), p. 1; P1405 (Transcript of 48th session of RS Assembly, 29-30 December 1994), p. 129.

959 D1424 (Radovan Karadžić's Decree on promulgation of Law on mandatory submission of information on crimes against humanity and international law, 4 January 1995), p. 2. The Law also stated that anyone who refused to do so or thwarted the delivery or availability for inspection of such information would be punished with either a fine or maximum one year's imprisonment. D1424 (Radovan Karadžić's Decree on promulgation

E. INTERNATIONAL PEACE NEGOTIATIONS

312. From 1991 until the end of 1995, there were numerous attempts made by the international community to broker a negotiated peace settlement in BiH. Over the course of four years, talks were held in various cities across Europe and a number of cease-fires were agreed upon. However, it was only with the Dayton Agreement signed on 14 December 1995 that peace was formally established in BiH.

1. European Community Peace Conference on Yugoslavia

313. The EC Peace Conference on Yugoslavia began its work in the summer of 1991 under the chairmanship of Lord Peter Carrington, the former Foreign Minister of the UK.[960] The conference included representatives from the six former Yugoslav republics and the government of the SFRY.[961] The conference met intermittently in The Hague, Brussels, Lisbon, and London.[962] Its mission was to achieve a peaceful settlement of the conflict, including the peaceful separation of the republics of the SFRY.[963]

314. On 1 October 1991, as a result of the EC efforts, a multi-national monitoring mission in BiH, the ECMM, was established.[964] The ECMM had the goal of securing a cease-fire between parties to the conflict by deploying teams of different nationalities to start a dialogue with the military commanders on both sides.[965]

315. In October 1991, Carrington proposed a plan, developed by the conference, which allowed for the peaceful separation of all the republics of the SFRY.[966] Slovenia, Croatia, SRBiH, Macedonia, and Montenegro agreed, but Serbia rejected the plan.[967] Cyrus Vance, Special Envoy

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of Law on mandatory submission of information on crimes against humanity and international law, 4 January 1995), p. 4.

960 Herbert Okun, T. 1470–1471 (22 April 2010); Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4139; P919 (ECMM Brief on HOM's visit to BiH, 20 February 1992), e-court pp. 10–15; P6513 (Press release on Yugoslavia Peace Conference, 7 September 1991).

961 Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4139.

962 Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4140; P6513 (Press release on Yugoslavia Peace Conference, 7 September 1991); D3015 (Witness statement of Vladislav Jovanović dated 22 February 2013), paras. 26, 30.

963 Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4139, 4141.

964 P919 (ECMM Brief on HOM's visit to BiH, 20 February 1992), e-court pp. 10–15.

965 Charles McLeod, P712 (Transcript from *Prosecutor v. Brđanin*) (specifying that once dialogue had been established, the goal was to enact confidence building measures and humanitarian actions), T. 7281; P919 (ECMM Brief on HOM's visit to BiH, 20 February 1992), e-court pp. 10–15.

966 Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4139, 4141.

967 Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4141.

to the Secretary General, and Ambassador Herbert Okun, his special advisor, attended some of the meetings of the conference as representatives of the Secretary General.[968]

2. Vance Plan

316. In January 1992, a cease-fire with respect to the conflict in Croatia was signed by the parties under the authority of the UN.[969] In accordance with the cease-fire, a plan was presented by Vance, which called for the creation of UN Protected Areas in Croatia and the establishment of UNPROFOR.[970] The Vance Plan had three main points, namely (i) the establishment of UNPROFOR to facilitate the demobilisation and demilitarisation of the UN Protected Areas; (ii) the deployment of a local police force for the maintenance of law and order in areas that had been demilitarised under the supervision of UNPROFOR; and (iii) the creation of safe conditions for the voluntary return of all displaced persons.[971]

a. UNPROFOR

317. On 21 February 1992, the Security Council passed Resolution 743 which established UNPROFOR.[972] Its mandate was to assist in the implementation of the Vance Plan.[973] On 13 March 1992, UNPROFOR headquarters was established in Sarajevo because the city was perceived as a neutral location at that time.[974] Teams of UNPROFOR personnel were tasked with monitoring the UN Protected Areas in Croatia, which were to be demilitarised in accordance with the Vance Plan.[975] The duties of UNPROFOR also included protecting civilians residing in those areas and assisting humanitarian agencies in carrying out their functions.[976] UNPROFOR members

968 Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4139. John Wilson, the former chief of the UNMOs, was appointed as military adviser to Vance and UNPROFOR liaison officer to the ICFY in December 1992. P1029 (Witness statement of John Wilson dated 4 November 2008), paras. 6, 8; P1046 (John Wilson's Report to Australian Army, 15 November 1992), p. 9.

969 P753 (Vance Plan), e-court p. 4; P4203 (Witness statement of Pyers Tucker dated 12 May 2010), para. 9; P2284 (UNSG report entitled "The Fall of Srebrenica", 15 November 1999), paras. 11, 13.

970 P753 (Vance Plan), e-court p. 4; P4203 (Witness statement of Pyers Tucker dated 12 May 2010), para. 9; P2284 (UNSG report entitled "The Fall of Srebrenica", 15 November 1999), paras. 11, 13.

971 P3804 (Witness statement of Charles Kirudja dated 17 November 2010), paras. 5–7.

972 P2284 (UNSG report entitled "The Fall of Srebrenica", 15 November 1999), para. 14.

973 P2284 (UNSG report entitled "The Fall of Srebrenica", 15 November 1999), para. 14.

974 P2284 (UNSG report entitled "The Fall of Srebrenica", 15 November 1999), para. 14; P753 (Vance Plan), e-court p. 5; P4203 (Witness statement of Pyers Tucker dated 12 May 2010), para. 9; P3804 (Witness statement of Charles Kirudja dated 17 November 2010), para. 21.

975 P753 (Vance Plan), e-court p. 5; P2538 (Patrick Treanor's research report entitled "Radovan Karadžić and the Serbian Leadership 1990-1995", 1 May 2009), paras. 84, 92.

976 P753 (Vance Plan), e-court p. 5; P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 20. On 8 June 1992, with Resolution 758, the Security Council enlarged the mandate and strength of UNPROFOR. *See* Adjudicated Fact 9. On 29 June 1992, Security Council Resolution 761 tasked UNPROFOR with protecting Sarajevo airport and assisting with its functioning. *See* Adjudicated Fact 10. In September 1992,

patrolling the UN Protected Areas were lightly armed; they established check-points on roads, searching vehicles and individuals entering the UN Protected Areas so that no weapons, ammunition, or military equipment would be brought in.[977]

318. Although UNPROFOR was initially established for Croatia, its mandate was expanded to include BiH in June 1992.[978] UNPROFOR headquarters, initially established in Sarajevo, was moved to Zagreb, and in turn UNPROFOR BiH Command was established in Sarajevo.[979] The Commanders of UNPROFOR BiH Command were Generals Philippe Morillon, Francis Briquemont, Michael Rose, and Rupert Smith, successively.[980] BiH Command included Sector Sarajevo, Sector Northeast, and Sector Southwest.[981] There was a UN Civil Affairs component also posted with UNPROFOR BiH Command in Sarajevo.[982] In March 1995, the Security Council restructured UNPROFOR, placing its headquarters in Zagreb under the overall command and control of the Special Representative of the Secretary General, Yasushi Akashi.[983] UNPROFOR

UNPROFOR's mandate was broadened by Security Council Resolution 776 to include the protection of humanitarian aid convoys. *See* Adjudicated Fact 12.

977 P753 (Vance Plan), e-court p. 5.

978 John Wilson, T. 3913–3914 (21 June 2010); P820 (Witness statement of David Harland dated 4 September 2009), para. 9. *See also* P937 (UNSG Report re peacekeeping operation in BiH, 12 May 1992), p. 4. An initial deployment of "UNPROFOR military observers" went to four locations in 1 May 1992: Medjugorja, Mostar, Stolac, and Trebinje. P937 (UNSG Report re peacekeeping operation in BiH, 12 May 1992), p. 4.

979 P820 (Witness statement of David Harland dated 4 September 2009), paras. 7–9; P3804 (Witness statement of Charles Kirudja dated 17 November 2010), paras. 2, 21; P1258 (Witness statement of Hussein Ali Abdel-Razek dated 16 July 2002), e-court p. 3; P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 12; P1029 (Witness statement of John Wilson dated 4 November 2008), para. 64. A UN report dated 12 May 1992 states that for "operational and security" reasons, UNPROFOR's headquarters should be relocated from Sarajevo. P937 (UNSG Report re peacekeeping operation in BiH, 12 May 1992), p. 13. From 18 May until 25 June 1992, UNPROFOR headquarters relocated to Belgrade. It was then relocated to Zagreb on 31 July 1992. P1046 (John Wilson's Report to Australian Army, 15 November 1992), p. 3; P1029 (Witness statement of John Wilson dated 4 November 2008), paras. 7, 64. UNPROFOR BiH Command was directly subordinated to UNPROFOR headquarters in Zagreb. P820 (Witness statement of David Harland dated 4 September 2009), para. 9.

980 P820 (Witness statement of David Harland dated 4 September 2009), para. 9; P1638 (Witness statement of Michael Rose dated 26 March 2009), paras. 5, 13, 195; Rupert Smith, T. 11296–11298 (8 February 2011). *See also* P1762 (Witness statement of David Fraser dated 17 October 2010), p. 5; P1029 (Witness statement of John Wilson dated 4 November 2008), para. 105.

981 P820 (Witness statement of David Harland dated 4 September 2009), para. 10; P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 12; Rupert Smith, T. 11298 (8 February 2011); P1649 (Map of BiH). Harland states that Bihać was added later to UNPROFOR BiH Command. P820 (Witness statement of David Harland dated 4 September 2009), para. 10. Commanders of each of the Sectors were directly subordinated to UNPROFOR BiH Command. P820 (Witness statement of David Harland dated 4 September 2009), para. 11.

982 P820 (Witness statement of David Harland dated 4 September 2009), paras. 10-11; P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 15. From May 1993, David Harland was a Civil Affairs Officer at UNPROFOR BiH Command working under Victor Andreev, the Civil Affairs Co-ordinator. In January 1995, Harland became the head of Civil Affairs for UNPROFOR Sector Sarajevo and in August 1995, he became the Political Adviser to UNPROFOR BiH Commander General Smith. P820 (Witness statement of David Harland dated 4 September 2009), paras. 5, 12.

983 P2284 (UNSG report entitled "The Fall of Srebrenica", 15 November 1999), para. 182. UNPROFOR was restructured with three separate missions in Croatia, BiH, and Macedonia and collectively referred to as the United Nations Peace Force. P2284 (UNSG report entitled "The Fall of Srebrenica", 15 November 1999), para. 182. Akashi was appointed Special Representative of the Secretary General in January 1994. Yasushi Akashi,

BiH Command remained headquartered in Sarajevo and reported to UNPROFOR Force Command in Zagreb.[984]

319. Sector Sarajevo included the city of Sarajevo, the DMZ, the TEZ of Mt. Igman, and Žepa.[985] The Sector Sarajevo headquarters was located in the PTT Engineering Building in Alipašino Polje.[986] The Commanders of UNPROFOR Sector Sarajevo included Major-Generals Lewis MacKenzie and Hussein Abdel Razek, and Generals Andre Soubirou, Hervé Gobilliard, and Jean-René Bachelet successively.[987] In Sector Sarajevo, UNPROFOR troops were mainly from France, Russia, Ukraine, and Egypt.[988] In 1992, Sector Sarajevo had three battalions; by 1994, this was increased to six battalions and one detachment in charge of the Sarajevo airport.[989] UNPROFOR's responsibilities in Sarajevo included monitoring the DMZ and the TEZ, and reporting any incoming or outgoing fire.[990] The UNPROFOR teams were also tasked with escorting UNHCR convoys into

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T. 37665 (24 April 2013). *See also* P2284 (UNSG report entitled "The Fall of Srebrenica", 15 November 1999), para. 44; P820 (Witness statement of David Harland dated 4 September 2009), para. 8.

984 P2284 (UNSG report entitled "The Fall of Srebrenica", 15 November 1999), para. 182.

985 P2407 (Witness statement of KDZ304), p. 3; P2447 (Witness statement of KDZ182 dated 8 March 2011), p. 4; P2119 (Witness statement of KDZ450 dated 17 January 2011), p. 3 (under seal); P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 12; P1649 (Map of BiH).

986 P820 (Witness statement of David Harland dated 4 September 2009), para. 11; P1762 (Witness statement of David Fraser dated 17 October 2010), pp. 4–5; P5906 (Witness statement of KDZ450 dated 17 January 2011), para. 13; John Hamill, P1994 (Transcript from *Prosecutor v. Galić*), T. 6155. *See also* D2398 (Witness statement of Richard Gray dated 22 April 2012), para. 9; Adjudicated Fact 14.

987 P820 (Witness statement of David Harland dated 4 September 2009), para. 11; P1762 (Witness statement of David Fraser dated 17 October 2010), pp. 4–5; P1258 (Witness statement of Hussein Ali Abdel-Razek dated 16 July 2002), e-court pp. 2–3; P2119 (Witness statement of KDZ450 dated 17 January 2011), p. 3 (under seal); P2414 (Witness statement of KDZ182 dated 8 March 2011), pp. 3, 81 (under seal); P2106 (Witness statement of KDZ304 dated 13 January 2011), p. 3 (under seal). UNPROFOR Sector Sarajevo Commanders served during the following periods: MacKenzie, from May to July 1992; Abdel Razek, August 1992 to February 1993; Soubirou, October 1993 to September 1994; Gobilliard, September 1994 to August 1995; and Bachelet from August 1995 onwards. P1258 (Witness statement of Hussein Ali Abdel-Razek dated 16 July 2002), e-court pp. 2–3; P2119 (Witness statement of KDZ450 dated 17 January 2011), p. 3 (under seal); D2398 (Witness statement of Richard Gray dated 22 April 2012), para. 30.

988 P2447 (Witness statement of KDZ182 dated 8 March 2011), para. 6; D2774 (Witness statement of Milenko Indić dated 19 January 2013), para. 78; P1046 (John Wilson's Report to Australian Army, 15 November 1992), p. 8; P2106 (Witness statement of KDZ304 dated 13 January 2011), p. 4 (under seal); John Hamill, P1994 (Transcript from *Prosecutor v. Galić*), T. 6155. *See also* Adjudicated Fact 13. There were three FreBat units (one based at the airport, the second based inside Sarajevo, and the third on Mt. Igman), EgyptBat was also based inside the city, RusBat was located in Grbavica and south of Sarajevo, and UkrBat was stationed at the Maršal Tito Barracks, with some additional UkrBat personnel in Žepa. P2447 (Witness statement of KDZ182 dated 8 March 2011), p. 6; P4203 (Witness statement of Pyers Tucker dated 12 May 2010), para. 10 (specifying that Ukraine, France, and Egypt reflected the religious composition of the city); KDZ304, T. 10458–10460 (18 January 2011); P1258 (Witness statement of Hussein Ali Abdel-Razek dated 16 July 2002), e-court p. 3. In total, 17 nationalities were represented in Sector Sarajevo. P2447 (Witness statement of KDZ182 dated 8 March 2011), p. 5.

989 P1258 (Witness statement of Hussein Ali Abdel-Razek dated 16 July 2002), e-court p. 3; P2447 (Witness statement of KDZ182 dated 8 March 2011), p. 5; P2106 (Witness statement of KDZ304 dated 13 January 2011), p. 4 (under seal); John Hamill, P1994 (Transcript from *Prosecutor v. Galić*), T. 6155.

990 P50 (Witness statement of Hugh Nightingale dated 5 February 1996), e-court p. 4; P2447 (Witness statement of KDZ182 dated 8 March 2011), p. 4; P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 44; Michael Rose, T. 7256, 7260 (5 October 2010); P2447 (Witness statement of KDZ182 dated 8 March 2011), p. 4; P820 (Witness statement of David Harland dated 4 September 2009), paras. 79–80.

the city and overseeing the supply of water, gas, and electricity in Sarajevo.[991] Sector Sarajevo had liaison officers for both parties to the conflict; one liaison officer at the SRK and one at the 1st Corps of the ABiH, both of them would report directly to the Sector Sarajevo UNPROFOR Commander.[992] Milenko Inđić was the VRS liaison officer to UNPROFOR.[993] There was also an ABiH liaison officer posted at the PTT building.[994]

b. UNMO

320. The Vance Plan also established UNMOs for the purpose of monitoring the demilitarisation of the UN Protected Areas and reporting any cease-fire agreement violations.[995] Generally, their tasks included patrolling areas, liaising with local authorities and parties to the conflict, as well as monitoring and reporting any disturbances.[996] UNMOs were unarmed and mainly acted as mediators.[997] They also provided support to humanitarian operations conducted by UNHCR and other humanitarian agencies.[998] The UNMOs were deployed in BiH in early June 1992.[999] In July 1992, the UNMO headquarters was moved to Zagreb.[1000]

321. UNMO and UNPROFOR were two distinct organisations with different functions; however at each level within UNPROFOR, there was an UNMO office which was co-located.[1001] For

991 P2447 (Witness statement of KDZ182 dated 8 March 2011), p. 4.

992 P2447 (Witness statement of KDZ182 dated 8 March 2011), p. 10.

993 Milenko Inđić, T. 32414–32415, 32428–32429 (22 January 2013), T. 32600–32601 (24 January 2013); D2774 (Witness statement of Milenko Inđić dated 19 January 2013), paras. 39, 41–44, 54; P1762 (Witness statement of David Fraser dated 17 October 2010), p. 8; P2117 (Witness statement of Marcus Helgers dated 3 August 1995), p. 3. Inđić stated that the liaison office moved from the PTT building to Lukavica barracks. D2774 (Witness statement of Milenko Inđić dated 19 January 2013), paras. 46–51.

994 D2774 (Witness statement of Milenko Inđić dated 19 January 2013), paras. 48–49.

995 P753 (Vance Plan), e-court p. 6; John Wilson, T. 3913 (21 June 2010); P1029 (Witness statement of John Wilson dated 4 November 2008), para. 35; P4140 (Witness statement of Joseph Kingori dated 8 January 2002), para. 4. Security Council Resolution 743 provided for the UNMOs to patrol limited areas in BiH after the demilitarisation of the UN Protected Areas in Croatia. P2284 (UNSG report entitled "The Fall of Srebrenica", 15 November 1999), para. 14.

996 P753 (Vance Plan), e-court p. 5; John Wilson, T. 3913 (21 June 2010); P1029 (Witness statement of John Wilson dated 4 November 2008), para. 35; P2170 (Witness statement of Patrick Rechner dated 31 January 2011), para. 7; P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), para. 29.

997 P753 (Vance Plan), e-court p. 5; P4140 (Witness statement of Joseph Kingori dated 8 January 2002), para. 5; P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), para. 27.

998 P1426 (Witness statement of Richard Mole dated 7 May 2010), p. 10; P4140 (Witness statement of Joseph Kingori dated 8 January 2002), para. 4; P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), para. 19.

999 P981 (UNSC Resolution 758, 8 June 1992). *See also* Adjudicated Fact 9.

1000 P1046 (John Wilson's Report to Australian Army, 15 November 1992), para. 10; P1029 (Witness statement of John Wilson dated 4 November 2008), para. 7. Prior to this, on 24 June 1992, UNMO headquarters was relocated from Sarajevo to Belgrade. P1029 (Witness statement of John Wilson dated 4 November 2008), para. 93.

1001 Patrick Rechner, T. 11146 (2 February 2011). *See also* P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 18 (stating that UNMOs were indepedendent of UNPROFOR and reported directly to the UN headquarters in New York via Zagreb).

instance, the UNMO main headquarters was co-located with the UNPROFOR headquarters in Zagreb.[1002] The UNMO reporting system utilised both daily situation reports to headquarters and incident reports.[1003] Daily reports were sent to the Chief UNMO in Zagreb, copying UNPROFOR BiH Command.[1004] The UNMO senior military observer would attend the Sector Command briefing meetings with the UNPROFOR Sector Commander and other UNPROFOR staff.[1005]

322. In Sector Sarajevo, the UNMOs were commanded by senior military observers, including Richard Gray, Richard Mole, and Francis Roy Thomas, successively.[1006] The UNMOs had accommodations provided to them by the Bosnian Muslims in the Presidency Building and by the SRK in the Lukavica barracks.[1007] The UNMOs also had an operations room and staff stationed at the PTT building with direct access to UNPROFOR Sector Sarajevo Command and UNPROFOR BiH Command.[1008] The UNMOs in Sector Sarajevo were divided into two groups, positioned on opposite sides of the confrontation lines.[1009] One group of UNMOs was posted within the city, in the territory controlled by the Bosnian Muslims, which was designated as the "Papa" side.[1010] The other group of UNMOs was stationed in the Bosnian Serb-controlled territory around the city,

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1002 P1046 (John Wilson's Report to Australian Army, 15 November 1992), para. 10.

1003 P1029 (Witness statement of John Wilson dated 4 November 2008), paras. 18, 22. *See also* P1426 (Witness statement of Richard Mole dated 7 May 2010), paras. 24–27; P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), para. 36; John Hamill, P1994 (Transcript from *Prosecutor v. Galić*), T. 6127.

1004 P1426 (Witness statement of Richard Mole dated 7 May 2010), para. 27. In addition to daily reports, a monthly report summarising the events of the month would also be prepared and sent accordingly. P1426 (Witness statement of Richard Mole dated 7 May 2010), paras. 27, 101. *See, e.g.*, P1433 (UNMO report for October 1992); P1434 (UNMO report for November 1992); P1429 (UNMO report for December 1992).

1005 P1258 (Witness statement of Hussein Ali Abdel-Razek dated 16 July 2002), e-court p. 14.

1006 P1029 (Witness statement of John Wilson dated 4 November 2008), para. 4; P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), para. 13. Mole served from September to December 1992. P1426 (Witness statement of Richard Mole dated 7 May 2010), para. 3. Thomas served from October 1993 to July 1994. His predecessor was Lieutenant Colonel Kukkola (for four months) and his successor was Major Skov (for two months). P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), para. 13.

1007 P1426 (Witness statement of Richard Mole dated 7 May 2010), para. 7; John Hamill, P1994 (Transcript from *Prosecutor v. Galić*), T. 6068–6069. UNMOs also had a liaison officer for the ABiH and SRK. John Hamill, P1994 (Transcript from *Prosecutor v. Galić*), T. 6066–6067.

1008 P1426 (Witness statement of Richard Mole dated 7 May 2010), para. 7.

1009 P1426 (Witness statement of Richard Mole dated 7 May 2010), para. 5. *See also* P1557 (UNMO map of confrontation line in Sarajevo, February 1994); P1567 (Map of Sarajevo marked by Francis Roy Thomas). In 1992, there were approximately 60 UNMOs in Sector Sarajevo. P1426 (Witness statement of Richard Mole dated 7 May 2010), para. 5. UNMOs within Sector Sarajevo also included those posted in Žepa and Goražde. P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), paras. 16–19.

1010 P1426 (Witness statement of Richard Mole dated 7 May 2010), para. 5. *See also* P1557 (UNMO map of confrontation line in Sarajevo, February 1994); P1431 (Map of Sarajevo showing UNMO positions). The number of OPs on the Papa and the Lima sides changed during the conflict. By October 1992, there were 10 OPs on the Lima side and four on the Papa side and by end of November 1992, there were 11 OPs on the Lima side and three on the Papa side. Richard Mole, T. 5805–5806 (17 August 2011). *See also* Adjudicated Fact 16. In October 1993, there were six OPs on the Papa side and seven OPs on the Lima side. The UNMO structure changed again by June and July 1994. P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), paras. 17–18, 21, 24–25; P1557 (UNMO map of confrontation line in Sarajevo, February 1994); P1565 (UNMO map of confrontation line in Sarajevo, 21 February 1994); P1566 (UNMO map of confrontation line in Sarajevo, 21 April 1994).

designated as the "Lima" side.[1011] The UNMOs' tasks in Sarajevo included monitoring weapons sites, reporting heavy weapons activity to UN headquarters in New York, and facilitating in the delivery of humanitarian aid.[1012] The UNMOs at the OPs monitored weapons and conducted observation patrols around the area.[1013]

323. Following the established procedure described above, each UNMO team in Sector Sarajevo was required to submit a daily situation report to the "Papa" or "Lima" team leader.[1014] This report was then consolidated into an "UNMO Sarajevo sitrep" sent at 6 p.m. to the UNMO chief military officer in Zagreb and copied to Sector Sarajevo.[1015] In June 1994, the UNMOs in Sector Sarajevo were reorganised into 17 OPs and their areas of responsibility were divided into five districts, allowing each of the UNMO teams to work with both the Bosnian Muslims and the Bosnian Serbs within each district.[1016]

3. Cutileiro and Sarajevo Plan

324. In January 1992, Portugal took over the EC Presidency and, the following month, Ambassador José Cutileiro was appointed as the chairman of the talks on the Future Constitutional Arrangements for BiH.[1017] The talks were held in Sarajevo, Brussels, and Lisbon.[1018]

1011 P1426 (Witness statement of Richard Mole dated 7 May 2010), para. 5; P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), para. 19. *See also* P1557 (UNMO map of confrontation line in Sarajevo, February 1994).

1012 P1426 (Witness statement of Richard Mole dated 7 May 2010), para. 11; John Hamill, P1994 (Transcript from *Prosecutor v. Galić*), T. 6062. *See also* Adjudicated Fact 2779. By 1993, UNMO teams were deployed to Goražde, Tuzla, Bihać, Žepa, and Srebrenica. P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), para. 16; P2284 (UNSG report entitled "The Fall of Srebrenica", 15 November 1999), para. 67; *see also* paras. 4966–4971. In addition to their regular activities, on the Papa side, UNMOs were responsible for investigating "activity", when requested by Thomas. P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), para. 19.

1013 P1426 (Witness statement of Richard Mole dated 7 May 2010), para. 13.

1014 P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), para. 39. *See also* para. 321.

1015 P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), para. 40. Any information that came after the issuance of the "UNMO Sarajevo sitrep" would be in a supplemental situation report. P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), para. 39. An UNMO liaison officer was permanently attached to the UNPROFOR Sector Sarajevo headquarters and provided information from the UNMO reports to UNPROFOR. P2119 (Witness statement of KDZ450 dated 17 January 2011), p. 7 (under seal).

1016 P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), paras. 24–25.

1017 D2968 (Witness statement of Jose Cutileiro dated 11 April 2012), para. 3; Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4318–4139; Momčilo Krajišnik, T. 43218 (7 November 2013); D3015 (Witness statement of Vladislav Jovanović dated 22 February 2013), para. 37; P2538 (Patrick Treanor's research report entitled "Radovan Karadžić and the Serbian Leadership 1990-1995", 1 May 2009), para. 109.

1018 D2968 (Witness statement of Jose Cutileiro dated 11 April 2012), paras. 5–17; Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4320; Colm Doyle, P918 (Transcript from *Prosecutor v. S. Milošević*), T. 25259–25260; D4484 (Cryptofax from Cyrus Vance to de Soto, 5 March 1992), paras. 4, 8; P2538 (Patrick Treanor's research report entitled "Radovan Karadžić and the Serbian Leadership 1990-1995", 1 May 2009), para. 111.

325. On 23 February 1992, the conference proposed a new plan, entitled the Statement of Principles for New Constitutional Arrangements for BiH, also known as the Lisbon Agreement or Cutileiro Plan.[1019] The plan called for an independent and geographically continuous BiH, comprised of the three constituent units that represented the Bosnian Muslims, Bosnian Croats, and Bosnian Serbs.[1020] The plan set forth constitutional principles for BiH and proposed the structure of the Assembly and government of BiH.[1021] The Cutileiro Plan did not grant territorial continuity to SerBiH nor did it establish a corridor linking Serbia to the Krajina region.[1022] Furthermore, the Cutileiro Plan did not call for the physical division of Sarajevo into Bosnian Muslim and Bosnian Serb parts of the city.[1023] On 25 February 1992, the Accused summarised the outcome of the talks at a session of the Bosnian Serb Assembly and stated that the Bosnian Serbs had agreed to the three main principles, namely that BiH would (i) be an independent state, (ii) maintain its present borders; and (iii) consist of three constituent parts. [1024]

326. On 18 March 1992, a Statement of Principles, referred to as the Sarajevo Plan, was agreed upon by the three parties as the basis for further negotiations.[1025] The agreement was a refinement

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1019 Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4320–4321; P798 (Statement of Principles, Lisbon Agreement, 23 February 1992).

1020 Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4195; P798 (Statement of Principles, Lisbon Agreement, 23 February 1992), p. 1; D4484 (Cryptofax from Cyrus Vance to de Soto, 5 March 1992), p. 2; P2538 (Patrick Treanor's research report entitled "Radovan Karadžić and the Serbian Leadership 1990-1995", 1 May 2009), para. 111.

1021 P798 (Statement of Principles, Lisbon Agreement, 23 February 1992); Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4195; D4484 (Cryptofax from Cyrus Vance to de Soto, 5 March 1992), p. 2.

1022 Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4195. According to Okun, the political objectives of the Bosnian Serbs were the following: (i) the establishment of a separate state called the RS, (ii) the RS would have continuous territory and be connected with Serbia, (iii) the RS would be ethnically homogeneous, (iv) the RS would have a special relationship with Serbia, (v) Sarajevo would be divided into a Bosnian Serb and Bosnian Muslim section, and (vi) the RS would have veto power over any residual powers held by the central BiH government. Herbert Okun, T. 1474–1475 (22 April 2010); Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4157–4158. Okun also testified that the Accused would make references to the genocide suffered by the Bosnian Serbs during the Second World War and that the Bosnian Serbs had a right to reclaim the land they lost during the war. Herbert Okun, T. 1489–1490 (22 April 2010); Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4166–4167, 4370.

1023 Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4196.

1024 *See* D88 (Shorthand Record of 8th session of SerBiH Assembly, 25 February 1992), pp. 5–12, 16–20; P798 (Statement of Principles, Lisbon Agreement, 23 February 1992). Krajišnik testified that the Strategic Goals, later presented by the Accused at the 16th session of the Bosnian Serb Assembly, were not military goals but were actually requests put by the Bosnian Serbs to Cutileiro. Momčilo Krajišnik, T. 43768–43771 (19 November 2013).

1025 P782 (Statement of Principles, Sarajevo Agreement, 18 March 1992); D2968 (Witness statement of Jose Cutileiro dated 11 April 2012), para. 10. Negotiations were held in Sarajevo on 27 February 1992, in Brussels on 7 March 1992, and again in Sarajevo on 16-18 March 1992. D2968 (Witness statement of Jose Cutileiro dated 11 April 2012), paras. 5, 7, 9; D4484 (Cryptofax from Cyrus Vance to de Soto, 5 March 1992), p. 2. *See, e.g.,* P952 (Letter from Jose Cutileiro to Radovan Karadžić, 12 June 1992), D2975 (Letter from Radovan Karadžić to Jose Cutileiro, 13 June 1992), D2981 (Letter from Jose Cutileiro to The Economist, undated), D2980 (Article from International Herald Tribune entitled "Vance and Owen Got It Right", 16 February 1993), referencing the fact that an agreement was reached on 18 March 1992.

of the Cutileiro Plan.[1026] It stated that BiH would be one state, "composed of three constituent units, based on national principles and taking into account economic, geographic, and other criteria", and included the respect for human rights, religious freedom, and protection of minorities.[1027] Further it stated that a working group would be established to define the territory of the constituent units.[1028] The map annexed to the Sarajevo Plan showed the division of BiH into the Bosnian Serb, Bosnian Muslim, and Bosnian Croat areas which represented the three constituent units.[1029]

327. Following the agreement, the Bosnian Serb negotiators reported back to the Bosnian Serb Assembly.[1030] The new draft proposal, they explained to the deputies, aimed at a division of BiH into three constituent units based not only on nationality, but also on economic and geographic considerations.[1031] The proposal was marked as "basis for further negotiations".[1032]

328. On 3 April 1992, Krajišnik, as President of the Bosnian Serb Assembly, sent a letter to Cutileiro suggesting a continuation of negotiations based on the Statement of Principles as agreed to on 18 March 1992.[1033]

329. As mentioned above, on 6 April 1992, the independence of BiH was recognised by the USA and the EC.[1034] The following day, the Security Council passed Resolution 749 authorising the full deployment of UNPROFOR generally into the SFRY.[1035] Five days later, a cease-fire agreement was signed by leaders of all three parties.[1036] It declared an immediate and total cease-fire in BiH,

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1026 Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4320–4321.

1027 P782 (Statement of Principles, Sarajevo Agreement, 18 March 1992), p. 1; D2968 (Witness statement of Jose Cutileiro dated 11 April 2012), paras. 11, 18. *See also* D486 (Cutileiro Plan map, March 1992).

1028 P782 (Statement of Principles, Sarajevo Agreement, 18 March 1992), p. 3; D2968 (Witness statement of Jose Cutileiro dated 11 April 2012), paras. 13, 15.

1029 P782 (Statement of Principles, Sarajevo Agreement, 18 March 1992), pp. 4, 9. The Bosnian Serb municipalities included Bosanski Novi, Bosanska Dubica, Bosanska Gradiška, Srbac, Derventa, Modriča, Banja Luka, Laktaši, Prnjavor, Bosanski Petrovac, Ključ, Mrkonjić Grad, Skender Vakuf, Čelinac, Kotor Varoš, Teslić, Drvar, Glamoč, Šipovac, Kupres, Lopare, Ugljevik, Bijeljina, Šekovići, Ilijaš, Sarajevo (not including the city of Sarajevo), Pale, Sokolac, Han Pijesak, Čajniče, Rudo, Kalinobik, Nevesinje, Gacko, Bileća, Ljubinje, and Trebinje. D486 (Cutileiro Plan map, March 1992).

1030 D90 (Shorthand Record of 11th session of SerBiH Assembly, 18 March 1992), pp. 6–14; Momčilo Krajišnik, T. 43252–43523 (27 November 2013). *See also* Adjudicated Fact 2005.

1031 D90 (Shorthand Record of 11th session of SerBiH Assembly, 18 March 1992), p. 6; Momčilo Krajišnik, T. 43252–43523 (27 November 2013). *See also* Adjudicated Fact 2006.

1032 D90 (Shorthand Record of 11th session of SerBiH Assembly, 18 March 1992), pp. 6, 32, 44; Momčilo Krajišnik, T. 43252–43523 (27 November 2013). *See also* Adjudicated Fact 2007.

1033 D2971 (Letter from SerBiH Assembly to Jose Cutileiro, 3 April 1992); D2968 (Witness statement of Jose Cutileiro dated 11 April 2012), para. 20.

1034 *See* para. 56; P2284 (UNSG report entitled "The Fall of Srebrenica", 15 November 1999), para. 15.

1035 D227 (UNSC Resolution 749, 7 April 1992). *See* para. 317.

1036 P947 (Cease-fire Agreement, 12 April 1992); Colm Doyle, P918 (Transcript from *Prosecutor v. S. Milošević*), T. 25283–25284.

including in Sarajevo, starting at midnight on 12 April 1992.[1037] It stipulated that artillery should be removed and placed under the control of EC monitors.[1038] Six days later, the Sarajevo RTV building was hit by mortar fire.[1039] On 23 April 1992, Carrington, Cutileiro, Doyle, Izetbegović, the Accused, and Koljević met at the Sarajevo airport and reaffirmed the 12 April cease-fire agreement.[1040] Despite this, the UN reported that the cease-fire "has proved impossible to implement".[1041]

330. On 1 May 1992, Cutileiro suspended the scheduled peace talks until 13 May because of the parties' failure to honour the cease-fire agreement.[1042] On 11 May 1992, Cutileiro again suspended the talks due to the deteriorating situation in Sarajevo and the theft of 12 tons of ICRC supplies from the Sarajevo airport.[1043] On 15 May 1992, the Security Council passed Resolution 752 demanding that all parties to the conflict stop the fighting immediately, respect the cease-fire agreement signed on 12 April 1992, and co-operate fully with UNPROFOR and the ECMM.[1044] On 17 May 1992, the Accused wrote a letter to Cutileiro stating that the Bosnian Serb Assembly had declared a unilateral cease-fire, which expired the following day, and he blamed Izetbegović and the Bosnian Muslims for continuing the conflict.[1045]

331. On 26 May 1992, Krajišnik informed Cutileiro that an agreement had been reached establishing a cease-fire in the area of the Sarajevo airport and opening the airport for humanitarian

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1037 P947 (Cease-fire Agreement, 12 April 1992); Colm Doyle, P918 (Transcript from *Prosecutor v. S. Milošević*), T. 25283–25284.

1038 P947 (Cease-fire Agreement, 12 April 1992).

1039 *See* para. 3542.

1040 Colm Doyle, P918 (Transcript from *Prosecutor v. S. Milošević*), T. 25283–25284; P937 (UNSG Report re peacekeeping operation in BiH, 12 May 1992), p. 3. Others present at the meeting were the EU Council of Ministers President, Dr. Pinhiero, UNPROFOR Generals Morillon and MacKenzie, and the JNA Commander, Kukanjac. Colm Doyle, P918 (Transcript from *Prosecutor v. S. Milošević*), T. 25283. On 5 May 1992, Fikret Abdić, Stjepan Kljuić, and General Aksentijević for the JNA met with Carrington and Doyle in Sarajevo and agreed to an immediate cease-fire in Sarajevo and BiH. The Bosnian Serbs did not attend because, according to Doyle, the Bosnian Serbs thought it was dangerous to come to the PTT building in Sarajevo. Doyle testified cease-fires were broken fairly quickly. Colm Doyle, P918 (Transcript from *Prosecutor v. S. Milošević*), T. 25295–25296; P948 (Sarajevo Cease-fire Agreement, 5 May 1992).

1041 P937 (UNSG Report re peacekeeping operation in BiH, 12 May 1992), p. 3.

1042 P937 (UNSG Report re peacekeeping operation in BiH, 12 May 1992), p. 3; P948 (Sarajevo Cease-fire Agreement, 5 May 1992). Following the killing of an ECMM member in Mostar on 1 May 1992, the ECMM completely withdrew its monitors from BiH. P937 (UNSG Report re peacekeeping operation in BiH, 12 May 1992), p. 3. On 7 May 1992, the ECMM reported that the HDZ had reached an agreement with the SDS to end the armed conflict between the Serbs and Croats and had agreed to territorial delimitation and a cease-fire. D238 (ECMM letter to Ambassador Cutileiro, 7 May 1992). On 6 May 1992, Boban and the Accused signed an agreement for the "complete and permanent cease-fire" in BiH under the auspices of the EC beginning on 6 May 1992 at 12 a.m.. D4060 (Article from Novi Vjesnik entitled "Agreement between Boban and Karadžić, 8 May 1992); D4061 (Public Announcement of Radovan Karadžić and Mate Boban, 06 May 1992); Momčilo Krajišnik, T. 43972–43973 (21 November 2013).

1043 P937 (UNSG Report re peacekeeping operation in BiH, 12 May 1992), pp. 3–4.

1044 P980 (UNSC Resolution 752, 15 May 1992).

1045 D233 (Letter from Radovan Karadžić to Jose Cutileiro, 17 May 1992).

purposes.[1046] However, the following day, after a bread queue in Sarajevo was shelled, the Bosnian Muslim delegation walked out of the peace talks in Lisbon.[1047] The Accused told Cutileiro and Doyle that the Bosnian Serbs were not responsible for the shelling.[1048] On 27 May 1992, the Accused and the SDS leadership "announced its readiness" to open the Sarajevo airport for humanitarian transports and its willingness to move heavy weapons under UNPROFOR supervision.[1049]

332. On 30 May 1992, the Security Council passed Resolution 757 which placed economic sanctions on the FRY and demanded that all parties create the conditions for the unimpeded delivery of humanitarian aid to Sarajevo and other destinations in BiH.[1050] This resolution also established a security zone which encompassed Sarajevo and its airport.[1051] As a result, from 2 to 4June 1992, UN representatives, including John Wilson and Hussein Abdel-Razek, held negotiations with the Accused, Plavšić, Mladić, and Krajišnik on the Bosnian Serb side, and Ejup Ganić and Izetbegović on the Bosnian Muslim side, on the opening of Sarajevo airport for humanitarian purposes.[1052] According to Wilson, the Bosnian Serbs were reluctant to hand over the airport to the UN but agreed to do so as their military position would not be substantially affected and doing so would help repair their "poor international image".[1053] Thus, on 5 June, the Agreement on the Re-Opening of Sarajevo Airport for Humanitarian Purposes ("Airport

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1046 D2974 (Letter from Momčilo Krajišnik to Jose Cutileiro and others, 28 May 1992), p. 1.

1047 D230 (Report re humanitarian activity, 1 June 1992) (under seal), p.1; D2974 (Letter from Momčilo Krajišnik to Jose Cutileiro and others, 28 May 1992); Colm Doyle, P918 (Transcript from *Prosecutor v. S. Milošević*), T. 25299; P1029 (Witness statement of John Wilson dated 4 November 2008), para. 61.

1048 Colm Doyle, P918 (Transcript from *Prosecutor v. S. Milošević*), T. 25299–25300. *See also* D2973 (Letter from SerBiH Presidency to Jose Cutileiro and others, 27 May 1992); D2974 (Letter from Momčilo Krajišnik to Jose Cutileiro and others, 28 May 1992).

1049 *See* para. 4026. P949 (Announcement of SDS leadership re Sarajevo airport and humanitarian supplies, 27 May 1992); Colm Doyle, P918 (Transcript from *Prosecutor v. S. Milošević*), T. 25299–25300; Stanislav Galić, T. 37552 (22 April 2013) (testifying that the main purpose in handing over the airport was to facilitate the supply of humanitarian aid to Sarajevo and material and technical equipment to UNPROFOR); John Zametica, T. 42462 (29 October 2013) (testifying that the handing over of the airport exemplified the Accused's cooperative approach to humanitarian issues); D3695 (Witness statement of Bogdan Subotić dated 16 June 2013), para. 286 (testifying that the Bosnian Serbs facilitated the use of the airport for the humanitarian needs of Sarajevo).

1050 P1031 (UNSC Resolution 757, 30 May 1992); P2284 (UNSG report entitled "The Fall of Srebrenica", 15 November 1999), para. 27.

1051 P1031 (UNSC Resolution 757, 30 May 1992), p. 6; P2284 (UNSG report entitled "The Fall of Srebrenica", 15 November 1999), para. 27.

1052 P1029 (Witness statement of John Wilson dated 4 November 2008), paras. 84, 85; John Wilson, T. 3925 (21 June 2010); P1039 (UNPROFOR report re airport meetings in Sarajevo, 3 June 1992); P1045 (UNPROFOR report re airport talks, 4 June 1992). On the Bosnian Serb side, Plavšić was in charge of humanitarian issues and Koljević was head of the RS Committee on Co-operation with the UN. *See* para. 97; KDZ240, T. 16116 (5 July 2011); Milenko Indić, T. 32466 (22 January 2013); John Zametica, T. 42488 (29 October 2013); Velibor Ostojić, D2361 (Transcript from *Prosecutor v. Krajišnik*), T. 26670.

1053 P1029 (Witness statement of John Wilson dated 4 November 2008), paras. 88–89; P1045 (UNPROFOR report re airport talks, 4 June 1992), p. 3 (reporting that Plavšić told UNPROFOR representatives at the meeting that the Bosnian Serb leadership had "sworn an oath to the people not to give away an inch of their territory"); Colm Doyle, T. 2873 (27 May 2010).

Agreement") was signed.[1054] It provided for the opening of Sarajevo airport for the purpose of delivering humanitarian aid to Sarajevo under the supervision of the UN.[1055] The parties undertook not to interfere in any way with the free movement of UNPROFOR-supervised air traffic into and out of Sarajevo airport.[1056]

333. Although the parties had agreed to the Statement of Principles, in June 1992, Izetbegović withdrew his agreement to the Cutileiro Plan.[1057] The Secretary General urged parties to reconvene talks and the Accused offered an unconditional cease-fire starting on 15 June 1992, freedom of access to UNMOs, and the re-opening of the Sarajevo airport.[1058] In the meantime, however, violence continued in Sarajevo and other parts of BiH.[1059]

334. On 4 June 1992, the Accused, Plavsić, and Mladić met with Cedric Thornberry and Wilson on behalf of UNPROFOR in Sarajevo regarding the Sarajevo airport.[1060] The Accused's explained that his position in Lisbon was that the UN supervision of Sarajevo involved the establishment of a "green line" between the Bosnian Serb and Bosnian Muslim sides of the city, each side being secured with their own police.[1061] Only then, would the Bosnian Serbs agree to the withdrawal of heavy weapons. The UNPROFOR representatives commented that there was a disparity between the Bosnian Serbs' current position and what had been understood by Cutileiro and others in Lisbon.[1062] Cutileiro's understanding was that UNPROFOR would have full control over Sarajevo airport.[1063] The Bosnian Serbs submitted a list of their proposed conditions concerning the re-opening of the airport.[1064]

335. On 5 June 1992, the Accused signed an agreement with the Bosnian Muslims, who were represented by UNPROFOR, on the re-opening of the Sarajevo airport for humanitarian

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1054 P1032 (Agreement on opening of Sarajevo airport, 5 June 1992); P2284 (UNSG report entitled "The Fall of Srebrenica", 15 November 1999), para. 27; John Wilson, T. 3928–3929 (21 June 2010); P1029 (Witness statement of John Wilson dated 4 November 2008), para. 98.

1055 P1032 (Agreement on opening of Sarajevo airport, 5 June 1992), para. 8. *See also* Adjudicated Fact 10 (providing that Security Council Resolution 761 of 29 June 1992 tasked UNPROFOR with protecting the airport and helping it function so that humanitarian aid could reach the population).

1056 P1032 (Agreement on opening of Sarajevo airport, 5 June 1992), paras. 2, 3, 8.

1057 Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4177, 4196, 4324–4326, 4328; D2968 (Witness statement of Jose Cutileiro dated 11 April 2012), paras. 10–19.

1058 D228 (Report re humanitarian activity, 12 June 1992), p. 2 (under seal).

1059 D228 (Report re humanitarian activity, 12 June 1992) , p. 1 (under seal). *See, e.g.*, paras. 861, 967–970, 1610, 2131–2132, 3558–3559.

1060 P1045 (UNPROFOR report re airport talks, 4 June 1992); P1029 (Witness statement of John Wilson dated 4 November 2008), paras. 85, 89.

1061 P1045 (UNPROFOR report re airport talks, 4 June 1992), p. 2.

1062 P1045 (UNPROFOR report re airport talks, 4 June 1992), p. 2.

1063 P1045 (UNPROFOR report re airport talks, 4 June 1992), p. 2.

1064 P1045 (UNPROFOR report re airport talks, 4 June 1992), pp. 8–9; D2968 (Witness statement of Jose Cutileiro dated 11 April 2012), para. 28;

purposes.[1065] The cease-fire declared on 1 June 1992 in and around Sarajevo was reaffirmed by the parties and it was agreed that UNPROFOR would monitor its implementation.[1066] The agreement stipulated that anti-aircraft weapons, artillery, mortars, missile systems, and tanks would be moved to areas agreed by UNPROFOR and subject to observation by UNPROFOR.[1067] The parties agreed to allow free movement of UNPROFOR-supervised air traffic in and out of the airport for humanitarian aid and UNPROFOR-related missions.[1068] The UN would supervise the delivery of humanitarian aid, with the parties facilitating such delivery and ensuring safe movement.[1069]

336. On 8 June 1992, the Security Council passed Resolution 758 which noted the re-opening of the Sarajevo airport under the exclusive authority of the UN and the establishment of the security zone around Sarajevo and the airport.[1070] The Security Council enlarged the mandate of UNPROFOR troops in BiH, strengthened them, and also authorised the deployment of UNMOs to BiH.[1071] This marked the beginning of UNPROFOR's formal mandate in BiH with its mission to keep the Sarajevo airport open for humanitarian purposes and to provide security for humanitarian convoys and UNHCR.[1072]

337. On 12 June 1992, the Accused offered an unconditional cease-fire in BiH starting on 15 June 1992 and the re-opening of the Sarajevo airport.[1073]

1065 P1032 (Agreement on opening of Sarajevo airport, 5 June 1992); P2284 (UNSG report entitled "The Fall of Srebrenica", 15 November 1999), para. 27; D2774 (Witness statement of Milenko Inđić dated 19 January 2013), para. 5, Milenko Inđić, T. 32418–32419 (22 January 2013). The Bosnian Muslim government would not meet directly with the Bosnian Serb leadership, therefore UNPROFOR had to use shuttle diplomacy and had the parties sign separate copies of the same document containing the airport agreement. John Wilson, T. 3928–3929 (21 June 2010).

1066 P1032 (Agreement on opening of Sarajevo airport, 5 June 1992), p. 1.

1067 P1032 (Agreement on opening of Sarajevo airport, 5 June 1992), p. 1.

1068 P1032 (Agreement on opening of Sarajevo airport, 5 June 1992), pp. 1–2.

1069 P1032 (Agreement on opening of Sarajevo airport, 5 June 1992), p. 3.

1070 P981 (UNSC Resolution 758, 8 June 1992).

1071 P981 (UNSC Resolution 758, 8 June 1992). *See also* Adjudicated Fact 9.

1072 P2284 (UNSG report entitled "The Fall of Srebrenica", 15 November 1999), para. 28; P981 (UNSC Resolution 758, 8 June 1992); P1258 (Witness statement of Hussein Ali Abdel-Razek dated 16 July 2002), e-court p. 4. *See* para. 318.

1073 D4492 (Fax from UNPROFOR, 13 June 1992); D4642 (Memo from McKenzie to Nambiar, 13 June 1992), para. 5; D228 (Report re humanitarian activity, 12 June 1992) (under seal), paras. 1, 15; D2400 (Cease-fire agreement, 15 June 1992). *See also* D2398 (Witness statement of Richard Gray dated 22 April 2012), para. 24; D2405 (Cease-fire agreement, undated). The Accused, in a letter to Cutileiro dated 5 June 1992, stated that the Bosnian Serbs had been "cheated" and the peace process "jeopardised" by Izetbegović and the Bosnian Muslims. D234 (Letter from Radovan Karadžić to Ambassador Cutileiro, 5 June 1992). In response, Cutileiro stated that the EC had made no promises to the Bosnian Serbs and he intended to reconvene the talks as soon as "the questions of the airport, free passage of humanitarian relief, and Serbian artillery round Sarajevo are resolved through the mediation of UNPROFOR". P952 (Letter from Jose Cutileiro to Radovan Karadžić, 12 June 1992); Jose Cutileiro, T. 33954–33955 (19 February 2013); Momčilo Krajišnik, T. 43914–43916 (20 November 2013).

338. On 27 June 1992, another cease-fire went into effect in Sarajevo.[1074] On the same day, the Accused, in a letter to the EC, Cutileiro, and Carrington, informed them that the last phase of the opening of Sarajevo airport was underway and that the Bosnian Serbs were respecting the cease-fire.[1075] He further stated that the adherence to the cease-fire opened the possibility for the continuation of talks on the constitutional arrangements for BiH.[1076]

339. On 29 June 1992, the Security Council passed Resolution 761 and the Bosnian Serbs handed the airport over to UNPROFOR.[1077] The airport was only to be used by the UN.[1078] The airport opened the following day, however, as a convoy of UN vehicles accompanied by Bosnian Serbs left the airport, the convoy was fired upon, injuring four UN personnel.[1079] As a result, the UN decided to temporarily cease its operations at the airport.[1080]

340. On 3 July 1992, Carrington made a statement following his visit to Sarajevo.[1081] According to Carrington, Izetbegović set two conditions for the resumption of peace talks, namely a one-week cease-fire throughout BiH and that all heavy weapons formerly belonging to the JNA be placed under UN control.[1082] Izetbegović further stated that he could not agree to certain elements of the Statement of Principles but that he would propose alternatives.[1083] The Accused, while he agreed with the Statement of Principles as agreed upon in March, stated that the proposal of BiH being a unitary state was not satisfactory.[1084]

341. On 5 July 1992, UNPROFOR reported that the cease-fire was not holding but that humanitarian aid flights had been arriving at Sarajevo airport and that UNHCR convoys were

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1074 D2977 (Letter from Radovan Karadžić to Jose Cutileiro and others, 27 June 1992); D4489 (TANJUG news report, 26 June 1992).

1075 D2977 (Letter from Radovan Karadžić to Jose Cutileiro and others, 27 June 1992). *See also* D4564 (Fax from Radovan Karadžić to Milan Panić, 27 June 1992).

1076 D2977 (Letter from Radovan Karadžić to Jose Cutileiro and others, 27 June 1992).

1077 P1996 (Witness statement of Martin Bell dated 8 March 2010), para. 75; P2038 (BBC news report re Radovan Karadžić's press conference, with transcript). *See also* Adjudicated Facts 10, 11 (UNPROFOR was tasked with protecting the airport and helping with the delivery of humanitarian aid). *See* para. 3560.

1078 *See* Adjudicated Fact 11.

1079 D2409 (UNPROFOR memo re shooting at UN vehicles near the airport, 30 June 1992); D590 (UNPROFOR report, 30 June 1992); KDZ088, T. 6551–6556 (13 September 2010) (closed session). The UNMOs reported that the firing on the UN vehicles was quite deliberate, the fact that the Bosnian Serb vehicle was targeted first may indicate that the origin of fire came from the Presidency, and the fire was directed from the northern part of Dobrinja. D2409 (UNPROFOR memo re shooting at UN vehicles near the airport, 30 June 1992), paras. 5–6; D2398 (Witness statement of Richard Gray dated 22 April 2012), para. 25.

1080 D590 (UNPROFOR report, 30 June 1992); KDZ088, T. 6551–6556 (13 September 2010) (closed session); D2409 (UNPROFOR memo re shooting at UN vehicles near the airport, 30 June 1992), para. 5.

1081 D4695 (Lord Carrington's statement, 3 July 1992).

1082 D4695 (Lord Carrington's statement, 3 July 1992), p. 2.

1083 D4695 (Lord Carrington's statement, 3 July 1992), p. 2.

1084 D4695 (Lord Carrington's statement, 3 July 1992), p. 2.

distributing aid in the city.[1085] However, according to Nambiar, the airport remained "very vulnerable".[1086] UNPROFOR's assessment was that both sides have "agendas which have little to do with humanitarian concerns" and that both sides seemed "locked in a fight to the death over the future shape, character and even existence of the new state of [BiH]".[1087]

342. On 13 July 1992, the Security Council passed Resolution 764 in response to continuing violations of the 5 June 1992 Sarajevo airport agreement.[1088] It authorised the UN Secretary-General to deploy additional UNPROFOR troops to ensure the security of the Sarajevo airport and delivery of humanitarian aid.[1089] On 14 July, UNPROFOR reported that aid continued to arrive in Sarajevo, but that the airport faced "an almost unacceptable degree of risk" and that the situation in Sarajevo continued to deteriorate.[1090]

343. On 17 July 1992, in London, the parties agreed to a cease-fire throughout the entire territory of BiH, for a period of 14 days, effective beginning at 6 p.m. on 19 July 1992.[1091] The next round of peace talks was scheduled to resume on 27 July 1992 in London.[1092] However, on 23 July 1992, Carrington and Cutileiro noted that all parties to the conflict had violated the cease-fire agreement.[1093] Carrington called on the parties to respect and implement the cease-fire but noted that the violations cast a shadow over the resumption of talks scheduled in London for 27 July 1992.[1094] The talks did not resume again in July.[1095]

1085 D4647 (Memo from Nambiar to Goulding, 7 July 1992), paras. 1–3, 5.

1086 D4647 (Memo from Nambiar to Goulding, 7 July 1992), para. 12.

1087 D4647 (Memo from Nambiar to Goulding, 7 July 1992), para. 8.

1088 P982 (UNSC Resolution 764, 13 July 1992).

1089 P982 (UNSC Resolution 764, 13 July 1992).

1090 D2411 (UNPROFOR report, 14 July 1992), paras. 1–2 (reporting also that UNPROFOR was being subjected to a smear campaign by the BiH Presidency which led to a number of incidents of UN personnel being threatened in the performance of their duties).

1091 D4710 (Text of Agreement signed by Boban, Radovan Karadžić and Silajdžić at London on 17 July 1992), pp. 1–2 (the agreement provided that all heavy weapons were to be placed under international supervision and that all refugees be permitted to return to the places from which they had been expelled. The parties requested that the Security Council make arrangements for this supervision). *See also* D593 (VRS Main Staff Order, 22 July 1992), p. 2. Milovanović stated that the Accused signed this cease-fire without consultation with the Main Staff. D2149 (Aide mémoire of Manojlo Milovanović), p. 6.

1092 D4710 (Text of Agreement signed by Boban, Radovan Karadžić and Silajdžić at London on 17 July 1992), p. 1.

1093 D2978 (Letter from Jose Cutileiro to Radovan Karadžić, 23 July 1992). *See also* D4710 (Text of Agreement signed by Boban, Radovan Karadžić and Silajdžić at London on 17 July 1992); D4711 (Letter from Biljana Plavšić to General McKenzie, 19 July 1992); D4713 (Letter from Radovan Karadžić to Boutros Boutros Ghali, Lord Carrington and Ambassador Cutileiro, 20 July 1992).

1094 D2978 (Letter from Jose Cutileiro to Radovan Karadžić, 23 July 1992).

1095 *See* D2968 (Witness statement of Jose Cutileiro dated 11 April 2012), para. 30.

344. On 25 July, the SRK reported that ABiH forces were focusing artillery fire on Dobrinja and the airport area with the "probable goal" of preventing the safe landing of planes.[1096] In response to the difficulties faced by UNPROFOR at the airport, the Security Council passed Resolution 770 on 13 August, in which it demanded that the parties take necessary measures to ensure the safety of UN and other personnel delivering humanitarian assistance.[1097] The Security Council demanded that the parties to the conflict cease fighting immediately, that the ICRC be allowed to access prisons and detention centres, and that necessary measures be taken to ensure the safety of UNPROFOR personnel.[1098]

345. The work of the EC Peace Conference on Yugoslavia terminated in August 1992, when the UK, which held the Presidency of the EC at that time, convened a new international conference in London.[1099]

4. London Conference

346. The London Conference on the former SFRY was held on 26 and 27 August 1992.[1100] On the eve of the conference, the Accused stated that on 19 August 1992, he had issued an order that the forced transfer of the civilian population must be prevented and any written statements by refugees that they would not return were considered legally invalid.[1101] He reiterated his hope that the conflict could end through negotiations.[1102]

347. On 26 August 1992, the Accused and Koljević met with Vance and Carrington.[1103] The Accused stated that the Bosnian Serbs were willing to negotiate and even return some territory as part of an overall agreement, as long as Serb property rights in predominantly Croat and Muslim areas were protected.[1104] The Accused stated that Bosnian Serb territory could be geographically

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1096 D592 (SRK combat report, 25 July 1992), para. 1; D591 (SRK combat report, 25 July 1992), para. 1; KDZ088, T. 6558 (13 September 2010) (closed session) (testifying that it was the "routine position" of the ABiH to target the airport and then blame the Bosnian Serbs for it).

1097 P983 (UNSC Resolution 770, 13 August 1992), pp. 1–2, para. 6.

1098 P983 (UNSC Resolution 770, 13 August 1992).

1099 Herbert Okun, T. 1471 (22 April 2010); Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4147; Charles McLeod, P712 (Transcript from *Prosecutor v. Brđanin*), T. 7287.

1100 Herbert Okun, T. 1471 (22 April 2010); Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4147–4148, 4327; P2284 (UNSG report entitled "The Fall of Srebrenica", 15 November 1999), para. 29. *See also* D2980 (Article from International Herald Tribune entitled "Vance and Owen Got It Right", 16 February 1993).

1101 D4720 (Letter from Radovan Karadžić re London Peace Conference, 25 August 1992).

1102 D4720 (Letter from Radovan Karadžić re London Peace Conference, 25 August 1992). The Accused stated in a Newsnight interview that he was not as optimistic about the London Conference, Izetbegović did not represent the interests of all of BiH, and that "ethnic cleansing was never part of our policy". D4493 (Video footage of BBC interview with Radovan Karadžić).

1103 D2979 (Record of London Conference, 26 August 1992) (also present were Cutileiro, Okun, and Doyle).

1104 D2979 (Record of London Conference, 26 August 1992), p. 1.

continuous but Vance asked how this would be possible without causing a movement of the population.[1105] With respect to Sarajevo, the Accused stated that he would accept the presence of UN monitors at all Serb artillery positions in and around Sarajevo.[1106] Also on this day, the President of the ICRC appealed to the conference participants to resolve the conflict and to restore respect for international humanitarian law.[1107]

348. On the same day, the London Conference adopted a Statement of Principles as the basis for a negotiated settlement to end the conflict.[1108] The principles included, *inter alia*, agreeing to a cease-fire, engaging in negotiations, implementing respect for human rights and protection of minorities, condemning forcible expulsion, complying with international humanitarian law and all Security Council resolutions, providing protection for the delivery of humanitarian aid, and agreeing that the settlement to the conflict would be through negotiation and consensus.[1109]

349. On 27 August 1992, the London Conference adopted a "Statement on Bosnia" condemning the continuing armed conflict in BiH, the attempts to gain territory by force, and the expulsion of civilians.[1110] It stated that a political settlement in BiH must include, *inter alia*, a permanent cessation of hostilities, recognition of BiH by all former SFRY republics, respect for current boundaries, guarantees for national community and minority rights protected by democratic and legal structures, and the right to return and compensation for civilians who were forcibly expelled.[1111] It urged all parties to continue negotiations and discuss issues such as the grouping of heavy weapons under international control, demilitarisation of major towns with international observers present, the provision of refugee relief and humanitarian aid, and the further deployment of UN peacekeeping forces to monitor BiH.[1112]

350. The parties and UNHCR agreed to a "Programme of Action on Humanitarian Issues Agreed Between the Co-Chairmen to the Conference and the Parties to the Conflict".[1113] Under this agreement, the Accused and Izetbegović undertook to ensure the delivery of humanitarian aid by road throughout BiH, and to take specific steps to develop a system of land convoys to that

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1105 P941 (London Conference record of a meeting with Radovan Karadžić, 26 August 1992), pp. 1–2.

1106 P941 (London Conference record of a meeting with Radovan Karadžić, 26 August 1992), p. 2.

1107 P807 (Address by ICRC President at the London Conference, 26 August 1992); D2968 (Witness statement of Jose Cutileiro dated 11 April 2012), para. 32.

1108 D4722 (Statement of Principles approved by the London Conference, 26 August 1992).

1109 D4722 (Statement of Principles approved by the London Conference, 26 August 1992).

1110 D1604 (London Conference statement on BiH, 27 August 1992), p. 2. *See also* D4723 (Excerpt from book entitled "Yugoslavia Through Documents from its Creation to its Dissolution").

1111 D1604 (London Conference statement on BiH, 27 August 1992), pp. 2–3.

1112 D1604 (London Conference statement on BiH, 27 August 1992), p. 4.

1113 D4723 (Excerpt from book entitled "Yugoslavia Through Documents from its Creation to its Dissolution").

effect.[1114] On 9 September 1992, Nambiar sent a protest letter to Izetbegović over the shelling of a UN humanitarian convoy by the ABiH at the entrance to Sarajevo airport, which caused the death of two French soldiers.[1115] As a result of this incident, humanitarian flights were suspended for one month.[1116] On 14 September 1992, UNPROFOR's mandate was broadened again by Security Council Resolution 776, to include protection of humanitarian aid convoys.[1117]

351. The Accused and Koljević, representing the Bosnian Serbs, agreed to notify the UN, within 96 hours, of the grouping of all heavy weapons around Sarajevo, Bihać, Goražde, and Jajce.[1118] They agreed to complete this process within seven days and for the weapons to be placed under the supervision of UN observers.[1119] They also agreed to "withdraw from a substantial portion of the territory now under the control of their forces", to secure the release of detained civilians, to repatriate them, and allow refugees and displaced persons to return to their place of origin.[1120] Finally, they agreed to support the initiative that "all units of armed forces across the entire territory of [BiH]- regardless of their allegiance- come under the supervision of competent UN officers".[1121]

5. International Conference on the Former Yugoslavia

352. The London Conference proposed the creation of a new peace conference called the ICFY.[1122] Under the co-chairmanship of Secretary General Boutros Boutros-Ghali and UK Prime Minister John Major, in his capacity as President of the EC Council of Ministers, the ICFY began its work in September 1992.[1123] The activities of the ICFY were supervised by a steering committee and co-chaired by representatives from the Secretary General's office and the EU

1114 D4723 (Excerpt from book entitled "Yugoslavia Through Documents from its Creation to its Dissolution"), paras. 1–2.

1115 D2399 (UNPROFOR report, 9 September 1992), pp. 2, 4; D2398 (Witness statement of Richard Gray dated 22 April 2012), para. 41.

1116 P1262 (UN report on Sarajevo, 8 October 1992), para. 3.

1117 Adjudicated Fact 12.

1118 D1604 (London Conference statement on BiH, 27 August 1992), p. 5. Milovanović stated that the Accused informed the Main Staff that he had "offered" that the Bosnian Serbs "cede 20% of its territory" for the sake of peace. D2149 (Aide mémoire of Manojlo Milovanović), p. 8.

1119 D1604 (London Conference statement on BiH, 27 August 1992), p. 5.

1120 D1142 (Programme of Action of the London International Conference, 27 August 1992), pp. 1–2.

1121 D4724 (Letter from Radovan Karadžić to Boutros Boutros Ghali, 27 August 1992).

1122 Herbert Okun, T. 1471 (22 April 2010); Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4147–4148, 4327; P2284 (UNSG report entitled "The Fall of Srebrenica", 15 November 1999), para. 29.

1123 Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4327–4328. *See also* D4474 (Report on visit by Steering Committee to Zagreb, Sarajevo and Belgrade 9-12 September 1992) (Owen and Vance reported that all three parties agreed to resume peace talks in Geneva on 18 September 1992); P1046 (John Wilson's Report to Australian Army, 15 November 1992), p. 9. The seat of the ICFY was at the UN in Geneva. D1144 (UN Secretary-General letter to UNSC with attached report, 8 July 1994), p. 2; P1046 (John Wilson's Report to Australian Army, 15 November 1992), p. 9.

Presidency's office.[1124] The ICFY had six working groups, including one on BiH.[1125] The BiH working group had two objectives: establishing a cessation of hostilities and implementing a constitutional arrangement that would satisfy the three constituent units of BiH.[1126]

353. The ICFY recognised that there was no viable way to create three territorially distinct states based on ethnicity but that a centralised state was also not acceptable to the parties.[1127] It concluded that the only viable solution was the establishment of a decentralised state.[1128]

354. The ICFY held meetings mainly in Geneva with representatives from the parties to the conflict and also with representatives from the international community and non-governmental organisations.[1129] Included in those meetings were representatives from the ICRC, UNHCR, and UNPROFOR.[1130]

355. During the negotiation process, the Bosnian Serbs pushed for an agenda consistent with the Strategic Goals.[1131] In turn, the Bosnian Muslims maintained their request to create a unitary state of BiH with centralised powers in which they possessed a majority.[1132] The Bosnian Croats wished to take BiH out of the FRY, to declare independence, and to establish their own state called the Community of Herceg-Bosna.[1133] This new state would have territorial contiguity with Croatia and have a special relationship with Croatia, with the possibility of uniting with Croatia in the future.[1134]

1124 D1144 (UN Secretary-General letter to UNSC with attached report, 8 July 1994), p. 2. The Steering Committee of the ICFY was initially co-chaired by David Lord Owen for the EC, the former British Foreign Secretary, and Vance as the UN SG's representative. Herbert Okun, T. 1471 (22 April 2010). *See also* D4474 (Report on visit by Steering Committee to Zagreb, Sarajevo and Belgrade 9-12 September 1992) (listing Owen and Vance as Co-Chairmen of the Steering Committee). Okun was the deputy co-chairman for the UN and Ambassador Peter Hall was the deputy co-chairman for the EU. Wilson received situation reports from UNPROFOR headquarters in Zagreb and would provide situation reports to the Co-Chairmen and other committee heads of the ICFY. *See* Herbert Okun, T. 1471–1472 (22 April 2010); P1029 (Witness statement of John Wilson dated 4 November 2008), para. 109.

1125 P1046 (John Wilson's Report to Australian Army, 15 November 1992), p. 9. The other working groups included: humanitarian matters; confidence building, security, and verification measures; economic issues; communities, ethnic, and national minorities issues; and succession matters. P1046 (John Wilson's Report to Australian Army, 15 November 1992), p. 9.

1126 P2538 (Patrick Treanor's research report entitled "Radovan Karadžić and the Serbian Leadership 1990-1995", 1 May 2009), para. 130.

1127 P2284 (UNSG report entitled "The Fall of Srebrenica", 15 November 1999), para. 29.

1128 P2284 (UNSG report entitled "The Fall of Srebrenica", 15 November 1999), para. 29.

1129 Herbert Okun, T. 1472 (22 April 2010).

1130 Herbert Okun, T. 1472–1473 (22 April 2010).

1131 Herbert Okun, T. 1474–1475 (22 April 2010); P781 (Decision on six strategic goals for Bosnian Serb people, 12 May 1992); Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4157–4158.

1132 Herbert Okun, T. 1476 (22 April 2010).

1133 Herbert Okun, T. 1476 (22 April 2010).

1134 Herbert Okun, T. 1476 (22 April 2010).

356. The ICFY continued to engage in meetings with all three parties in BiH.[1135] The Bosnian Serb leadership identified the areas of BiH they wanted to be under Bosnian Serb control.[1136] The Accused stated that the Bosnian Serbs were firmly committed to the principles as agreed upon on 18 March 1992 and that a political settlement was absolutely essential.[1137] As a result of negotiations, the Accused agreed that the Bosnian Serb heavy weapons in certain locations of BiH would be concentrated and monitored by UNMOs.[1138]

357. During a meeting on 17 September 1992, when Owen expressed his concern to the Accused about the siege of Sarajevo, the Accused denied that it was a siege, stating rather that the Bosnian Serbs were "protecting" their suburbs.[1139] The Accused reiterated his position that the Bosnian Serbs, Bosnian Croats, and Bosnian Muslims could not live together in BiH and that Sarajevo should be divided into Bosnian Muslim and Bosnian Serb entities.[1140] During a meeting the following day, the Accsed and Koljević stated again that the Bosnian Serbs and the Bosnian Croats would not accept a unitary BiH state; a state based on one-man, one-vote.[1141] Koljević also stated that the Bosnian Serbs would not accept the internal borders of BiH without some form of cantonisation.[1142]

358. On 30 September 1992, the Accused and Koljević met with Vance, Owen, Okun and others in Geneva to further discuss the situation in Sarajevo.[1143] The Accused stated that it was not the Bosnian Serbs who were "besieging" Sarajevo and that they could not take unilateral steps but needed reciprocal actions by the Bosnian Muslims.[1144] The Accused repeated that the Bosnian Serbs who wished to leave the city should be allowed to do so.[1145] Okun noted that the Accused

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1135 Herbert Okun, T. 1477–1483 (22 April 2010).

1136 Herbert Okun, T. 1478– 1483 (22 April 2010); P784 (First notebook of Herbert Okun's ICFY diary), e-court p. 45; P783 (Ethnic map of BiH).

1137 D2975 (Letter from Radovan Karadžić to Jose Cutileiro, 13 June 1992); D2968 (Witness statement of Jose Cutileiro dated 11 April 2012), para. 29. *See, e.g.,* D2976 (Letter from Radovan Karadžić to Lord Carrington and Jose Cutileiro, 16 June 1992); D2968 (Witness statement of Jose Cutileiro dated 11 April 2012), para. 30. *See also* para. 326.

1138 P1029 (Witness statement of John Wilson dated 4 November 2008), para. 106.

1139 Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4203–4204; P785 (Second notebook of Herbert Okun's ICFY diary), e-court p. 24. *See generally* Section IV.B.1.f: Siege of Sarajevo.

1140 Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4204–4205; P785 (Second notebook of Herbert Okun's ICFY diary), e-court pp. 24–25.

1141 Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4214–4215; P785 (Second notebook of Herbert Okun's ICFY diary), e-court p. 33. *See also* D2149 (Aide mémoire of Manojlo Milovanović), p. 9.

1142 Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4215; P785 (Second notebook of Herbert Okun's ICFY diary), e-court pp. 34.

1143 P786 (Third notebook of Herbert Okun's ICFY diary), e-court pp. 6–8.

1144 P786 (Third notebook of Herbert Okun's ICFY diary), e-court p. 6. *See generally* Section IV.B.1.f: Siege of Sarajevo.

1145 Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4225.

and Koljević were resistant to any agreements.[1146] The meeting ended with an agreement to continue discussions and with Owen pressing for an overall cease-fire in BiH.[1147]

a. Vance-Owen Plan

359. The culmination of the work of the ICFY resulted in the Vance-Owen Plan which was formally introduced on 2 January 1993.[1148] The plan consisted of three main parts: first, the constitutional arrangements for BiH, second, the military arrangements, and third, a map of the provincial structure.[1149] Each part of the plan had to be signed separately by all three parties.[1150]

360. The constitutional arrangements of the Vance-Owen Plan stipulated that the laws of BiH that related directly to the vital interests of each of the three constituent populations would be agreed upon by consensus.[1151] All other legislation would not be subject to a veto.[1152]

361. On 11 January 1993, there were bilateral discussions with the Bosnian Serbs and the ICFY.[1153] The Accused asked the ICFY to look at the previous Bosnian Serb proposals.[1154] Krajišnik stressed their desire for territorial continuity and named three conditions from the Bosnian Serb Assembly: (i) BiH must be a "composite state community"; (ii) the Bosnian Serbs must have relations with other "states"; and (iii) they must have territorial continuity.[1155] Mladić told Okun and Owen that the Bosnian Serbs wanted "peace with justice" for all three peoples but that the Bosnian Muslims could not "beat", "exterminate", or "cause [the Serbs] to disappear".[1156] The following day, at a plenary meeting, the Accused expressed his reservations about the ICFY's

1146 P786 (Third notebook of Herbert Okun's ICFY diary), e-court p. 7.

1147 P786 (Third notebook of Herbert Okun's ICFY diary), e-court p. 7.

1148 Herbert Okun, T. 1518 (23 April 2010); P2284 (UNSG report entitled "The Fall of Srebrenica", 15 November 1999), para. 31.

1149 Herbert Okun, T. 1517 (22 April 2010); D1593 (BiH Map from Vance-Owen Peace Plan, 2 January 1993); Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4237–4238; P2284 (UNSG report entitled "The Fall of Srebrenica", 15 November 1999), para. 31.

1150 Herbert Okun, T. 1517 (22 April 2010).

1151 Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4238.

1152 Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4238. Okun testified that one of the Bosnian Serb goals was to have veto power over anything that the central BiH government did and at a 6 January 1993 meeting with Slobodan Milošević in Belgrade, Milošević stated that he had spoken to the Accused and Krajišnik who wanted the consensus rule to apply to everything. Slobodan Milosević stated that he would do all he could to convince the Accused to accept the Vance-Owen Plan. Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4238; P789 (Sixth notebook of Herbert Okun's ICFY diary), e-court p. 26; P4221 (Excerpt from UNSC report, 16 November 1993). Momir Bulatović stated that beginning in 1993, a split began to develop between the Bosnian Serb leadership and the FRY resulting from a difference in opinion about the peace plans proposed. Bulatović stated that the FRY wanted the war to end at all costs and to accept the peace plans but the Bosnian Serb leadership opposed this. D3051 (Witness statement of Momir Bulatović dated 25 February 2013), para. 42.

1153 P789 (Sixth notebook of Herbert Okun's ICFY diary), e-court pp. 42–43.

1154 P789 (Sixth notebook of Herbert Okun's ICFY diary), e-court p. 43.

1155 P789 (Sixth notebook of Herbert Okun's ICFY diary), e-court p. 43.

constitutional principles and stated he could not accept them but he would convey the ICFY's proposals to the Bosnian Serb Assembly.[1157]

362. On 15 January 1993, at a meeting with Okun and Vance, the representative for the Bosnian Serbs, Aleksa Buha, stated that the Bosnian Serbs needed the Posavina "corridor", which was a road that connected Belgrade to Banja Luka via Bijeljina and Brčko.[1158] For territories still under dispute, Buha noted the Accused's request for a resolution by referendum.[1159]

363. On 23 January 1993, at a plenary summit meeting,[1160] Izetbegović stated that he objected to the map on the basis that regions from which population had been removed could not come under the control of those who removed them, and that while the peace conference was ongoing, the "aggression" continued.[1161] The Accused stated that he finally agreed to accept the nine constitutional principles and in relation to the proposed map, he acknowledged that considerable success had been achieved but certain territories were still under dispute.[1162] Later in the day, during a discussion on the proposed map, the Accused asked for a larger Bosnian Serb territory and proposed his own boundaries.[1163]

1156 P789 (Sixth notebook of Herbert Okun's ICFY diary), e-court p. 45.

1157 P789 (Sixth notebook of Herbert Okun's ICFY diary), e-court p. 48. According to Milovanović, in November 1992, the Accused issued a public statement that BiH should be made of its three constituent states with the RS as a "single whole" and rejecting the Vance-Owen proposal for a "centralised BiH with ten cantons". D2149 (Aide mémoire of Manojlo Milovanović), p. 12.

1158 Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4244–4245; P789 (Sixth notebook of Herbert Okun's ICFY diary), e-court p. 58.

1159 Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4245 (opining that this system would benefit Bosnian Serbs in territories from which non-Serbs had been removed).

1160 The attendees at the meeting included the following: (i) Izetbegović, Silajdžić, Siber, Lazović, and Filipović for the Bosnian Muslims; (ii) Karadžić, Krajišnik, Buha, Mladić and Lukić for the Bosnian Serbs; (iii) Boban, Akmadžić, Petković, and Rudman for the Bosnian Croats; (iv) Tuđman, Šušak, Radić, Tus, and Madey for Croatia; and (v) Ćosić, Slobodan Milošević, Bulatović, Đokić, and Stojanović for the FRY. P790 (Seventh notebook of Herbert Okun's ICFY diary), e-court p. 9.

1161 P790 (Seventh notebook of Herbert Okun's ICFY diary), e-court p. 9.

1162 P790 (Seventh notebook of Herbert Okun's ICFY diary), e-court p. 9 (the Accused protested that Croatia had violated the January 1992 peace agreement with "brutal aggression" against the RS). The nine constitutional principles were proposed for the basis of the BiH Constitution. The principles included: (i) BiH would be a decentralised state with three constituent groups; (ii) the provinces would not have international legal personality; (iii) full freedom of movement would be allowed throughout BiH; (iv) matters of vital concern to any of the constituent units would be regulated in the Constitution, amended by consensus of the three constituent units, and there was no veto; (v) provinces and the central government would have democratically elected legislatures, the central Presidency would be composed of three elected representatives from each constituent group; (vi) a Constitutional Court would resolve disputes between the central government and provinces; (vii) BiH would be demilitarised under UN/EC supervision; (viii) the highest level of internationally-recognised human rights would be provided for in the Constitution; and (ix) international monitors would remain in BiH until the constituent groups agreed by consensus to dispense with them. P2538 (Patrick Treanor's research report entitled "Radovan Karadžić and the Serbian Leadership 1990-1995", 1 May 2009), para. 146.

1163 P790 (Seventh notebook of Herbert Okun's ICFY diary), e-court p. 12.

364. By 25 January 1993, after several additional meetings, Okun reported that Owen feared that the negotiations would break down.[1164] The following day, at a bilateral meeting,[1165] the Accused stated that he was prepared to make concessions and was willing to be more flexible.[1166] On 27 January 1993, Owen outlined the new ICFY proposals that for an interim period there would be no change in the Sarajevo boundaries and there would be no constitutional changes, except by consensus.[1167] Krajišnik maintained that the Bosnian Serb position was to divide Sarajevo.[1168]

365. By 30 January 1993, the Bosnian Croats had signed all three arrangements, namely the constitutional arrangements, military arrangements, and the map of the provincial structure.[1169] The Bosnian Muslims had only accepted the military arrangements.[1170] The Bosnian Serbs had rejected all three arrangements.[1171] Meetings with the Bosnian Serbs continued in February and March to discuss details of the proposed arrangements, in particular the map of BiH.[1172]

366. Also in January 1993, the ICFY proposed an "Agreement for Peace in [BiH]" in the hopes of establishing a cessation of hostilities.[1173] The agreement called for a cessation of hostilities and a subsequent demilitarisation of Sarajevo; monitoring by UNPROFOR of the confrontation lines and the removal of heavy weapons; and restoration of civil infrastructures and humanitarian aid, including through the establishment and opening of Blue Routes for the freedom of movement of people and humanitarian assistance.[1174] It called for the creation of a Joint Commission to execute and implement the details of the plan.[1175] The areas in which all heavy weapons were to be withdrawn included Mojmilo, Dobrinja, Lukavica, Gornji, Kotorac, Vojkovići, Hrasnica,

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1164 P790 (Seventh notebook of Herbert Okun's ICFY diary), e-court p. 15.

1165 Okun testified that bilateral meetings with the Accused and Krajišnik were often conducted by Vance and Owen as part of the larger negotiations. Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4246.

1166 P790 (Seventh notebook of Herbert Okun's ICFY diary), e-court p. 22.

1167 P790 (Seventh notebook of Herbert Okun's ICFY diary), e-court p. 30.

1168 Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4251; P790 (Seventh notebook of Herbert Okun's ICFY diary), e-court p. 30.

1169 Herbert Okun, T. 1518–1519 (23 April 2010).

1170 Herbert Okun, T. 1518–1519 (23 April 2010). Izetbegović stated publicly that with support from the USA, he would be able to accept an amended Vance-Owen Plan and there was no other solution but to negotiate the details. D1497 (UNPROFOR Assessment, 15 February 1993), p. 2.

1171 Herbert Okun, T. 1519 (23 April 2010). *See also* Momir Bulatović, T. 34532–34535 (28 February 2013); P6159 (Excerpt from Momir Bulatović's book entitled "Rules of Silence").

1172 P790 (Seventh notebook of Herbert Okun's ICFY diary), e-court p. 57; P791 (Eighth notebook of Herbert Okun's ICFY diary), e-court pp. 38–40; P2538 (Patrick Treanor's research report entitled "Radovan Karadžić and the Serbian Leadership 1990-1995", 1 May 2009), paras. 147–154.

1173 D924 (ICFY Agreement for Peace in BiH, 3 March 1993).

1174 D924 (ICFY Agreement for Peace in BiH, 3 March 1993). The concept of Blue Routes included the agreement by all parties to secure the routes, not interfere with them or with check-points and patrols by UNPROFOR/ECMM, to ensure freedom of passage for humanitarian aid, and to ensure the absolute freedom of movement for UN forces. A separate concept for Blue Routes in Sarajevo, specifically, was appended to the agreement. D924 (ICFY Agreement for Peace in BiH, 3 March 1993), pp. 9–14. It is only in February 1994 that there was an agreement to establish Blue Routes in Sarajevo. *See* para. 389.

Sokolovići, Butmir, Ilidža, Otes, Stup, and Nedžarići.[1176] On 30 January 1993, the Accused and Boban signed the agreement, witnessed by Vance and Owen.[1177] On 3 March 1993, with guarantees from the UN that heavy weapons would be placed under its control, Izetbegović also signed the agreement.[1178]

367. On 26 March 1993, Wahlgren, Morillon, and others met with Mladić in Belgrade.[1179] Morillon criticised the recent attack on Srebrenica; Mladić stated that the ABiH began the offensive and the VRS had retaliated.[1180] On 6 April 1993, Wahlgren and Morillon met with Milovanović, Gvero, and others at the Sarajevo airport to discuss the offensive in Srebrenica.[1181] Wahlgren informed the participants that the Bosnian Muslims had set two conditions for this meeting, namely that the Bosnian Serbs should stop their attack on Srebrenica and that UN observers and one company of CanBat should be allowed into Srebrenica.[1182] Milovanović responded that the Bosnian Serbs were not attacking Srebrenica but that once Bosnian Muslims agreed to a cease-fire throughout BiH, the Bosnian Serbs would stop their offensive.[1183]

368. On 12 April 1993, Wahlgren met with Mladić in Sarajevo to discuss the offensive in Srebrenica; José Mendiluce of UNHCR was also present at the meeting.[1184] Mladić told Mendiluce that there was no problem with Mendiluce assisting in the evacuation of the Bosnian Muslims from Srebrenica.[1185] However, Mladić stated that the RS had no respect for the "no fly zone" set forth in Security Council Resolution 781 and requested that no NATO planes fly over the RS.[1186] In addition, he refused requests that UNPROFOR deploy extra troops in Srebrenica and the eastern

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1175 D924 (ICFY Agreement for Peace in BiH, 3 March 1993), p. 20.

1176 D924 (ICFY Agreement for Peace in BiH, 3 March 1993), p. 20.

1177 D924 (ICFY Agreement for Peace in BiH, 3 March 1993), p. 2.

1178 P2538 (Patrick Treanor's research report entitled "Radovan Karadžić and the Serbian Leadership 1990-1995", 1 May 2009), para. 155.

1179 D1500 (UNPROFOR report re. meeting with Ratko Mladić, 29 March 1993); P4203 (Witness statement of Pyers Tucker dated 12 May 2010), para. 243; P1474 (Ratko Mladić's notebook, 29 January–31 March 1993), pp. 164–172.

1180 D1500 (UNPROFOR report re. meeting with Ratko Mladić, 29 March 1993), p. 3; P4203 (Witness statement of Pyers Tucker dated 12 May 2010), paras. 244–245; P1474 (Ratko Mladić's notebook, 29 January–31 March 1993), p. 167.

1181 D2779 (VRS Main Staff notes of meeting at Sarajevo airport, 7 April 1993); P4203 (Witness statement of Pyers Tucker dated 12 May 2010), para. 245; Milenko Indić, T. 32441–32443 (22 January 2013).

1182 D2779 (VRS Main Staff notes of meeting at Sarajevo airport, 7 April 1993), p. 1.

1183 D2779 (VRS Main Staff notes of meeting at Sarajevo airport, 7 April 1993), p. 1.

1184 D2748 (UNPROFOR report re meeting with Ratko Mladić, 13 April 1993); D2745 (Witness statement of Vere Hayes dated 14 January 2013), para. 10; P1483 (Ratko Mladić's notebook, 2 April–24 October 1993), pp. 17–19. *See also* D328 (ICFY report re military talks in Sarajevo on 12 April 1993) (reporting that Halilović of the ABiH did not turn up for the talks because he believed that the VRS had attacked Srebrenica); D4481 (Memorandum from John Wilson to Lord Owen, 16 April 1993).

1185 D2748 (UNPROFOR report re meeting with Ratko Mladić, 13 April 1993), p. 1.

1186 D2748 (UNPROFOR report re meeting with Ratko Mladić, 13 April 1993), p. 2.

enclaves.[1187] Wahlgren reported that when Mladić was asked directly whether he intended to take Srebrenica by force, he did not answer the question, rather he stated that he was ready to discuss a political solution to the Srebrenica problem.[1188] Wahlgren reported that Srebrenica had become a key issue and a test case for the future survival of the Vance-Owen Plan.[1189]

369. On 16 April 1993, the Security Council passed Resolution 819 establishing Srebrenica as a safe area.[1190] The resolution demanded the immediate cessation of armed attacks by "Bosnian Serb paramilitary units" against Srebrenica and their immediate withdrawal.[1191]

370. On 18 April 1993, an Agreement for the Demilitarisation of Srebrenica was signed.[1192] It called for a total cease-fire in Srebrenica, the demilitarisation of Srebrenica within 72 hours, the deployment of an UNPROFOR company into Srebrenica, and the opening of a corridor between Tuzla and Srebrenica for the evacuation of the seriously wounded and ill.[1193] All weapons were to be handed over to UNPROFOR.[1194] CanBat was deployed to Srebrenica pursuant to this agreement.[1195] The following day, a working group met to discuss how to implement the demilitarisation process.[1196] The VRS and ABiH disagreed on the area to the demilitarised.[1197] UNPROFOR reported that while the Bosnian Serbs seemed ready to adhere to the 18 April agreement, the Bosnian Muslims did not and were considering going to the Security Council.[1198] The Bosnian Muslims expressed concern that the VRS would redeploy to Žepa and Goražde after withdrawing from Srebrenica.[1199]

1187 D2748 (UNPROFOR report re meeting with Ratko Mladić, 13 April 1993), p. 2.

1188 D2748 (UNPROFOR report re meeting with Ratko Mladić, 13 April 1993), p. 3. *See also* P1483 (Ratko Mladić's notebook, 2 April–24 October 1993), p. 19.

1189 D2748 (UNPROFOR report re meeting with Ratko Mladić, 13 April 1993), p. 3.

1190 P4209 (UNSC Resolution 819, 16 April 1993); P2284 (UNSG report entitled "The Fall of Srebrenica", 15 November 1999), paras. 55–58 Pyers Tucker, T. 23211–23212 (17 January 2012).

1191 P4209 (UNSC Resolution 819, 16 April 1993), p. 2; P2284 (UNSG report entitled "The Fall of Srebrenica", 15 November 1999), para. 55.

1192 D1028 (UNPROFOR report re agreement on demilitarisation of Srebrenica, 18 April 1993); D2745 (Witness statement of Vere Hayes dated 14 January 2013), para. 15; P2284 (UNSG report entitled "The Fall of Srebrenica", 15 November 1999), para. 60.

1193 D1028 (UNPROFOR report re agreement on demilitarisation of Srebrenica, 18 April 1993), paras. 1–4; D2745 (Witness statement of Vere Hayes dated 14 January 2013), paras. 15–16.

1194 D1028 (UNPROFOR report re agreement on demilitarisation of Srebenica, 18 April 1993), para. 4; D2745 (Witness statement of Vere Hayes dated 14 January 2013), para. 16.

1195 D2745 (Witness statement of Vere Hayes dated 14 January 2013), para. 18; P2284 (UNSG report entitled "The Fall of Srebrenica", 15 November 1999), para. 61.

1196 D2750 (UNPROFOR report, 20 April 1993) (present at the meeting were Gvero for the VRS, a colonel of the ABiH, and Brigadier Hayes of UNPROFOR).

1197 D2750 (UNPROFOR report, 20 April 1993), p. 1.

1198 D2750 (UNPROFOR report, 20 April 1993), p. 2.

1199 D2750 (UNPROFOR report, 20 April 1993), p. 2.

371. On 24 April 1993, the Accused, Krajišnik, Mladić, Okun, Owen and others met in Belgrade to continue negotiations, in particular with respect to the proposed Vance-Owen Plan's map of BiH.[1200] The Accused was unhappy with the Vance-Owen Plan, particularly with the maps, and suggested that the Bosnian Serbs trade some land in BiH for land in Croatia, which Owen rejected.[1201]

372. On 2 May 1993, in Athens, the Accused signed the Vance-Owen Plan for the Bosnian Serbs but it was subject to ratification by the Bosnian Serb Assembly.[1202] However, the Bosnian Serb Assembly rejected the plan.[1203] During this period there was never a complete cessation of hostilities and the armed conflict continued despite the peace efforts.[1204]

373. On 6 May 1993, the Security Council passed Resolution 824 which established the safe areas of Sarajevo, Tuzla, Žepa, Goražde, and Bihać.[1205] The resolution declared that these safe areas should be free from armed attack or any other hostile acts by all parties.[1206] In addition, the resolution provided for an immediate cease-fire and the withdrawal of all Bosnian Serb military or paramilitary units from the areas.[1207] Further, it declared that all parties should respect the rights of

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1200 Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4273–4276; P792 (Ninth notebook of Herbert Okun's ICFY diary), e-court p. 46.

1201 Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4274–4276; P792 (Ninth notebook of Herbert Okun's ICFY diary), e-court p. 47. According to Milovanović, on 26 April 1993, the Accused called a referendum to reject the Vance-Owen Plan which was, in their view, to "cantonise" BiH. The referendum was endorsed by the VRS. D2149 (Aide mémoire of Manojlo Milovanović), p. 22.

1202 Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4117, 4150, 4235, 4344; P792 (Ninth notebook of Herbert Okun's ICFY diary), e-court p. 74–77.

1203 Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4117, 4150, 4235–4236, 4344–4345; P2284 (UNSG report entitled "The Fall of Srebrenica", 15 November 1999), para. 67; P820 (Witness statement of David Harland dated 4 September 2009), para. 45. For discussion of the Vance-Owen Plan in the Bosnian Serb Assembly, *see generally* P1371 (Transcript of 30th session of RS Assembly, 5-6 May 1993); P1373 (Transcript of 31st session of RS Assembly, 9 May 1993); P1375 (Transcript of 32nd session of RS Assembly, 19-20 May 1993). *See also* the Bosnian Serb city council in Sarajevo rejecting the Vance-Owen Plan. P5038 (Conclusions of meeting of the City Council of Sarajevo, 9 May 1993), p. 2. On 11 May 1993, the SDS Main Board had also rejected the plan. P2538 (Patrick Treanor's research report entitled "Radovan Karadžić and the Serbian Leadership 1990-1995", 1 May 2009), para. 175. On 6 May 1993, at a joint meeting between the President (the Accused), President of the Assembly (Krajišnik), and Prime Minister (Lukić), and others, it was decided afterwards that a referendum would be held to vote on the plan. D3611 (Minutes of joint meeting of RS President, National Assembly President and RS Prime Minister, 6 May 1993).

1204 Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4150.

1205 P984 (UNSC Resolution 824, 6 May 1993) (declaring that "Sarajevo and other such threatened areas, in particular the towns of Tuzla, Žepa, Goražde, Bihać, as well as Srebrenica, and their surroundings should be treated as safe areas"); P2284 (UNSG report entitled "The Fall of Srebrenica", 15 November 1999), para. 67. *See also* P820 (Witness statement of David Harland dated 4 September 2009), para. 102; David Harland, T. 2058 (7 May 2010); P897 (UNPROFOR Weekly Situation Report (Sarajevo), 15 July 1995), p. 3.

1206 P984 (UNSC Resolution 824, 6 May 1993), p. 2.

1207 P984 (UNSC Resolution 824, 6 May 1993), p. 2.

UNPROFOR and international humanitarian agencies to free and unimpeded access and demanded full co-operation with UNPROFROR.[1208]

374. On 8 May 1993, the Bosnian Serbs and the Bosnian Muslims came to an agreement concerning the status of Žepa and Srebrenica; the Bosnian Serbs "reconfirmed" Security Council Resolution 824, and the Bosnian Muslims agreed to demilitarise the area.[1209] However, UNPROFOR reported that this agreement was not implemented by either party.[1210]

375. On 15 and 16 May 1993, a referendum held in the RS on whether to accept the Vance-Owen Plan resulted in a majority of votes against it.[1211]

376. On 4 June 1993, the Security Council passed Resolution 836 reaffirming the establishment of the safe areas and condemning military attacks.[1212] While commending the Bosnian Muslims and Bosnian Croats for signing the Vance-Owen Plan, it was gravely concerned that the Bosnian Serbs had not signed it.[1213] This resolution extended the mandate of UNPROFOR to include participating in the delivery of humanitarian aid.[1214] It authorised UNPROFOR to act in self-defence and take "necessary measures", including the use of force in response to bombardments or incursions into the safe areas and obstruction in and around those areas to the freedom of movement of UNPROFOR or humanitarian convoys.[1215] It also decided that national or regional organisations, under the authority of the Security Council and subject to close co-ordination with the Secretary General and UNPROFOR, may take all necessary measures, through the use of air power, in and around the safe areas, to support UNPROFOR in the performance of its mandate.[1216]

1208 P984 (UNSC Resolution 824, 6 May 1993), p. 2.

1209 P897 (UNPROFOR Weekly Situation Report (Sarajevo), 15 July 1995), p. 3; P2284 (UNSG report entitled "The Fall of Srebrenica", 15 November 1999), para. 65.

1210 P897 (UNPROFOR Weekly Situation Report (Sarajevo), 15 July 1995), p. 3.

1211 P2284 (UNSG report entitled "The Fall of Srebrenica", 15 November 1999), para. 70; D2149 (Aide mémoire of Manojlo Milovanović), p. 24; P2538 (Patrick Treanor's research report entitled "Radovan Karadžić and the Serbian Leadership 1990-1995", 1 May 2009), para. 176.

1212 P985 (UNSC Resolution 836, 4 June 1993); P2284 (UNSG report entitled "The Fall of Srebrenica", 15 November 1999), para. 78–79. *See also* P897 (UNPROFOR Weekly Situation Report (Sarajevo), 15 July 1995), p. 3; D3490 (UNPROFOR report, 15 January 1994), Yasushi Akashi, T. 37678–37679 (24 April 2013).

1213 P985 (UNSC Resolution 836, 4 June 1993).

1214 P985 (UNSC Resolution 836, 4 June 1993); D3490 (UNPROFOR report, 15 January 1994), p. 4.

1215 P985 (UNSC Resolution 836, 4 June 1993). *See also* David Harland, T. 2122–2123 (7 May 2010).

1216 P985 (UNSC Resolution 836, 4 June 1993). *See also* David Harland, T. 2122–2123 (7 May 2010), T. 2294 (11 May 2010).

b. Owen- Stoltenberg Plan

377. Following the failure of the Vance-Owen Plan, the ICFY continued working through September 1993, under the co-chairmanship of Owen for the EC and Thorvald Stoltenberg, who replaced Vance, for the UN. [1217]

378. A new round of talks was initiated by Owen and Stoltenberg.[1218] On 23 June 1993, the Co-Chairmen met with representatives from the parties.[1219] Nine "constitutional principles" were proposed by the close of this meeting.[1220] The Accused promised to do everything in his power to ensure the delivery of food, water, electricity, and gas to Sarajevo.[1221] As for the eastern enclaves, the Accused stated that the Bosnian Serbs were prepared to "desist from all attacks [...] provided that "the armed forces within them are disarmed".[1222] Another round of talks took place in Geneva on 27 July 1993, with representatives from all sides, including the Accused, Izetbegović, Tuđman, and Slobodan Milošević.[1223] On 30 July 1993, the parties agreed to the creation of three republics, representing the three constituencies in BiH, under a centralised and joint government authority.[1224] On the same day, a cessation of hostilities agreement was signed at the Sarajevo airport between Mladić and Delić.[1225]

379. The Bosnian Serbs agreed in principle to a proposal to open the Sarajevo airport by 4 August 1993.[1226] The Accused informed the Co-Chairmen that Mladić was prepared to withdraw the VRS and allow the UN to take control of the area.[1227] On 7 August 1993, the Accused wrote a

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1217 Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4295; P2538 (Patrick Treanor's research report entitled "Radovan Karadžić and the Serbian Leadership 1990-1995", 1 May 2009), para. 178.

1218 P2538 (Patrick Treanor's research report entitled "Radovan Karadžić and the Serbian Leadership 1990-1995", 1 May 2009), para. 178.

1219 P2538 (Patrick Treanor's research report entitled "Radovan Karadžić and the Serbian Leadership 1990-1995", 1 May 2009), para. 178.

1220 P2538 (Patrick Treanor's research report entitled "Radovan Karadžić and the Serbian Leadership 1990-1995", 1 May 2009), para. 178. These nine constitutional principles were very similar to those proposed under the Vance-Owen Plan. Some changes included: binding arbitration for disputes between the republics, the re-organisation of BiH along confederal lines (three internal republics: Serbian, Croatian, and Muslim) instead of ten provinces, and the fact that Sarajevo would be an UN-administered city. P2538 (Patrick Treanor's research report entitled "Radovan Karadžić and the Serbian Leadership 1990-1995", 1 May 2009), para. 178.

1221 D4782 (Letter from Radovan Karadžić to Lord Carrington and Stoltenberg, 25 July 1993), p. 1.

1222 D4782 (Letter from Radovan Karadžić to Lord Carrington and Stoltenberg, 25 July 1993), p. 1.

1223 D2149 (Aide mémoire of Manojlo Milovanović), p. 28; P2538 (Patrick Treanor's research report entitled "Radovan Karadžić and the Serbian Leadership 1990-1995", 1 May 2009), para. 180.

1224 P2538 (Patrick Treanor's research report entitled "Radovan Karadžić and the Serbian Leadership 1990-1995", 1 May 2009), para. 182

1225 P5040 (Military Agreement on Cessation of Hostilities in BiH, 31 July 1993); P2538 (Patrick Treanor's research report entitled "Radovan Karadžić and the Serbian Leadership 1990-1995", 1 May 2009), para. 182.

1226 P2538 (Patrick Treanor's research report entitled "Radovan Karadžić and the Serbian Leadership 1990-1995", 1 May 2009), para. 185.

1227 P2538 (Patrick Treanor's research report entitled "Radovan Karadžić and the Serbian Leadership 1990-1995", 1 May 2009), para. 188. The Accused, Mladić, and Krajišnik, among others, met with UNPROFOR in Pale on 5 August 1993 to discuss a number of proposals "designed to unblock the talks in Geneva". The Accused

letter to the Co-Chairmen stating that the Bosnian Serbs were prepared to hand over Mt. Bjelašnica and Mt. Igman to UNPROFOR.[1228] On 11 August 1993, the respective military commanders signed the Military Agreement for Peace in BiH.[1229] A few days later, the three parties met again and agreed to allow UNMOs to have freedom of movement throughout BiH and that the administration of Sarajevo, with the exclusion of Pale, would be organised by the UN.[1230] On 14 August 1993, a DMZ around Mt. Igman and the Sarajevo airport was established.[1231]

380. At the 34th Session of the Bosnian Serb Assembly, the Accused voiced his support for the constitutional arrangements proposed earlier in the negotiations, noting that they recognised the sovereignty of the RS within the BiH confederation.[1232] The plan was adopted by the Bosnian Serb Assembly with the constitutional agreement as a condition for peace.[1233]

381. The ICFY continued to work on other arrangements for peace.[1234] The parties agreed to a "Joint Declaration on Peace" which included a cessation of hostilities effective 18 September 1993 and proposed the resumption of talks on 21 September at the Sarajevo airport.[1235] On 20 September 1993, the ICFY met with the parties on a British Royal Navy aircraft carrier in the Adriatic Sea,

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presented proposals on the VRS withdrawal from Mt. Igman, the establishment of safe routes in and out of Sarajevo, and the restoration of utilities. He agreed to the establishment of a Joint Commission to ensure the restoration of utilities and infrastructure. P824 (UNPROFOR report re meeting with Radovan Karadžić, 5 August 1993); David Harland, T. 2031–2032 (6 May 2010).

1228 D4645 (Letter from Radovan Karadžić to Boutros Boutros Ghali, Bill Clinton, Lord Owen and Stoltenberg, 7 August 1993) (the letter was also addressed to Boutros Boutros Ghali and Bill Clinton). On 11 August 1993, Milovanović wrote a letter to UNPROFOR stating that the VRS would withdraw from Mt. Bjelašnica and Mt. Igman and allow UNPROFOR to take over their positions. D4786 (Letter from VRS Main Staff to UNPROFOR, 11 August 1993).

1229 P5041 (Military Agreement for Peace in BiH, 11 August 1993) (Mladić representing the Bosnian Serbs, Rasim Delić the Bosnian Muslims, and Milivoj Petkov the Bosnian Croats). *See also* P5051 (SRK forward of Military Peace Agreement for BiH, 12 August 1993) (wherein Galić orders all SRK units to pass on the Military Agreement for Peace in BiH to all subordinate units).

1230 P2538 (Patrick Treanor's research report entitled "Radovan Karadžić and the Serbian Leadership 1990-1995", 1 May 2009), para. 191.

1231 P2414 (Witness statement of KDZ182 dated 8 March 2011), p. 57 (under seal); KDZ182, T. 13160 (10 March 2011); D1135 (Map of Sarajevo marked by KDZ182); P2447 (Witness statement of KDZ182 dated 8 March 2011), p. 4; D2753 (UNPROFOR report, 14 August 1993); D2745 (Witness statement of Vere Hayes dated 14 January 2013), para. 39. *See also* D722 (UNPROFOR report re letter from Ambassador Sacirbey, 19 October 1994); Adjudicated Fact 2783. KDZ182 stated that neither party respected the DMZ and it was not actually demilitarised until the beginning of 1995. P2414 (Witness statement of KDZ182 dated 8 March 2011), p. 57 (under seal); Milenko Indić, T. 32461–32462, 32464–32465 (22 January 2013) (testifying that the Bjelašnica and Igman areas were never fully demilitarised).

1232 P1378 (Minutes of 34th Session of RS Assembly, 27-29 August, 9-11 September, 29 September to 1 October 1993); P1379 (Transcript of 34th Session of RS Assembly, 27-29 August, 9-11 September, 29 September to 1October 1993).

1233 P1378 (Minutes of 34th Session of RS Assembly, 27-29 August, 9-11 September, 29 September to 1 October 1993); P1379 (Transcript of 34th Session of RS Assembly, 27-29 August, 9-11 September, 29 September to 1 October 1993).

1234 Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4295; P820 (Witness statement of David Harland dated 4 September 2009), para. 56.

1235 D4648 (Memo from Stoltenberg to UN Secretary-General, 16 September 1993); D4649 (Memo from Thorvald Stoltenberg to the UN Secretary-General, 16 September 1993).

and the plan that emerged was referred to as the "Invincible Plan".[1236] The plan allocated 49% of the territory of BiH to the Bosnian Serbs, 33% to the Bosnian Muslims, and 17.5% to the Bosnian Croats.[1237] Sarajevo would remain undivided and administered by the UN for two years.[1238]

382. The Bosnian Muslims rejected the Owen-Stoltenberg Plan at the end of September 1993.[1239] UNPROFOR reported that the Bosnian Serbs had invested heavily in the Owen-Stoltenberg Plan and since its failure, had become "more politically frustrated and increasingly volatile".[1240]

383. At the 35th Session of the Bosnian Serb Assembly, the Accused proposed the adoption of a declaration on the continuation of the peace process, expressing his commitment to negotiations despite the Bosnian Muslims' rejection of the peace plan.[1241] However, the Accused stipulated that the RS was forced to withdraw all of its prior concessions.[1242]

384. On 18 November 1993, the ICFY issued a Joint Declaration on the provision of humanitarian relief in BiH signed by the Accused, Silajdžić, Boban, and Ogata in Geneva.[1243] The parties agreed to (i) ensure complete and secure freedom of movement for the personnel of the UN and humanitarian organisations; (ii) allow the UNHCR and ICRC to determine without any

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1236 P2284 (UNSG report entitled "The Fall of Srebrenica", 15 November 1999), para. 114. The name of the British naval ship was the HMS Invincible. Reynaud Theunens, T. 17056 (20 July 2011); Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4295; David Harland, T. 2065 (7 May 2010); P2538 (Patrick Treanor's research report entitled "Radovan Karadžić and the Serbian Leadership 1990-1995", 1 May 2009), para. 202.

1237 P2538 (Patrick Treanor's research report entitled "Radovan Karadžić and the Serbian Leadership 1990-1995", 1 May 2009), para. 202.

1238 P2538 (Patrick Treanor's research report entitled "Radovan Karadžić and the Serbian Leadership 1990-1995", 1 May 2009), para. 202.

1239 P820 (Witness statement of David Harland dated 4 September 2009), paras. 57–60; David Harland, T. 2146–2147 (10 May 2010). The Accused and Fikret Abdić signed a separate peace treaty on 22 October 1993 agreeing to, *inter alia*, the mutual recognition the RS and the "Autonomous Province of Western Bosnia" and freedom of movement. D4807 (Declaration of Radovan Karadžić and Fikret Abdić, 22 October 1993). Okun testified that the Accused was seeking to undermine the Bosnian government and exploit divisions within the Bosnian Muslims. Herbert Okun, T. 1608 (26 April 2010).

1240 P823 (UNPROFOR Weekly Political Assessment, 3 November 1993), p. 6.

1241 P1380 (Minutes of 35th Session of RS Assembly, 2 October 1993); P1381 (Transcript of 35th Session of RS Assembly, 2 October 1993).

1242 P1380 (Minutes of 35th Session of RS Assembly, 2 October 1993); P1381 (Transcript of 35th Session of RS Assembly, 2 October 1993). On 22 October 1993 in Belgrade, the Accused signed an agreement with Fikret Abdić mutually recognising the RS and the Autonomous Province of Western Bosnia. D3587 (Joint declaration of Radovan Karadžić and Fikret Abdić, 22 October 1993; Joint statement of Jadranko Prlić, Vladimir Lukić and Zlatko Jušić, 7 November 1993).

1243 P1462 (Joint declaration on humanitarian relief in BiH, 18 November 1993); Adrianus van Baal, T. 8412 (27 October 2010); P1484 (Ratko Mladić's notebook, 28 October 1993–15 January 1994), pp. 35–40; Tomasz Blaszczyk, T. 6073–6074 (20 August 2010). *See* P5252 (Report of SRK, 20 March 1994), p. 2.

conditionality or linkage the content of humanitarian assistance; and (iii) ensure that such assistance reached the civilian population and was not diverted to the military.[1244]

385. On 2 February 1994, Akashi met with the Accused in Belgrade to discuss the demilitarisation of Srebrenica, Žepa, and the opening of the Tuzla airport.[1245]

386. Following the shelling of the Markale market in Sarajevo on 5 February 1994, Owen and Stoltenberg met with the Accused in Pale and agreed upon the UN administration of Sarajevo.[1246] On 6 February 1994, Akashi, Rose, and others visited the Markale market in Sarajevo, one day after it was shelled.[1247] Following this visit, Akashi's group met first with Izetbegović and then with the Accused in an attempt to secure an immediate cease-fire in Sarajevo.[1248] The Bosnian Muslims stated they were willing to sign a cease-fire agreement on the condition that the Bosnian Serbs moved their artillery and heavy weapons out of the range of Sarajevo and place them under UNPROFOR control.[1249] The Bosnian Serbs would not accept the weapons withdrawal but would accept "on-site monitoring".[1250] A draft joint declaration was drawn up as a basis for further negotiations.[1251]

387. On 8 February 1994, Rose met with Milovanović at the Lukavica Barracks.[1252] Milovanović stated that he had been given full authority from the Accused and Mladić to agree to the principles for the cease-fire, withdrawal of heavy weapons, and demilitarisation of Sarajevo.[1253]

1244 P1462 (Joint declaration on humanitarian relief in BiH, 18 November 1993), pp. 1–2. *See also* Tomasz Blaszczyk, T. 6073–6074 (20 August 2010) (testifying that the third item of the joint declaration addressed concerns raised by Mladić at the negotiations in Geneva); P1484 (Ratko Mladić's notebook, 28 October 1993–15 January 1994), p. 37.

1245 D3492 (UNPROFOR report, 2 February 1994), p. 3.

1246 P2538 (Patrick Treanor's research report entitled "Radovan Karadžić and the Serbian Leadership 1990-1995", 1 May 2009), para. 209. According to Harland and UNPROFOR, the shelling of the Markale market in Sarajevo on 5 February 1994 and threat of NATO air strikes led to an overall stabilisation of the situation in Sarajevo and also led the Bosnian Serbs to make numerous concessions on both humanitarian and military issues. P820 (Witness statement of David Harland dated 4 September 2009), paras. 76, 79; P827 (UNPROFOR Weekly Political Assessment, 17 February 1994), pp. 2, 6. *See* Scheduled Incident G.8.

1247 D713 (UNPROFOR report re talks with Radovan Karadžić and Alija Izetbegović, 6 February 1994).

1248 D713 (UNPROFOR report re talks with Radovan Karadžić and Alija Izetbegović, 6 February 1994).

1249 D713 (UNPROFOR report re talks with Radovan Karadžić and Alija Izetbegović, 6 February 1994), p. 1.

1250 D713 (UNPROFOR report re talks with Radovan Karadžić and Alija Izetbegović, 6 February 1994), p. 1.

1251 D713 (UNPROFOR report re talks with Radovan Karadžić and Alija Izetbegović, 6 February 1994), pp. 1, 3–4. Rose met with ABiH representatives again on 8 February 1994. *See* para. 4187; D2772 (Redacted diary of KW570), pp. 3–4 (under seal).

1252 D830 (UNPROFOR report re cease fire negotiations in Sarajevo, 8 February 1994), p. 3; D2772 (Redacted diary of KW570), pp. 3–4 (under seal).

1253 D830 (UNPROFOR report re cease fire negotiations in Sarajevo, 8 February 1994), p. 3; D2772 (Redacted diary of KW570), pp. 3–4 (under seal).

An immediate cease-fire would be agreed upon the following day between the parties and a Joint Commission would be set up at the Sarajevo airport to work out the details of the agreement.[1254]

388. A cessation of hostilities agreement was arrived at on 9 February 1994, effective 12 p.m. on the following day.[1255] As part of the agreement, a TEZ in Sarajevo was established which consisted of a 20 kilometre radius from the centre of the city in which all weapons of a 12.7 mm calibre or higher were to be removed or turned over to UNPROFOR at a designated WCP.[1256] In addition, a Joint Commission was created under the chairmanship of the UNPROFOR Sector Sarajevo Commander in order to determine a timetable for the withdrawal of the heavy weapons.[1257] WCPs were also established.[1258] WCPs were locations where all the weapons systems for each party to the conflict were being held.[1259] In a subsequent agreement, the Accused and Akashi agreed upon the locations of the WCPs and that UNPROFOR would have unrestricted access throughout the TEZ.[1260]

1254 D830 (UNPROFOR report re cease fire negotiations in Sarajevo, 8 February 1994), p. 3. After this meeting with the Bosnian Serbs, Rose held a meeting with the Bosnian Muslims who agreed to the principles as laid out and agreed to by the Bosnian Serbs. D2770 (Witness statement of KW570 dated 21 November 2012), para. 13 (under seal); D2772 (Redacted diary of KW570), p. 4 (under seal).

1255 P820 (Witness statement of David Harland dated 4 September 2009), paras. 79–80; P826 (UNPROFOR Weekly Political Assessment, 9 February 1994), p. 4; P827 (UNPROFOR Weekly Political Assessment, 17 February 1994), p. 2; D715 (UNPROFOR report re situation in BiH, 15 February 1994), p. 2; Michael Rose, T. 7256, 7260 (5 October 2010); D2772 (Redacted diary of KW570), p. 4 (under seal); Adjudicated Fact 2784. For more detailed evidence related to the cease-fire agreement, *see* para. 3582.

1256 P1638 (Witness statement of Michael Rose dated 26 March 2009), paras. 44–45; Michael Rose, T. 7256, 7260 (5 October 2010); P2447 (Witness statement of KDZ182 dated 8 March 2011), p. 4; P820 (Witness statement of David Harland dated 4 September 2009), paras. 79–80; Michael Rose, T. 7260–7261 (5 October 2010); P1818 (Witness statement of Adrianus van Baal dated 26 October 2010), paras. 13–16 (stating that due to the winter weather conditions, it was impossible that all heavy weapons could physically be moved out and it was decided that the weaspons in the TEZ should be brought under the control of UNPROFOR); Adjudicated Facts 2784, 2785. A proposal dated 10 February 1994 from Dragomir Milošević to the VRS Main Staff suggests that in order to comply with the agreement, the SRK could "use a diversionary tactic to set aside equipment that is out of order and for which we [SRK] do not have sufficient quantities of ammunition". P1641 (SRK proposal re artillery, 10 February 1994). Rose testified that this proposal conformed to what UNPROFOR thought was happening on the ground. Michael Rose, T. 7262 (5 October 2010). Dragomir Milošević issued an order to the SRK to cease all fire at 12 p.m. on 10 February 1994 and to co-operate with UNPROFOR. P1642 (SRK Order, 10 February 1994).

1257 P820 (Witness statement of David Harland dated 4 September 2009), para. 79.

1258 P820 (Witness statement of David Harland dated 4 September 2009), para. 80. Harland stated that both parties to the conflict were disingenuous to an extent in complying with the agreements. P820 (Witness statement of David Harland dated 4 September 2009), para. 81. *See also* P847 (VRS Main Staff Order, 9 February 1994); P848 (Order of Drina Corps, 9 February 1994). There were nine WCPs in and around Sarajevo; two were in ABiH-controlled territory and seven were in SRK-held territory. Adjudicated Fact 2786. *See* para. 3582, fn. 11479.

1259 P1762 (Witness statement of David Fraser dated 17 October 2010), p. 20.

1260 P1654 (Agreement between Yasushi Akashi and Radovan Karadžić, 18 February 1994); KDZ450, T. 10558 (19 January 2011) (private session); P2118 (UNPROFOR report re weapon collection points in Sarajevo, 12 September 1994), p. 2; D717 (UNPROFOR report re weapons collection points in Sarajevo, 16 August 1994). *See also* Rupert Smith, T. 11365–11366 (8 February 2011); P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 49; D2800 (SRK Order, 18 February 1994); D2801 (SRK combat report, 19 February 1994); D2802 (SRK combat report, 20 February 1994); Stanislav Galić, T. 37957–37958 (8 May 2013); D717 (UNPROFOR report re weapons collection points in Sarajevo, 16 August 1994), pp. 4–5; P1820

389. On 24 February 1994, the creation of Blue Routes within Sarajevo to ensure freedom of movement and delivery of humanitarian aid was agreed to in principle.[1261] The routes included a Dobrinja-Butmir route for Bosnian Muslim civilians, a Lukavica-Ilidža route for Bosnian Serbs civilians, and a pedestrian crossing in downtown Sarajevo at the Bratstvo Jedinstrvo Bridge.[1262] However, on 27 February 1994, Milovanović stated in a meeting with Rose and Delić that the VRS would block UN convoys moving over Bosnian Serb territory regardless of the joint declaration signed on 18 November 1993, and would not allow the UN or anyone else to use the Bratstvo Jedinstvo Bridge.[1263]

390. UNPROFOR reported that the beginning of March 1994 was an encouraging time for Sarajevo and the cease-fire continued to hold.[1264] On 17 March 1994, the Agreement on Freedom of Movement in Sarajevo ("Blue Routes Agreement") was signed by Krajišnik and Hasan Muratović and as a result a number of Blue Routes were established for civilians and humanitarian aid.[1265] The Blue Routes were, specifically (i) Sarajevo-Vogošća-Zenica; (ii) Lukavica-Ilidža and Dobrinja-Butimir, through the Sarajevo airport ("Airport Routes"); and (iii) Bratstvo Jedinstvo

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(Agreement between Yasushi Akashi and Radovan Karadžić, 18 February 1994); P1818 (Witness statement of Adrianus van Baal dated 26 October 2010), para. 11; Milenko Inđić, T. 32658–32662 (24 January 2013). Yasushi Akashi, T. 37755–37756 (25 April 2013). Five sites were agreed upon during negotiations on 16 February 1994, these sites included Lukavica barracks, Morko, Blagovac, Blazuj, and Radava. P2120 (UNPROFOR report re meeting with Stanislav Galić, 16 February 1994). *See* para. 3582.

1261 P820 (Witness statement of David Harland dated 4 September 2009), para. 89; Michael Rose, T. 7258 (5 October 2010); P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 54; D2774 (Witness statement of Milenko Inđić dated 19 January 2013), para. 161. The concept of Blue Routes in Sarajevo was first proposed in January 1993, *see* para. 366. Harland testified that negotiations for the opening of Blue Routes went "nowhere" until the Bosnian Serbs felt an urgent need to forestall NATO air strikes through "bold and conciliatory gestures". P820 (Witness statement of David Harland dated 4 September 2009), para. 89; Michael Rose, T. 7258 (5 October 2010); D2774 (Witness statement of Milenko Inđić dated 19 January 2013), para. 161. Rose testified that the Blue Routes were designated as "being central to the re-supply of Sarajevo" and there was one such route that came down Mt. Igman. Michael Rose, T. 7258 (5 October 2010)

1262 P820 (Witness statement of David Harland dated 4 September 2009), para. 89. Milovanović stated that the Bosnian Serb forces would block UN convoys regardless of the agreement and would not allow the UN or anyone else to use the Bratstvo Jedinstrvo Bridge. P820 (Witness statement of David Harland dated 4 September 2009), paras. 92–93; P849 (UNPROFOR Weekly Political Assessment, 1 March 1994), p. 5.

1263 P820 (Witness statement of David Harland dated 4 September 2009), paras. 92–93; P849 (UNPROFOR Weekly Political Assessment, 1 March 1994), p. 5; P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 54

1264 P849 (UNPROFOR Weekly Political Assessment, 1 March 1994), p. 1; P820 (Witness statement of David Harland dated 4 September 2009), paras. 91, 95, 97.

1265 P820 (Witness statement of David Harland dated 4 September 2009), para. 97; P5422 (UNPROFOR report, 8 May 1994), para. 21; P5252 (Report of SRK, 20 March 1994), p. 2 (stating that the basis of the agreement was the desire to implement the 18 November 1993 joint declaration); D2774 (Witness statement of Milenko Inđić dated 19 January 2013), para. 161; P1638 (Witness statement of Michael Rose dated 26 March 2009), paras. 54, 56, 58; P1655 (UNPROFOR report re meeting with Radovan Karadžić and Alija Izetbegović, 7 March 1994), para. 3; Michael Rose, T. 7258 (5 October 2010).

Bridge.[1266] UNPROFOR and humanitarian organisations had unlimited freedom of movement along the Blue Routes.[1267] The Blue Routes were set to open on 23 March 1994.[1268]

391. At the end of March and into the beginning of April 1994, attacks were launched on the safe area of Goražde.[1269] On 9 April 1994, a cease-fire agreement was discussed.[1270] It proposed a complete cease-fire in BiH for 14 days and the Bosnian Serbs' withdrawal from Goražde.[1271] Mladić stated that he was "uninterested in signing anything other than a total agreement for the cessation of hostilities".[1272] The Bosnian Muslims stated that they would agree to a cessation of hostilities for a period of four months, on the condition that the Bosnian Serb withdraw from Goražde.[1273]

392. On 10 and 11 April 1994, the Bosnian Serbs shelled the town of Goražde.[1274] NATO responded with air strikes targeting a VRS artillery command post.[1275] In response, Bosnian Serbs

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1266 P5252 (Report of SRK, 20 March 1994), pp. 2–7; P820 (Witness statement of David Harland dated 4 September 2009), para. 97; D2774 (Witness statement of Milenko Indić dated 19 January 2013), para. 161.

1267 P5252 (Report of SRK, 20 March 1994), pp. 2–7.

1268 P5252 (Report of SRK, 20 March 1994), p. 2; P2470 (UNPROFOR report, 1 September 1994), p. 2.

1269 P2284 (UNSG report entitled "The Fall of Srebrenica", 15 November 1999), paras. 132–135; KW570, T. 32242–32246 (18 January 2013). *See also* P2451 (Witness statement of Anthony Banbury dated 19 May 2009), para. 13; Anthony Banbury, T. 13417–13418 (16 March 2011); D687 (UNPROFOR report re Goražde, 18 April 1994); D704 (UNPROFOR report re meeting with Radovan Karadžić, 19 August 1994); Yasushi Akashi, T. 37703–37706 (24 April 2013); P1818 (Witness statement of Adrianus van Baal dated 26 October 2010), para. 20. *See generally* P1638 (Witness statement of Michael Rose dated 26 March 2009), paras. 67–89.

1270 P851 (UNPROFOR report re meeting between Bosnian and Serb Army Commanders, 9 April 1994). Present at the meeting were Delić, Karavelić, Mladić, Gvero, Tolimir, Rose, Andreev, Charles Redman (US Special Envoy), and Victor Jackovich (US Ambassador to BiH). P851 (UNPROFOR report re meeting between Bosnian and Serb Army Commanders, 9 April 1994), p. 1. A few days earlier, on 4 April 1994, Rose met with the Accused and Milovanović in Pale to discuss the possibility of extending the scope of the cease-fire in Sarajevo to cover all of BiH. P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 66. Rose met again with the Bosnian Serbs and Bosnian Muslims, separately, on 7 and 8 April 1994 to try to come to a cease-fire agreement. P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 71.

1271 P851 (UNPROFOR report re meeting between Bosnian and Serb Army Commanders, 9 April 1994), pp. 1–2.

1272 P851 (UNPROFOR report re meeting between Bosnian and Serb Army Commanders, 9 April 1994), p. 2; P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 74.

1273 P851 (UNPROFOR report re meeting between Bosnian and Serb Army Commanders, 9 April 1994), p. 2; P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 74.

1274 P1638 (Witness statement of Michael Rose dated 26 March 2009), paras. 77–84; Michael Rose, T. 7272–7273 (5 October 2010); P1659 (UNPROFOR report re meeting with Radovan Karadžić, 10 April 1994); P852 (UNPROFOR Update on Goražde, 17 April 1994), p. 1; P820 (Witness statement of David Harland dated 4 September 2009), para. 104; P2284 (UNSG report entitled "The Fall of Srebrenica", 15 November 1999), para. 136. On 15 April 1994, Goražde was shelled again. D3496 (UNPROFOR report, 16 April 1994), p. 2. On 16 April 1994, UNPROFOR reported that the enclave of Goražde had collapsed. P829 (UNPROFOR Weekly Political Assessment, 16 April 1994), pp. 1–2; P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 93; P2284 (UNSG report entitled "The Fall of Srebrenica", 15 November 1999), para. 138.

1275 P1638 (Witness statement of Michael Rose dated 26 March 2009), paras. 81–83; P1660 (Order of Drina Corps, 10 April 1994); P829 (UNPROFOR Weekly Political Assessment, 16 April 1994), p. 2; P829 (UNPROFOR Weekly Political Assessment, 16 April 1994), p. 2; D2149 (Aide mémoire of Manojlo Milovanović), p. 43; KW570, T. 32254–32256 (18 January 2013).

detained UN personnel.[1276] In addition, the city of Sarajevo and the Tuzla airport were shelled.[1277] The Sarajevo airport remained closed.[1278]

393. On 17 April 1994, UNPROFOR representatives went to Pale to speak to the Accused, who declared that the "right bank of the Drina will be ours" and no agreement could be reached on a proposed three-kilometre TEZ around Goražde.[1279] The negotiations only yielded the release of a few of the UN personnel who had been detained by the Bosnian Serb forces.[1280] UNPROFOR representatives reported that "no agreement was reached on the boundaries of the safe areas, the deployment of UNPROFOR and UNMO troops, or anything at all specific. [Nor] is there reason to believe that even the promises made will be kept. In the words of Russian envoy [Vitaly] Churkin, 'I have heard more lies here in 24 hours than I've heard in my entire life'".[1281]

394. On 22 April 1994, the Security Council passed Resolution 913 condemning the Bosnian Serbs for the attacks on Goražde.[1282] The following day, an agreement was reached between Akashi and the Bosnian Serbs for an immediate and total cease-fire around Goražde starting at 12 p.m.[1283] It established that UNPROFOR would monitor the three kilometre radius from the centre of Goražde and heavy weapons would be withdrawn from a 20 kilometre radius.[1284]

395. On 21 May 1994, an agreement between the parties to demilitarise the Goražde TEZ was concluded.[1285] It included a cessation of all hostilities in and around Goražde effective

1276 P829 (UNPROFOR Weekly Political Assessment, 16 April 1994), pp. 1, 3; KW570, T. 32248–32250 (18 January 2013); P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 90.

1277 P829 (UNPROFOR Weekly Political Assessment, 16 April 1994), p. 3; P882 (UNPROFOR Weekly Situation Report (Sarajevo), 14 April 1995).

1278 P882 (UNPROFOR Weekly Situation Report (Sarajevo), 14 April 1995), p. 2.

1279 P852 (UNPROFOR Update on Goražde, 17 April 1994), p. 2.

1280 P852 (UNPROFOR Update on Goražde, 17 April 1994), p. 2. Only 14 Canadians and three UNMOs were released while 130 UN personnel remained in detention. P852 (UNPROFOR Update on Goražde, 17 April 1994), p. 2.

1281 P852 (UNPROFOR Update on Goražde, 17 April 1994), p. 2; P820 (Witness statement of David Harland dated 4 September 2009), para. 112. On 23 April 1994, Akashi met with the Accused, Mladić, Gvero, Koljević, Krajišnik, and Buha in Belgrade at a meeting chaired by Slobodan Milošević. Topics discussed included the situation in Goražde, normalising relations between UNPROFOR and the Bosnian Serbs, and an agreement for an overall cessation of hostilities. D3498 (UNPROFOR report, 23 April 1994); Yasushi Akashi, T. 37709–37713 (24 April 2013).

1282 P2284 (UNSG report entitled "The Fall of Srebrenica", 15 November 1999), para. 142.

1283 D3498 (UNPROFOR report, 23 April 1994), p. 7; P2284 (UNSG report entitled "The Fall of Srebrenica", 15 November 1999), para. 143.

1284 D3498 (UNPROFOR report, 23 April 1994), p. 7.

1285 P1664 (UNPROFOR report re meeting on Goražde, 21 May 1994); P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 105.

22 May 1994.[1286] UNPROFOR would monitor and maintain the security of the TEZ to ensure compliance by the parties.[1287]

6. Contact Group

396. The Contact Group was comprised of representatives from France, Germany, the UK, the Russian Federation, and the USA.[1288] Talks were held in Geneva between 1 to 8 June 1994 in order to come to a political settlement of the conflict, the main issue being the concept of a unified state.[1289] The situation in Goražde remained a problem as the Bosnian Muslims stipulated that the presence of armed VRS soldiers inside the Goražde TEZ violated one of their preconditions for the resumption of the cessation of hostilities talks.[1290] UNPROFOR dispatched additional soldiers to Goražde to patrol the TEZ.[1291] According to UNPROFOR, the Accused made a commitment to Akashi that all armed VRS soldiers would leave the TEZ in Goražde by 6 p.m. on 2 June 1994.[1292] However, UNPROFOR observed that VRS soldiers in the TEZ simply changed their uniforms into civilian attire and kept their weapons with them.[1293]

397. On 8 June 1994, the parties signed an Agreement on the Cessation of Offensive Actions which would last for one month.[1294] They further agreed to release all prisoners of war and detainees and exchange information on missing persons.[1295] The ABiH launched an offensive in

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1286 P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 105; P1664 (UNPROFOR report re meeting on Goražde, 21 May 1994), e-court p. 2; P2520 (UNPROFOR Weekly Political Assessment, 28 May 1994), p. 3. *See also* D4822 (Radovan Karadžić's Order to VRS Main Staff, 26 April 1994) (wherein the Accused ordered the VRS Main Staff to allow an UkrBat convoy into Goražde and to withdraw all heavy weapons from a 20 kilometre radius from the centre of Goražde). Rose stated that a discussion for an agreement was brokered on 23 April 1994 in Belgrade between Akashi, the Accused, and Mladić, among others. The agreement included, *inter alia*, a cease-fire in and around Goražde and the creation of a three kilometre exclusion zone around Goražde. P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 99; Michael Rose, T. 7283 (5 October 2010).

1287 P1664 (UNPROFOR report re meeting on Goražde, 21 May 1994), e-court p. 2.

1288 P820 (Witness statement of David Harland dated 4 September 2009), para. 121,

1289 P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 108; P1666 (UNPROFOR report re meetings with Radovan Karadžić, 4 June 1994); P2462 (UNPROFOR Weekly BiH Political Assessment, 3 June 1994), p. 2.

1290 P2462 (UNPROFOR Weekly BiH Political Assessment, 3 June 1994), pp. 1–2; P2462 (UNPROFOR Weekly BiH Political Assessment, 3 June 1994), pp. 1–2.

1291 P2462 (UNPROFOR Weekly BiH Political Assessment, 3 June 1994), p. 2.

1292 P2462 (UNPROFOR Weekly BiH Political Assessment, 3 June 1994), pp. 1–2.

1293 P2462 (UNPROFOR Weekly BiH Political Assessment, 3 June 1994), p. 2. *See, e.g.*, P2463 (Letter from Višegrad Tactical Group to Drina Tactical Group, 10 May 1994) (an order from the VRS Main Staff to the Drina Corps Tactical Group that soldiers within the three kilometre TEZ are to be dressed civilian clothing). *See also* P2451 (Witness statement of Anthony Banbury dated 19 May 2009), para. 24.

1294 P2470 (UNPROFOR report, 1 September 1994), p. 3; D1147 (UNPROFOR report, 21 June 1994); P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 113; P1665 (Agreement on Cessation of Hostilities in BiH, June 1994); D2149 (Aide mémoire of Manojlo Milovanović), p. 44.

1295 P2470 (UNPROFOR report, 1 September 1994), p. 3.

the Ozren mountain range in mid-June.[1296] However, by the end of June, the parties agreed to extend the 8 June agreement by one month.[1297]

398. The Contact Group unveiled a revised peace plan on 7 July 1994 which contained a new set of territorial arrangements.[1298] The Contact Group plan proposed that 51% of BiH would be administered by a newly formed Bosnian-Croat Federation and that 49% be administered by the Bosnian Serbs.[1299] On 18 July 1994, the Bosnian Muslims accepted the plan.[1300]

399. On 19 July 1994, at the Bosnian Serb Assembly, the Accused spoke about the Contact Group's proposed plan stating that the acceptance of the plan would not be a guarantee for peace.[1301] On 21 July 1994, the Bosnian Serbs officially rejected the plan stating that the plan was unfair and their demands were not met.[1302] The Contact Group met again in Geneva on 30 July 1994 to negotiate a new plan.[1303] A few days earlier, the Bosnian Serbs effectively closed access to the Sarajevo airport and the tunnel under it through Mt. Igman, which had been used for humanitarian aid.[1304] The Accused claimed this was done because of the smuggling of weapons into the city.[1305] Rose, due to security reasons, closed the Sarajevo airport to civilian traffic and the UN reported that without the airport, the situation in Sarajevo would be dire.[1306] Rose reported: "[F]or the first time in many months, we are moving backwards".[1307]

400. An anti-sniping agreement for Sarajevo was signed by the parties on 14 August 1994.[1308] It stipulated that each side would issue orders explicitly forbidding sniping activities against military,

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1296 P2470 (UNPROFOR report, 1 September 1994), p. 3.

1297 P2470 (UNPROFOR report, 1 September 1994), p. 3.

1298 P820 (Witness statement of David Harland dated 4 September 2009), para. 121; Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4295; P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 121; P2470 (UNPROFOR report, 1 September 1994), p. 5; P6160 (Exerpt from transcript of interview with Momir Bulatović, 7 October 1994), e-court p. 6.

1299 P820 (Witness statement of David Harland dated 4 September 2009), para. 121.

1300 P2470 (UNPROFOR report, 1 September 1994), p. 5.

1301 P1394 (Transcript of 42nd Session of RS Assembly, 18-19 July 1994), pp. 15–18. *See also* D2149 (Aide mémoire of Manojlo Milovanović), p. 45–46.

1302 P2470 (UNPROFOR report, 1 September 1994), p. 5.

1303 P2470 (UNPROFOR report, 1 September 1994), p. 5.

1304 P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 127; P1668 (UNPROFOR report re negotiations in BiH, 2 August 1994), p. 1; P2124 (UNPROFOR report re negotiations with parties in BiH, 2 August 1994); P2470 (UNPROFOR report, 1 September 1994), p. 6. *See also* para. 3593.

1305 P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 128; P1668 (UNPROFOR report re negotiations in BiH, 2 August 1994), p. 1. *See also* para. 3593.

1306 P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 128. *See also* para. 3593.

1307 P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 128.

1308 P820 (Witness statement of David Harland dated 4 September 2009), paras. 64, 128–129; P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 139; P861 (UNPROFOR report re agreement on elimination of sniping in Sarajevo, 14 August 1994); P863 (Excerpt from SRK Order, 18 August 1994); Dragomir Milošević, T. 32839–32842 (29 January 2013); P2470 (UNPROFOR report, 1 September 1994), p. 9;

civilian, and UN personnel in Sarajevo.[1309] They also agreed that UNPROFOR would take measures to identify and prevent sniping with both parties.[1310] UNPROFOR reported that following this agreement, sniping activities ceased almost entirely for a six-week period.[1311]

401. On 27 August 1994, in a referendum held in Bosnian Serb-held territory, 96% of the voters rejected the Contact Group plan.[1312] Despite this, the Contact Group continued its work throughout the remainder of year and into the following year.[1313]

402. On 20 September 1994, Rose, Andreev, and Harland met with the Accused, Koljević, Krajišnik, and Milovanović in Pale.[1314] The Accused was angry about a Bosnian Muslim attack in Sarajevo a few days prior and stated there could be no talks on demilitarisation after such an attack.[1315] In reference to the possibility that the Security Council would tighten sanctions on Pale, the Accused responded, "if the international community treats us like a beast, then we will behave like a beast".[1316] Krajišnik demanded, *inter alia*, that UNPROFOR formally recognise the Bosnian Serb ownership of the Sarajevo airport and that UNPROFOR pay rent for the use of the airport.[1317] Krajišnik stated that "it would be difficult to stop Serb soldiers from shooting at airplanes" if these

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D2782 (UNPROFOR Memo, 18 August 1994); Milenko Indić, T. 32460–32461 (22 January 2013); Adjudicated Fact 2789.

1309 P861 (UNPROFOR report re agreement on elimination of sniping in Sarajevo, 14 August 1994), p. 4. *See also* D2782 (UNPROFOR Memo, 18 August 1994).

1310 P861 (UNPROFOR report re agreement on elimination of sniping in Sarajevo, 14 August 1994), p. 4.

1311 P820 (Witness statement of David Harland dated 4 September 2009), para. 133; P864 (UNPROFOR report re violations of anti-sniping agreement, 12 September 1994); P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 141.

1312 P872 (UNPROFOR Weekly Situation Report, 10 December 1994), p. 4; P2471 (UNPROFOR Weekly BiH Political Assessment, 3 September 1994), pp. 2, 4; P2470 (UNPROFOR report, 1 September 1994), p. 7; P2457 (UNPROFOR Weekly BiH Political Assessment, 28 August 1994), p. 4; P820 (Witness statement of David Harland dated 4 September 2009), para. 121; Martin Bell, T. 9897 (15 December 2010). The Accused called the Contact Group plan a "devilish one". P2563 (Minutes of meeting between Milan Martić and Radovan Karadžić, 20 August 1994), p. 5. *See also* P2451 (Witness statement of Anthony Banbury dated 19 May 2009), para. 56. On 21 September 1994, the Contact Group presented a new proposal for a territorial settlement outlined in a map. The proposal was accepted by all the parties with the exception of the Bosnian Serbs. D1594 (Letter from UNSC to UNSG, 21 September 1994).

1313 Anthony Banbury, T. 13354–13355 (15 March 2011). On 9 September 1994, Sergio Vieira de Mello met with the Accused in Pale and informed the Accused that the Contact Group intended to "sustain its policy of heavy pressure on the Bosnian Serbs". D1136 (UNPROFOR report, 9 September 1994), p. 1. In May 1995, the Contact Group restated that its two main objectives were the continuation of the cessation of hostilities agreement of 31 December 1994 and mutual recognition of Serbia, Croatia, and BiH. D1151 (UNPROFOR Weekly Situation Report, 8 May 1995), pp. 2–3.

1314 P820 (Witness statement of David Harland dated 4 September 2009), paras. 134–138; P834 (UNPROFOR report re meetings with Bosnian Serb and Bosnian Muslim leadership, 20 September 1994); P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 150.

1315 P834 (UNPROFOR report re meetings with Bosnian Serb and Bosnian Muslim leadership, 20 September 1994), para. 1.

1316 P834 (UNPROFOR report re meetings with Bosnian Serb and Bosnian Muslim leadership, 20 September 1994), paras. 1–2; P820 (Witness statement of David Harland dated 4 September 2009), para. 135.

1317 P834 (UNPROFOR report re meetings with Bosnian Serb and Bosnian Muslim leadership, 20 September 1994), para. 4.

demands were not met.[1318] Milovanović agreed to move all of the heavy weapons out of the Sarajevo TEZ by midnight the following night.[1319]

403. On 23 September 1994, the Security Council passed Resolution 941 in which it noted that UNHCR and the ICRC had reported grave violations of international humanitarian law in Banja Luka, Bijeljina, and other areas of BiH under Bosnian Serb control which it described as ethnic cleansing.[1320] It condemned these practices and demanded that the Bosnian Serb authorities immediately cease their "campaign of ethnic cleansing" and give immediate access to the Special Representative of the Secretary General, UNPROFOR, UNHCR, and ICRC to Banja Luka, Bijleljina, and other areas.[1321] On 5 October 1994, Akashi and UNPROFOR met with the Accused and others in Pale to continue negotiations.[1322] Topics for discussion included, *inter alia*, the reopening of the Sarajevo airport, re-opening of land routes into Sarajevo, demilitarisation of Sarajevo, and freedom of movement for UNPROFOR, UNHCR, and civilizians.[1323]

404. On 10 October 1994, Rose, Gobilliard, and Harland met in Pale with Mladić and Tolimir to discuss a sniping incident on a tramway in Sarajevo and the freedom of movement of fuel convoys.[1324] On 19 October 1994, Rose reported to Akashi that Mladić was not allowing fuel convoys across Bosnian Serb-held territory until UNPROFOR guaranteed that ABiH forces were out of the DMZ around Mt. Igman or unless UNPROFOR hand over 50% of the convoys to the Bosnian Serbs.[1325] Accordingly, Rose recommended that a letter be written to the Accused informing him of this situation.[1326]

1318 P834 (UNPROFOR report re meetings with Bosnian Serb and Bosnian Muslim leadership, 20 September 1994), para. 4.

1319 P834 (UNPROFOR report re meetings with Bosnian Serb and Bosnian Muslim leadership, 20 September 1994), para. 5.

1320 P5424 (UNSC Resolution 941, 23 September 1994), p. 1. Rose testified that the cessation of hostilities agreed upon in February 1994 came to an end in September 1994 when the ABiH launched an attack against the VRS. Michael Rose, T. 7256 (5 October 2010).

1321 P5424 (UNSC Resolution 941, 23 September 1994), p. 2.

1322 D3500 (UNPROFOR report, 7 October 1994); Yasushi Akashi, T. 37717–37718 (24 April 2013); P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 154. Others present at the meeting included UNPROFOR Force Commander General de Lapresle, Viera de Mello (Head of Civil Affairs), Rose, Andreev, Koljević, Krajišnik, Buha, Mladić and Gvero. D3500 (UNPROFOR report, 7 October 1994), para. 1.

1323 D3500 (UNPROFOR report, 7 October 1994), p. 3.

1324 P867 (UNPROFOR report on meeting with Ratko Mladić, 10 October 1994); P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 156. *See* para. 3601.

1325 P868 (UNPROFOR report on Serb fuel blockade, 19 October 1994), p. 1; P820 (Witness statement of David Harland dated 4 September 2009), para. 144.

1326 P868 (UNPROFOR report on Serb fuel blockade, 19 October 1994).

405. On 22 October 1994, Akashi and Rose met with the Accused, Koljević, Buha, Zametica, and Tolimir in Pale.[1327] The Bosnian Serbs stated that they had opened the Sarajevo airport and restored utilities to the city.[1328] Rose reported that this was untrue.[1329]

406. On 19 November 1994, Gobilliard and Andreev met with the Accused and Tolimir in Pale to discuss the deteriorating situation in BiH, including the attacks around Sarajevo and Bihać in violation of Security Council Resolution 836.[1330] According to UNPROFOR, the Accused made it clear that the Bosnian Serbs would not respect any agreements until the Bosnian Muslims completely withdrew from the DMZ.[1331] Akashi reported that he spoke to the Accused and urged him to accept the Contact Group plan but "to no avail".[1332]

407. On 1 December 1994, Rose went to Pale to speak to the Accused about the deteriorating relationship between the Bosnian Serbs and UNPROFOR.[1333] The Accused was upset about NATO activity and Rose explained to him that NATO air support could be used (i) in support of UNPROFOR troops who are in danger, (ii) in support of the TEZ, and (iii) to deter attacks on the safe areas.[1334] Rose also told the Accused that approximately 500 UNPROFOR personnel were being detained in eastern BiH and the Accused promised that he would look into it but assured him that the detainees were being treated well.[1335] Rose told the Accused that unless minimum conditions were met, UNPROFOR would begin withdrawing from BiH as its mission had become almost impossible.[1336] Gvero told Rose that the Sarajevo airport could not be re-opened until the Bosnian Serbs received written guarantees from the UN that NATO would not attack Bosnian Serb targets and that the safe areas would be respected when they were demilitarised.[1337] However, within a few days, Koljević made assurances that UNPROFOR personnel would be released and by

1327 P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 159.

1328 P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 159.

1329 P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 159.

1330 P1776 (UNPROFOR report re meeting with Radovan Karadžić and General Tolimir, 20 November 1994).

1331 P1776 (UNPROFOR report re meeting with Radovan Karadžić and General Tolimir, 20 November 1994).

1332 P3864 (UNPROFOR report, 24 November 1994), p. 1.

1333 P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 177; P869 (UNPROFOR report on meeting with Radovan Karadžić, 1 December 1994); P820 (Witness statement of David Harland dated 4 September 2009), para. 148.

1334 P869 (UNPROFOR report on meeting with Radovan Karadžić, 1 December 1994), p. 2. With respect to Bihać, Rose explained that NATO air support would only be used if the Bosnian Serbs "bombarded the civilian centre of town". P869 (UNPROFOR report on meeting with Radovan Karadžić, 1 December 1994), p. 2.

1335 P869 (UNPROFOR report on meeting with Radovan Karadžić, 1 December 1994), p. 2.

1336 P872 (UNPROFOR Weekly Situation Report, 10 December 1994), p. 2. The minimum conditions included (i) re-opening of the Sarajevo airport which had been closed since 23 November 1994; (ii) free movement of UN convoys to eastern Bosnia "to a point where UNPROFOR has at least seven days of stocks" in Srebrenica, Žepa, and Goražde; (iii) access to Bihać for UNPROFOR and UNHRC; (iv) passage of UN vehicles through Bosnian Serb checkpoints in Sarajevo, which had been blocked for weeks; and (v) release of UNPROFOR hostages. P872 (UNPROFOR Weekly Situation Report, 10 December 1994), p. 2.

1337 P872 (UNPROFOR Weekly Situation Report, 10 December 1994), p. 2.

week's end, all UNPROFOR detainees were released and some convoys were moving through BiH again.[1338] Buha issued a public statement that the Bosnian Serb Assembly should accept the Contact Group plan on the understanding that the acceptance of the plan would be immediately followed by "talks on territorial swaps".[1339]

408. On 7 December 1994, the Accused made public statements on Serb television that he was willing to negotiate on the basis of the Contact Group plan but that the map was still unacceptable.[1340] Subsequent meetings took place in Pale over the issue of the restrictions on UNPROFOR's freedom of movement, the demilitarisation of Bihać, and the Mt. Igman DMZ.[1341]

409. On 14 December 1994, Akashi and Rose met with the Accused and others in Pale.[1342] Akashi proposed a plan to implement further negotiations on the basis of the Contact Group plan and suggested, *inter alia*, a cease-fire and demilitarised zone for Bihać, a cease-fire for all of BiH, and a cessation of hostilities.[1343] The Accused expressed his opinion that the Bosnian Serbs had been treated unequally and that there would be no cease-fire until an actual peace plan to end the conflict was proposed and that he would only consider the Bihać proposal once agreements on Srebrenica, Žepa, Goražde, and the Mt. Igman DMZ were fulfilled.[1344]

410. On 31 December 1994, the parties signed an Agreement on Complete Cessation of Hostilities ("COHA") following the cease-fire agreement signed on 23 December 1994.[1345] The complete cessation of hostilities was to go into effect from 12 p.m. on 1 January 1995 along all the confrontation lines.[1346] The COHA was signed by the Accused, Izetbegović, Rasim Delić, Mladić,

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1338 P872 (UNPROFOR Weekly Situation Report, 10 December 1994), p. 3.

1339 P872 (UNPROFOR Weekly Situation Report, 10 December 1994), p. 4.

1340 P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 181; P872 (UNPROFOR Weekly Situation Report, 10 December 1994), p. 4.

1341 Present at the meeting were Rose, Andreev, Koljević, Krajišnik, Gvero, and Tolimir. P1640 (UNPROFOR report, 12 December 1994); P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 182; Michael Rose, T. 7253–7256 (5 October 2010).

1342 Others present at the meeting were Andreev, General de Lapresle, Koljević, Krajišnik, Buha, and Tolimir. P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 184.

1343 P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 184.

1344 P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 185.

1345 P1648 (Agreement on Cessation of Hostilities, 31 December 1994), p. 1; P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 190; Yasushi Akashi, T. 37725–37726 (24 April 2013); D4835 (Fax from UNPROFOR re Draft Agreement on Complete Cessation of Hostilities, 25 December 1994); P820 (Witness statement of David Harland dated 4 September 2009), para. 158; D3505 (Letter from Yasushi Akashi to Radovan Karadžić, 24 December 1994); D2786 (VRS Main Staff Order, 1 January 1995), p. 1; Milenko Inđić, T. 32469 (22 January 2013); Rupert Smith, T. 11298–11299 (8 February 2011); Adjudicated Fact 2790. A draft of the cease-fire agreement was agreed up on 19 December 1994. D3503 (UNPROFOR fax, 19 December 1994); Yasushi Akashi, T. 37721–37723 (24 April 2013); D3504 (UNPROFOR fax, 20 December 1994); P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 187.

1346 P1648 (Agreement on Cessation of Hostilities, 31 December 1994), p. 1.

Krešimir Zubak, Vladimir Soljić, and witnessed by Akashi and Rose.[1347] The COHA stipulated that the agreement would be in effect for an initial period of four months, subject to renewal by agreement of the parties.[1348] The COHA would be monitored by UNPROFOR through the establishment of a Central Joint Commission ("CJC"), which would have an initial meeting at the Sarajevo airport and a Regional Joint Commission would also be established in permanent session, "as needed and as determined" by the CJC.[1349] The COHA provided for (i) the separation of forces to mutually agreed upon positions and the positioning of UNPROFOR forces for observation and monitoring; (ii) the parties refraining from use of all explosive munitions, and (iii) the organisation of talks for the withdrawal of heavy weapons of calibre 12.7 mm and above and their monitoring by UNPROFOR.[1350] The parties agreed to full freedom of movement for UNPROFOR and other international agencies, in particular UNHCR, and to monitor human rights and the delivery of humanitarian aid.[1351]

411. On 1 January 1995, the first meeting of CJC was convened at the Sarajevo airport.[1352] Points of discussion included (i) the exchange of liaison officers; (ii) the implementation of the 5 June 1992 Sarajevo airport agreement; (iii) the 8 May 1993 Srebrenica and Žepa agreements; (iv) the 14 August 1994 anti-sniping agreement; (v) the 14 August 1993 Mt. Igman DMZ agreement; (vi) the confrontation lines and WCPs; (vii) the Blue Routes; and (viii) the withdrawal of foreign troops.[1353] Despite holding one or two additional meetings, the CJC did not function in an effective way.[1354]

412. On 11 January 1995, an agreement on the military implementation of the COHA was signed by Mladić, Delić, and Blaškić, and witnessed by Rose.[1355]

413. On 31 January 1995, an agreement for the reopening of the Airport Routes for official international humanitarian organisations within the protocol of the COHA was signed by Krajišnik,

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1347 P1648 (Agreement on Cessation of Hostilities, 31 December 1994), p. 3.

1348 P1648 (Agreement on Cessation of Hostilities, 31 December 1994), p. 1.

1349 P1648 (Agreement on Cessation of Hostilities, 31 December 1994), p. 1; P820 (Witness statement of David Harland dated 4 September 2009), para. 158.

1350 P1648 (Agreement on Cessation of Hostilities, 31 December 1994), p. 2.

1351 P1648 (Agreement on Cessation of Hostilities, 31 December 1994), p. 2.

1352 P820 (Witness statement of David Harland dated 4 September 2009), para. 158 (with Rose, Gobilliard, Tolimir, Indić, Hajrulahović, and Karavelić in attendance); P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 191.

1353 P820 (Witness statement of David Harland dated 4 September 2009), para. 158 (opining that the meeting did not achieve much).

1354 P820 (Witness statement of David Harland dated 4 September 2009), para. 159.

1355 P873 (Cease-fire Agreement, 11 January 1995); P820 (Witness statement of David Harland dated 4 September 2009), para. 160; P874 (UNPROFOR report re cease-fire agreement, 11 January 1995).

Hasan Muratović, UNPROFOR, and UNHCR.[1356] It went into effect at 1 p.m. on 1 February 1995.[1357]

414. Despite the COHA, by March 1995 UNPROFOR reported that the situation in Sarajevo had deteriorated.[1358] The situation in BiH, generally, saw an upsurge in military activity with the shelling of Tuzla and Goražde.[1359] In addition, Mladić told Smith in early March 1995 that he anticipated that the ABiH would attack the eastern enclaves in a "Tuzla to Srebrenica and Žepa and Tronovo to Goražde" axis and that in response the Bosnian Serbs would attack into the enclaves.[1360] Smith responded that such an action would be interpreted as an attack on the safe areas.[1361] UNPROFOR reported that the prospects for a political solution to the conflict remained "remote" as Slobodan Milošević rejected proposals by the Contact Group and the Bosnian Serbs were firmly maintaining their refusal to negotiate on the basis of the Contact Group plan.[1362] Further, both the Bosnian Serbs and the Bosnian Muslims complained about the other side's non-compliance with the COHA.[1363] On 31 March 1995, the Security Council extended UNPROFOR's mandate in BiH for an additional eight months, ending on 30 November 1995.[1364]

415. On 7 April 1995, UNPROFOR reported that the Bosnian Serbs refused to allow the UN passage through the Blue Routes around the Sarajevo airport and that the Bosnian Muslims had refused to attend the CJC.[1365] The following day, the Bosnian Serbs closed the Sarajevo airport, including for humanitarian relief, alleging that UNPROFOR was violating the 5 June 1992 Sarajevo airport agreement.[1366] On 20 April 1995, Akashi and Smith met with the Accused, Koljević, Krajišnik, and Gvero in Pale.[1367] The Accused stated that the COHA had been "breached

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1356 P875 (Agreement re opening of Sarajevo airport, 31 January 1995); P820 (Witness statement of David Harland dated 4 September 2009), para. 163.

1357 P875 (Agreement re opening of Sarajevo airport, 31 January 1995), p. 1; P820 (Witness statement of David Harland dated 4 September 2009), para. 163. On 4 February 1995, Rupert Smith wrote to Koljević to indicate UNPROFOR's intention to open the Airport Routes to civilian traffic on 6 February 1995. *See* D1018 (UNPROFOR letter to Nikola Koljević, 4 February 1995).

1358 P820 (Witness statement of David Harland dated 4 September 2009), para. 171; P878 (UNPROFOR report re cease-fire agreement, 29 March 1995). *See also* P2257 (UNPROFOR Weekly Situation Report, 18 March 1995); P2482 (UNPROFOR Weekly Situation Report (Sarajevo), 26 March 1995); Rupert Smith, T. 11341 (8 february 2011).

1359 P878 (UNPROFOR report re cease-fire agreement, 29 March 1995), p. 1.

1360 P820 (Witness statement of David Harland dated 4 September 2009), para. 168; P877 (UNPROFOR Memo re meeting with Ratko Mladić, 7 March 1995), p. 2.

1361 P877 (UNPROFOR Memo re meeting with Ratko Mladić, 7 March 1995), p. 2.

1362 P2478 (UNPROFOR Weekly Situation Report (Sarajevo), 4 March 1995), p. 2.

1363 P2478 (UNPROFOR Weekly Situation Report (Sarajevo), 4 March 1995), p. 3.

1364 P2483 (UNPROFOR Weekly Situation Report (Sarajevo), 1 April 1995), p. 2.

1365 D1124 (UNPROFOR report, 7 April 1995), para. 5.

1366 P820 (Witness statement of David Harland dated 4 September 2009), para. 173.

1367 P2261 (UNPROFOR report re meetings with Bosnian Serb and Bosnian Muslim leadership, 22 April 1995); D3511 (UNPROFOR report, 22 April 1995); Yasushi Akashi, T. 37733 (24 April 2013).

so massively by the Muslims that it does not exist".[1368] He also stated that the Bosnian Serbs would not accept any form of a cease-fire but only accept a complete cessation of hostilities.[1369] A visit of the Contact Group's representatives from the USA and Germany to Sarajevo on 21 April 1995 was blocked by the Bosnian Serbs.[1370] On 22 April 1995, the Accused held a press conference and stated that if peace was not possible through political means, the Bosnian Serbs would put an end to the war by military means.[1371]

416. The situation in Sarajevo and BiH deteriorated further in May 1995.[1372] On 1 May 1995, the parties were unable to agree to a renewal of the COHA, thus resulting in its expiration.[1373] The Security Council expressed its deep concern about the failure of the parties to extend the COHA.[1374] The Contact Group restated its two main objectives, namely the extension of the COHA and the mutual recognition of Serbia, Croatia, and BiH.[1375] UNPROFOR reported that "unless the Contact Group somehow finds a way to initiate a viable negotiation process the parties will continue on a path of mutual destruction".[1376] UNPROFOR also reported that on 7 May 1995, the VRS had shelled Butmir and the Igman road.[1377] The Sarajevo airport had remained closed to humanitarian flights since 8 April 1995.[1378]

417. On 21 May 1995, Smith and the Accused met in Pale to discuss the future mandate of UNPROFOR, the eastern enclaves, Sarajevo, and the Contact Group peace process.[1379] The Accused complained to Smith about the "partial nature of UN Mandates" with respect to UNPROFOR but that the Bosnian Serbs wished for a negotiated settlement and that the UN should remain in BiH for a future political settlement.[1380] With respect to the eastern enclaves, the Accused stated that he could not respect the safe areas mandates because in his opinion, the safe

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1368 P2261 (UNPROFOR report re meetings with Bosnian Serb and Bosnian Muslim leadership, 22 April 1995), p. 2.

1369 P2261 (UNPROFOR report re meetings with Bosnian Serb and Bosnian Muslim leadership, 22 April 1995), p. 2.

1370 P2488 (UNPROFOR report, 22 April 1995).

1371 P883 (UNPROFOR report re Radovan Karadžić's press conference, 22 April 1995), p. 4; P820 (Witness statement of David Harland dated 4 September 2009), para. 174.

1372 P886 (UNPROFOR Weekly Situation Report (Sarajevo), 13 May 1995); P820 (Witness statement of David Harland dated 4 September 2009), para. 183. *See* paras. 3608–3609.

1373 D1151 (UNPROFOR Weekly Situation Report, 8 May 1995), p. 2.

1374 D1151 (UNPROFOR Weekly Situation Report, 8 May 1995), p. 3.

1375 D1151 (UNPROFOR Weekly Situation Report, 8 May 1995), p. 3.

1376 D1151 (UNPROFOR Weekly Situation Report, 8 May 1995), p. 3.

1377 P886 (UNPROFOR Weekly Situation Report (Sarajevo), 13 May 1995), p. 2; D1151 (UNPROFOR Weekly Situation Report, 8 May 1995), p. 8.

1378 P886 (UNPROFOR Weekly Situation Report (Sarajevo), 13 May 1995), p. 2.

1379 P2266 (UNPROFOR report re meeting with Radovan Karadžić, 21 May 1995).

1380 P2266 (UNPROFOR report re meeting with Radovan Karadžić, 21 May 1995), pp. 1–2.

areas were safe havens for the ABiH.[1381] The Accused maintained his position that he would not accept the Contact Group plan but he would accept negotiations on the basis of the Contact Group plan.[1382]

418. On 22 May 1995, the VRS removed two heavy weapons from the WCPs near Sarajevo.[1383] The ABiH removed their heavy weapons and the fighting escalated.[1384] The VRS removed more heavy weapons in response.[1385] On 24 May 1995, Smith issued an ultimatum to both parties that NATO air strikes would be called in unless all heavy weapons ceased firing by 12 p.m. the following day.[1386] A second deadline, 24 hours later, was established for the parties to either remove their heavy weapons from the exclusion zone or to place them in the collection points.[1387] The Bosnian Serbs failed to comply with the deadlines and Akashi authorised NATO to conduct air strikes.[1388]

419. Following NATO air strikes on Bosnian Serb military targets on 25 and 26 May 1995, the Bosnian Serb forces detained UN personnel in BiH.[1389] The VRS shelled Sarajevo and the safe areas, including Tuzla.[1390] On 27 May 1995, in an order to all SRK units, Dragomir Milošević stated that the Bosnian Serbs would have full control of Sarajevo airport and "stand ready to take it over with complete UNPROFOR combat equipment".[1391] The Accused declared that all Security Council resolutions and NATO ultimatums were null and void.[1392] The UN also reported that the

1381 P2266 (UNPROFOR report re meeting with Radovan Karadžić, 21 May 1995), p. 2.

1382 P2266 (UNPROFOR report re meeting with Radovan Karadžić, 21 May 1995), p. 3.

1383 P2284 (UNSG report entitled "The Fall of Srebrenica", 15 November 1999), para. 188; P820 (Witness statement of David Harland dated 4 September 2009), para. 183.

1384 P2284 (UNSG report entitled "The Fall of Srebrenica", 15 November 1999), para. 188; P820 (Witness statement of David Harland dated 4 September 2009), para. 183.

1385 P2284 (UNSG report entitled "The Fall of Srebrenica", 15 November 1999), para. 188; P820 (Witness statement of David Harland dated 4 September 2009), para. 183; P5012 (UNPROFOR report re Sarajevo heavy weapon exclusion zone, 25 May 1995). *See also* D987 (Intercept of conversation between Radovan Karadžić and General Milovanović, 25 May 1995); Dragomir Milošević, T. 33225–33226 (5 February 2013).

1386 P2284 (UNSG report entitled "The Fall of Srebrenica", 15 November 1999), para. 188; P820 (Witness statement of David Harland dated 4 September 2009), para. 183; P5012 (UNPROFOR report re Sarajevo heavy weapon exclusion zone, 25 May 1995). *See* para. 5855.

1387 P2284 (UNSG report entitled "The Fall of Srebrenica", 15 November 1999), para. 188; P820 (Witness statement of David Harland dated 4 September 2009), para. 183.

1388 P2284 (UNSG report entitled "The Fall of Srebrenica", 15 November 1999), paras. 188–189; P820 (Witness statement of David Harland dated 4 September 2009), para. 183; P5012 (UNPROFOR report re Sarajevo heavy weapon exclusion zone, 25 May 1995).

1389 *See* Section IV.D: Hostages component.

1390 P2284 (UNSG report entitled "The Fall of Srebrenica", 15 November 1999), para. 189; P820 (Witness statement of David Harland dated 4 September 2009), para. 183.

1391 P2416 (SRK Order, 27 May 1995), p. 2.

1392 P887 (SRNA news report, 29 May 1995); P888 (UNPROFOR Weekly Situation Report (Sarajevo), 3 June 1995), p. 3.

food situation in Sarajevo was rapidly deteriorating due to the continued closure of the airport and of land routes.[1393] In addition the gas and electricity in Sarajevo had been cut off.[1394]

420. In early June 1995, heavy fighting around Sarajevo broke out.[1395] The Accused and Koljević agreed to re-open the land routes to Sarajevo for UNHCR convoys.[1396] By 3 June 1995, 120 UN personnel were released by the Bosnian Serbs but the UN estimated that 200 more were still in detention.[1397] On 9 June 1995, the Security Council approved the deployment of British and French rapid reaction forces equipped with heavy artillery to UNPROFOR in BiH.[1398] Also on this day, UNHCR, UNPROFOR, and the Bosnian Serbs came to an agreement to start the delivery of humanitarian aid by land routes to Sarajevo.[1399]

421. On 16 June 1995, the Security Council passed Resolution 998 demanding the immediate and unconditional release of the remaining UN personnel.[1400] It further demanded the unimpeded access for humanitarian aid, access to Sarajevo, and respecting the safe areas.[1401] It also authorised the increase in UNPROFOR personnel by up to 12,500 additional troops.[1402] Harland reported that there were what he believed to be targeted shelling against UNPROFOR by the SRK in Sarajevo.[1403] Smith wrote to Mladić expressing his concerns about the reports about the shelling of Bihac, Srebrenica, Goražde, and Sarajevo.[1404] Smith reminded Mladić that the safe areas regime according to Security Council Resolution 836 was still in place but that there were increasing attacks on the civilian population.[1405] On 30 June 1995, Colonel Robert Meille, the Acting Sector Sarajevo UNPROFOR Commander, wrote a letter to Dragomir Milošević condemning the attacks

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1393 P888 (UNPROFOR Weekly Situation Report (Sarajevo), 3 June 1995), p. 3.

1394 P888 (UNPROFOR Weekly Situation Report (Sarajevo), 3 June 1995), p. 4.

1395 P890 (UNPROFOR Weekly Situation Report (Sarajevo), 10 June 1995), p. 2.

1396 P890 (UNPROFOR Weekly Situation Report (Sarajevo), 10 June 1995), p. 2.

1397 P888 (UNPROFOR Weekly Situation Report (Sarajevo), 3 June 1995), p. 2. *See also* P889 (Radovan Karadžić's Order to VRS and to RS MUP, 2 June 1995). The remaining UN personnel were released by the end of June 1995. P890 (UNPROFOR Weekly Situation Report (Sarajevo), 10 June 1995), p. 2; P891 (Radovan Karadžić's Order to VRS and RS MUP, 6 June 1995); P893 (Radovan Karadžić's Order to VRS, 17 June 1995); P892 (UNPROFOR Weekly Situation Report Sarajevo), 24 June 1995), pp. 2–3. *See* para. 5933.

1398 *See* P5014 (UNSC Resolution 998, 16 June 1995), p. 1 (referring to the 9 June 1995 letter from the Secretary-General regarding the rapid reaction forces); Rupert Smith, T. 11498–11507 (10 February 2011).

1399 D1125 (UNPROFOR daily report to UNSC, 9 June 1995).

1400 P5014 (UNSC Resolution 998, 16 June 1995).

1401 P5014 (UNSC Resolution 998, 16 June 1995), p. 3.

1402 P5014 (UNSC Resolution 998, 16 June 1995), p. 3.

1403 P820 (Witness statement of David Harland dated 4 September 2009), paras. 209, 211. *See also* P896 (UNPROFOR Weekly Situation Report (Sarajevo), 2 July 1995), pp. 4–5.

1404 P2274 (UNPROFOR letter to Ratko Mladić, 26 June 1995).

1405 P2274 (UNPROFOR letter to Ratko Mladić, 26 June 1995).

in Sarajevo, including in the Alpašino Polje neighbourhood and the attack on the PTT building, which housed the headquarters of UNPROFOR Sector Sarajevo.[1406]

7. Initiative by the USA

422. On 21 August 1995, the Accused, Krajišnik, and Buha met with UNPROFOR's Chief of Mission to discuss the current peace initiative.[1407] The Accused agreed that it was a good time to find a political solution to the conflict; however, he rejected any notion of a united BiH and maintained that each constituent republic should have sovereignty.[1408]

423. On 28 August 1995, the Markale market in Sarajevo was shelled.[1409] On the same day, the Bosnian Serb Assembly adopted a resolution welcoming the initiative by the USA for a political resolution to the conflict and affirming the readiness of the Bosnian Serbs to negotiate a lasting peace.[1410]

424. On 29 August 1995, a meeting of the Serbian and Bosnian Serb leaderships took place in Dobanovći, near Belgrade.[1411] The purpose of this meeting was to discuss the contents of the Contact Group plan along with a possible NATO response to the recent shelling of the Markale market in Sarajevo.[1412] At the meeting, Slobodan Milošević urged the parties to endorse a collective negotiation team to represent the interests of both the RS and FRY in future peace talks.[1413] Milošević proposed that he be the head of that team.[1414] The Bosnian Serb leaders

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1406 P895 (Letter from UNPROFOR to Dragomir Milošević, 30 June 1995). *See also* P896 (UNPROFOR Weekly Situation Report (Sarajevo), 2 July 1995).

1407 P2287 (UNPROFOR report re meetings with Bosnian Serb leadership, 22 August 1995.

1408 P2287 (UNPROFOR report re meetings with Bosnian Serb leadership, 22 August 1995), pp. 1–2.

1409 *See* Scheduled Incident G.19. Harland stated that in relation to this shelling incident a neutral statement was advised in order to prevent another hostage taking incident because UNPROFOR was going to call in large-scale air strikes against the VRS. This allowed a team of BritBat soldiers to safely leave Bosnian Serb-held territory near Goražde prior to the air strikes. P820 (Witness statement of David Harland dated 4 September 2009), para. 233.

1410 P988 (Transcript of 53rd session of RS Assembly, 28 August 1995), pp. 59, 98. *See also* P2538 (Patrick Treanor's research report entitled "Radovan Karadžić and the Serbian Leadership 1990-1995", 1 May 2009), para. 316.

1411 D3058 (Record of meeting between leaderships of FRY and RS, 29 August 1995); D3051 (Witness statement of Momir Bulatović dated 25 February 2013), para. 35A; P2538 (Patrick Treanor's research report entitled "Radovan Karadžić and the Serbian Leadership 1990-1995", 1 May 2009), paras. 314, 317. Present at this meeting were Slobodan Milošević, Zoran Lilić, Momir Bulatović, Radoje Kontić, Momčilo Perišić, the Accused, Krajišnik, Koljević, Dušan Kozić, Buha, Tolimir, Đukić, Gvero, Mladić and Plavsić. D3058 (Record of meeting between leaderships of FRY and RS, 29 August 1995), pp. 1, 11. *See also* P5039 (Minutes of SDC meeting, 30 August 1995), p. 1.

1412 P2538 (Patrick Treanor's research report entitled "Radovan Karadžić and the Serbian Leadership 1990-1995", 1 May 2009), para. 317; D3051 (Witness statement of Momir Bulatović dated 25 February 2013), para. 35B. *See* para. 4299.

1413 D3058 (Record of meeting between leaderships of FRY and RS, 29 August 1995); P2538 (Patrick Treanor's research report entitled "Radovan Karadžić and the Serbian Leadership 1990-1995", 1 May 2009), para. 317.

conceded, signing an agreement which stipulated that the Accused, Mladić, and Krajišnik would be part of a six-member delegation led by Slobodan Milošević.[1415] This delegation would conduct negotiations for peace in BiH.[1416] The Accused and Mladić were replaced by Koljević and Buha.[1417]

425. Towards the end of August 1995, UNPROFOR reported the situation in Sarajevo and Goražde to be on "alert state orange" and very tense due to shelling.[1418] Smith asked Harland to inform the Accused that large-scale air strikes would begin on VRS positions.[1419] Harland attempted to call the Accused in Pale at 1 a.m. on 30 August 1995.[1420] Harland stated that the Pale switchboard could not be contacted at this time.[1421] In addition to NATO air strikes, Smith ordered that VRS positions around Sarajevo be shelled by UNPROFOR's rapid reaction force on Mt. Igman in an effort to suppress the SRK's artillery fire.[1422] On 30 August 1995, Akashi sent a letter to the Accused stating that NATO air strikes had started in BiH that day in response to the shelling of the Markale market in Sarajevo two days earlier.[1423]

426. On 1 September 1995, there was a formal pause in the air strikes to allow for a meeting between Smith and Mladić.[1424] UNPROFOR opened the Sarajevo airport under the Blue Routes regime despite a threat from Krajišnik that the VRS would shoot any vehicles attempting to cross

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1414 D3058 (Record of meeting between leaderships of FRY and RS, 29 August 1995), p. 12; P2538 (Patrick Treanor's research report entitled "Radovan Karadžić and the Serbian Leadership 1990-1995", 1 May 2009), para. 317.

1415 D3058 (Record of meeting between leaderships of FRY and RS, 29 August 1995), pp. 12–13; P2538 (Patrick Treanor's research report entitled "Radovan Karadžić and the Serbian Leadership 1990-1995", 1 May 2009), para. 318.

1416 D3058 (Record of meeting between leaderships of FRY and RS, 29 August 1995), p. 12; P2538 (Patrick Treanor's research report entitled "Radovan Karadžić and the Serbian Leadership 1990-1995", 1 May 2009), para. 318.

1417 P2538 (Patrick Treanor's research report entitled "Radovan Karadžić and the Serbian Leadership 1990-1995", 1 May 2009), para. 319.

1418 P906 (UNPROFOR daily report, 28-29 August 1995), p. 3.

1419 P820 (Witness statement of David Harland dated 4 September 2009), para. 235. NATO air strikes started during the night on 29 August 1995 and lasted until 1 September 1995. They resumed again on 5 September and lasted until 14 September 1995. *See* Adjudicated Facts 2798, 2799.

1420 P820 (Witness statement of David Harland dated 4 September 2009), para. 235.

1421 P820 (Witness statement of David Harland dated 4 September 2009), para. 235.

1422 P820 (Witness statement of David Harland dated 4 September 2009), para. 236; Rupert Smith, T. 11507–11509 (10 February 2011); Dragomir Milošević, T. 33244–33245 (5 February 2013).

1423 P820 (Witness statement of David Harland dated 4 September 2009), para. 236. *See also* P906 (UNPROFOR daily report, 28-29 August 1995), p. 3. Smith also called the Accused to inform him of the same. P820 (Witness statement of David Harland dated 4 September 2009), para. 235. *See also* para. 300.

1424 P820 (Witness statement of David Harland dated 4 September 2009), para. 239.

the airport without their approval.[1425] Harland reported that this was the first time that traffic flowed freely in and out of Sarajevo since the siege had started in 1992.[1426]

427. On 2 September 1995, Mladić made a number of concessions to Smith and UNPROFOR, including that the VRS would not conduct any combat operations or attacks in Sarajevo, Bihać, Tuzla, or Goražde; heavy weapons would be withdrawn; and a meeting of the Commanders would be organised.[1427] However, a few days later, Janvier at UNPROFOR headquarters in Zagreb reported that despite the assurances from the Bosnian Serbs, there was no evidence of heavy weapon withdrawal from the Sarajevo area.[1428]

428. On 20 September 1995, Smith met with Miletić and Dragomir Milošević to discuss the progress of the removal of weapons from the TEZ and UNPROFOR's freedom of movement.[1429] Smith told them that progress on talks about a cease-fire in Sarajevo was contingent on the full restoration of utilities to the city.[1430]

429. Between 6 and 8 October 1995, meetings were held between UNPROFOR and the Bosnian Serbs at Hotel Serbia in Ilidža, in order to negotiate a cease-fire arrangement between the Bosnian Serbs and Bosnian Muslims.[1431]

430. On 11 October 1995, the UN received letters from both Muratović and Buha stating that they agreed to the cease-fire agreement of 5 October 1995, which would enter into force at 12:01 a.m. on 12 October 1995.[1432] On the same day, President Bill Clinton announced that the "Proximity Peace Talks" were forthcoming in Dayton, Ohio, USA.[1433]

1425 P820 (Witness statement of David Harland dated 4 September 2009), para. 240.

1426 P820 (Witness statement of David Harland dated 4 September 2009), para. 240.

1427 P820 (Witness statement of David Harland dated 4 September 2009), para. 241. *See also* D1053 (UNPROFOR letter to Ratko Mladić, 4 September 1995).

1428 P820 (Witness statement of David Harland dated 4 September 2009), para. 242; P907 (UNPROFOR update re Sarajevo, 5 September 1995), p. 1.

1429 D2899 (Fax from UNPROFOR, 20 September 1995).

1430 D2899 (Fax from UNPROFOR, 20 September 1995), p. 3.

1431 P820 (Witness statement of David Harland dated 4 September 2009), para. 243; P908 (Minutes from the first meeting on the implementation of cease-fire agreement, 6 October 1995); P909 (Minutes from the second meeting on the implementation of cease-fire agreement, 8 October 1995). The Accused, in an interview with CNN, claimed that NATO bombings did not in fact push RS leaders toward peace talks, but rather pushed RS leaders away from peace negotiations. D4490 (Article from CNN entitled "Transcript of Interview with Karadžić", 28 November 1995), p. 3.

1432 P910 (BiH Government's acceptance of the cease-fire agreement, 11 October 1995); P911 (RS Government's acceptance of the cease-fire agreement, 11 October 1995); P820 (Witness statement of David Harland dated 4 September 2009), para. 245. This cease-fire agreement contained negotiated agreements regarding the restoration of electricity and gas to the Kokoska and the Visegrad-Sokolać-Velesići areas. Additionally, the cease-fire agreement provided for the opening of several routes surrounding Sarajevo for humanitarian aid delivered by the UNPROFOR. P908 (Minutes from the first meeting on the implementation of cease-fire

8. Dayton Agreement

431. On 29 October 1995, consistent with the meeting on 29 August 1995, the Accused authorised the Bosnian Serb delegation to negotiate, together with the delegation of the FRY, at the upcoming peace talks in Dayton.[1434]

432. The Bosnia Proximity Peace Talks began at the Wright-Patterson Airforce Base in Dayton on 1 November 1995.[1435] In attendance were delegates from the EU, USA, Russian Federation, UK, France, Germany, FRY, Bosnian Serbs, Croatia, and the Muslim-Croat Alliance.[1436] Despite the removal of the Accused from the RS negotiating team he played a central consultative role in regards to RS negotiations at Dayton.[1437]

433. On 21 November 1995, the Bosnian Proximity Peace Talks concluded, producing the "General Framework Agreement for Peace in Bosnia and Herzegovina", otherwise known as the Dayton Agreement.[1438] The agreement consisted of 17 separate agreements drawn up during negotiations, organised into 11 separate annexes.[1439] The first of these agreements–the Agreement on the Military Aspects of the Peace Settlement–invited the Security Council to authorise NATO and non-NATO nations to establish a multinational Military Implementation Force ("IFOR") under NATO command in order to assist in implementing the Dayton Agreement.[1440] The agreement provided for the cessation of hostilities in BiH, the withdrawal of all foreign forces—including

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agreement, 6 October 1995); P909 (Minutes from the second meeting on the implementation of cease-fire agreement, 8 October 1995).

1433 P973 (Robert Donia's expert report entitled "Bosnian Serb Leadership and the Siege of Sarajevo, 1990-1995", January 2010), p. 103; P2538 (Patrick Treanor's research report entitled "Radovan Karadžić and the Serbian Leadership 1990-1995", 1 May 2009), para. 321.

1434 D3604 (Radovan Karadžić's authorisation, 29 October 1995). P988 (Transcript of 53rd session of RS Assembly, 28 August 1995), p. 98.

1435 D4127 (Report of VRS Main Staff, 25 November 1995) p. 1.

1436 D4127 (Report of VRS Main Staff, 25 November 1995) pp. 1–3.

1437 Intercepted telephone conversations, as well as the RS negotiation team authorisation attest to the Accused's role. D3604 (Radovan Karadžić's authorisation, 29 October 1995). P4829 (Intercepts of conversations between (i) Radovan Karadžić and Momčilo Krajišnik and (ii) Radovan Karadžić, Nikola Koljević, and Momčilo Krajišnik, 15 November 1995) in which Karadžić instructs the RS delegation to reject a proposed constitutional agreement. *See also* P4830 (Intercept of conversation between Radovan Karadžić, Momčilo Krajišnik, Ratko Mladić, and General Tolimir, 15 November 1995); P4831 (Intercept of conversation between Radovan Karadžić, Ratko Mladić, and General Tolimir, 20 November 1995); P4832 (Intercept of conversation between Radovan Karadžić, Ratko Mladić, and General Tolimir, 20 November 1995); P4833 (Intercept of conversation between Radovan Karadžić, Momčilo Krajišnik, General Miletić, and General Tolimir, 21 November 1995).

1438 P2538 (Patrick Treanor's research report entitled "Radovan Karadžić and the Serbian Leadership 1990-1995", 1 May 2009), para. 322; Milenko Todorović, D4124 (Transcript from *Prosecutor v. Tolimir*), T. 13101.

1439 D4128 (Dispatch of VRS Main Staff to Security and Intelligence Affairs, 6 December 1995), p. 4.

1440 D4127 (Report of VRS Main Staff, 25 November 1995) p. 5.

UNPROFOR—from BiH territory, the creation of a corridor of free movement between Goražde and Sarajevo, and the exchange of prisoners between parties to the conflict.[1441]

434. While the Dayton Agreement nominally maintained a single Bosnian state, the envisioned geographical division saw the creation of two sub-national entities: the Federation of BiH and the RS.[1442] The Dayton Agreement allotted 49% of the disputed territory to the newly created RS, while 51% of the disputed territory remained under the control of the Federation of BiH.[1443] The Dayton Agreement mandated that a four kilometre zone of separation would be created along the border between these two entities, from which all parties would withdraw all forces, explosives, or other lethal assets.[1444] The RS consisted of every town along the Sava and Drina River, with the exception of Goražde.[1445] They were connected by the Posavina corridor near Brčko.[1446] Meanwhile Goražde and much of Sarajevo were allotted to the Federation of BiH.[1447] To the dismay of Bosnian Serb leaders, 61% of Sarajevo's pre-war territory was given to the Federation, including several neighbourhoods which had been under Bosnian Serb control since 1992.[1448] Finally, the parties agreed to demilitarise Sarajevo, and specified that Sarajevo would remain BiH's capital city.[1449]

435. The RS delegation was unsatisfied with the course of negotiations at Dayton, as well as their treatment as part of the FRY negotiation team.[1450] The RS delegation was particularly

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1441 D4127 (Report of VRS Main Staff, 25 November 1995) pp. 4–12

1442 Herbert Okun, T. 1730 (27 April 2010); D1595 (BiH Map from Dayton Agreement, 21 November 1995); P6135 (Map of BiH).

1443 P2604 (Minutes of 47th session of SDC, 28 November 1995), p. 7; D1595 (BiH Map from Dayton Agreement, 21 November 1995).

1444 D4127 (Report of VRS Main Staff, 25 November 1995) p. 6.

1445 D4127 (Report of VRS Main Staff, 25 November 1995) pp. 14–15; D1595 (BiH Map from Dayton Agreement, 21 November 1995); P2604 (Minutes of 47th session of SDC, 28 November 1995), p. 7; Momčilo Krajisnik, T. 43237 (7 November 2013). In the evening of 20 November 1995, Slobodan Milošević and General Wesley Clark agreed that Goražde should remain with the Muslim Croat Federation. Herbert Okun, T. 1743 (27 April 2010).

1446 D1595 (BiH Map from Dayton Agreement, 21 November 1995); P2604 (Minutes of 47th session of SDC, 28 November 1995), p. 7.

1447 *See* Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4266; Momčilo Krajisnik, T. 43237 (7 November 2013); D4127 (Report of VRS Main Staff, 25 November 1995) pp. 8–10; D1595 (BiH Map from Dayton Agreement, 21 November 1995).

1448 P973 (Robert Donia's expert report entitled "Bosnian Serb Leadership and the Siege of Sarajevo, 1990–1995", January 2010), p. 103.

1449 P973 (Robert Donia's expert report entitled "Bosnian Serb Leadership and the Siege of Sarajevo, 1990–1995", January 2010), p. 103. Further agreements within the General Framework dealt with regional stabilisation, elections, the BiH constitution, arbitration, human rights, refugees and displaced persons, the preservation of national monuments, public corporations within BiH, civilian implementation of the agreement, and the International Police Task Force. D4128 (Dispatch of VRS Main Staff to Security and Intelligence Affairs, 6 December 1995), p. 4.

1450 P2538 (Patrick Treanor's research report entitled "Radovan Karadžić and the Serbian Leadership 1990-1995", 1 May 2009), para. 321. *See also* D4127 (Report of VRS Main Staff, 25 November 1995) p. 12; John Zametica, T. 42449–42450 (29 October 2013).

unhappy about the division of Sarajevo, the Posavina, Brčko and Goražde corridors, and the RS's lack of access to the sea.[1451] They were also unsatisfied with the Agreement on the Military Aspects of the Peace Settlement.[1452] As a result, the members of the RS delegation refused to attend the final plenary session of the peace talks as well as the ceremonial initialling of the peace agreement.[1453]

436. Despite the absence of the RS representatives, on 21 November 1995, the peace negotiations officially concluded, and the Dayton Agreement was initialled by Tuđman, Slobodan Milošević, and Izetbegović.[1454] On 22 November 1995, the Security Council passed Resolution 1022 suspending sanctions against the FRY.[1455] Members of the delegation, as well as the Accused, signed a statement declaring that the leadership of RS had accepted the Dayton Agreement, and that RS would fully implement the Accord and all obligations deriving from it.[1456] However, in the following weeks, members of the RS delegation met with officials from the UN and the USA in an attempt to make adjustments to the Dayton Agreement, especially in regards to Sarajevo.[1457] Despite their efforts at the follow-up conference held in London on 8 and 9 December 1995, neither Koljević nor Buha were able to obtain any significant changes to the Dayton Agreement.[1458]

437. On 14 December 1995 in Paris, the Dayton Agreement was signed by those who had initialled the plan on 21 November, formally establishing peace in BiH.[1459] On 21 December 1995, UNPROFOR was replaced by IFOR.[1460]

1451 The RS delegation wanted the city of Sarajevo to remain undivided and to be run by a joint government composed of both Serbian and Muslim members. Further, the RS delegation proposed freedom of movement between Goražde and Sarajevo rather than a formal corridor, and wanted the Posavina corridor to be expanded to 20 kilometres. D4127 (Report of VRS Main Staff, 25 November 1995) p. 18. *See also* D4490 (Article from CNN entitled "Transcript of Interview with Karadžić", 28 November 1995), p. 2.

1452 D4127 (Report of VRS Main Staff, 25 November 1995) pp. 12–13.

1453 P2538 (Patrick Treanor's research report entitled "Radovan Karadžić and the Serbian Leadership 1990-1995", 1 May 2009), para. 322. *See also* D4127 (Report of VRS Main Staff, 25 November 1995) p. 4; John Zametica, T. 42450 (29 October 2013).

1454 Milenko Todorović, T. 13101 (20 April 2011).

1455 P2538 (Patrick Treanor's research report entitled "Radovan Karadžić and the Serbian Leadership 1990-1995", 1 May 2009), para. 323.

1456 P2604 (Minutes of 47th session of SDC, 28 November 1995), pp. 8–9. D4490 (Article from CNN entitled "Transcript of Interview with Karadžić", 28 November 1995), p. 2.

1457 *See also* D4127 (Report of VRS Main Staff, 25 November 1995) p. 15.

1458 P2538 (Patrick Treanor's research report entitled "Radovan Karadžić and the Serbian Leadership 1990-1995", 1 May 2009), para. 327.

1459 P2538 (Patrick Treanor's research report entitled "Radovan Karadžić and the Serbian Leadership 1990-1995", 1 May 2009), para. 331.

1460 P820 (Witness statement of David Harland dated 4 September 2009), para. 246.

III. APPLICABLE LAW

A. REQUIREMENTS AND ELEMENTS OF THE CRIMES CHARGED

1. Article 3 of the Statute of the Tribunal

438. The Accused is charged with four counts of violations of the laws or customs of war pursuant to Article 3 of the Statute. Under Counts 6 and 11, the Accused is charged, respectively, with murder and the taking of hostages, both recognised by Common Article 3 of the 1949 Geneva Conventions ("Common Article 3"). Count 9 charges the Accused with acts of violence, the primary purpose of which is to spread terror among the civilian population. Finally, Count 10 charges the Accused with unlawful attacks on civilians.

439. The Chamber will first assess the general requirements for offences charged under Article 3 of the Statute before proceeding with its analysis of the elements in relation to each of these offences.

a. General requirements for violations of the laws or customs of war

440. Article 3 of the Statute provides that the Tribunal "shall have the power to prosecute persons violating the laws or customs of war", and its sub-paragraphs identify a non-exhaustive list of offences that qualify as such violations. Accordingly, Article 3 is a general clause which confers jurisdiction over any serious violation of international humanitarian law not covered by Articles 2, 4, or 5 of the Statute, in addition to those expressly listed under Article 3.[1461]

441. For Article 3 to apply, two preliminary requirements need to be fulfilled, namely there must be an armed conflict and the crime must be closely related to that armed conflict ("nexus requirement").[1462] In relation to the requirement that there exist an armed conflict, the Appeals Chamber in the *Tadić* case articulated the test as follows: "[A]n armed conflict exists whenever there is a resort to armed force between States or protracted armed violence between governmental authorities and organized groups or between such groups within a State".[1463] To determine the existence of an armed conflict, both the intensity of the conflict and the organisation of the parties

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1461 *Tadić* Jurisdiction Decision on Interlocutory Appeal, para. 91; *Čelebići* Appeal Judgement, paras. 125, 131, 133; *Boškoski and Tarčulovski* Appeal Judgement, para. 47.

1462 *Tadić* Jurisdiction Decision on Interlocutory Appeal, paras. 67–70; *Stakić* Appeal Judgement, para. 342.

1463 *Tadić* Jurisdiction Decision on Interlocutory Appeal, para. 70.

to the conflict must be considered on a case-by-case basis.[1464] It is immaterial whether the armed conflict was international in nature or not.[1465]

442. In relation to the nexus requirement, while there must be a connection between the alleged offences and the armed conflict, the Prosecution need not establish that the armed conflict was causal to the commission of the crime.[1466] However, it needs to be shown that the conflict played a substantial part in the perpetrator's ability to commit the crime, his decision to commit it, the manner in which it was committed, or the purpose for which it was committed.[1467] To find a nexus, it is sufficient that the alleged crimes be closely related to hostilities occurring in other parts of the territories controlled by the parties to the conflict.[1468]

443. In addition to these two preliminary requirements, the Tribunal's jurisprudence has established the following general requirements for the application of Article 3 of the Statute, also known as the "*Tadić* Conditions":

(a) the violation must constitute an infringement of a rule of international humanitarian law;

(b) the rule must be customary in nature or, if conventional, the treaty must be unquestionably binding on the parties at the time of the alleged offence and not in conflict with or derogating from peremptory norms of international law;

(c) the violation must be serious, namely it must constitute a breach of a rule protecting important values and the breach must involved grave consequences for the victim; and

(d) the violation of the rule must entail, under customary or conventional law, the individual criminal responsibility of the person breaching the rule.[1469]

444. Where a crime punishable under Article 3 of the Statute derives from protections found in Common Article 3, the victims of the alleged violation must have taken no active part in the hostilities at the time the crime was committed.[1470] Such victims include members of armed forces who have laid down their arms and those placed *hors de combat* by sickness, wounds, detention, or

1464 *Tadić* Trial Judgement, para. 562; *Limaj et al.* Trial Judgement, paras. 89–90; *Orić* Trial Judgement, para. 254.

1465 *Tadić* Jurisdiction Decision on Interlocutory Appeal, para. 137; *Galić* Appeal Judgement, para. 120.

1466 *Kunarac et al.* Appeal Judgement, para. 58.

1467 *Stakić* Appeal Judgement, para. 342 (specifying that the Trial Chamber must establish the existence of a geographical and temporal linkage between the crimes ascribed to the accused and the armed conflict); *Kunarac et al.* Appeal Judgement, para. 58.

1468 *Stakić* Appeal Judgement, para. 342 (referring to *Tadić* Jurisdiction Decision on Interlocutory Appeal, para. 70).

1469 *Tadić* Jurisdiction Decision on Interlocutory Appeal, paras. 94, 143.

any other cause.[1471] In addition, the Chamber must be satisfied that "the perpetrator of a Common Article 3 crime knew or should have been aware that the victim was taking no active part in the hostilities when the crime was committed".[1472]

b. Murder as a violation of the laws or customs of war

445. Under Count 6 of the Indictment, the Accused is charged with murder as a violation of the laws or customs of war, punishable under Article 3 of the Statute.[1473] Murder is not explicitly listed in Article 3 but stems from the prohibition in Common Article 3(1)(a) of the Geneva Conventions, which provides that:

> In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:
>
> 1. Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed 'hors de combat' by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely [...]
>
> To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:
>
> (a) violence to life and person, in particular murder of all kinds [...].[1474]

i. Actus reus

446. The *actus reus* of murder is an act or omission resulting in the death of an individual.[1475] It is not necessary that proof of a dead body be produced if the victim's death can be inferred circumstantially from other evidence which has been presented to the Chamber.[1476] With regard to the requisite causal nexus, the requirement that death must have occurred "as a result of" the

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1470 *Čelebići* Appeal Judgement, para. 420.

1471 *See Čelebići* Appeal Judgement, para. 420 (referring to the wording of Common Article 3).

1472 *Boškoski and Tarčulovski* Appeal Judgement, para. 66.

1473 Indictment, paras. 61–67. *See also* Schedules A and B Killing Incidents.

1474 For the residual nature of Article 3 of the Statute, *see* para. 440.

1475 *Kvočka et al.* Appeal Judgement, para. 261. *See also Dragomir Milošević* Appeal Judgement, para. 108 (in relation to Article 5 of the Statute); *Milutinović et al.* Trial Judgement, Vol. I, para. 137; *Galić* Appeal Judgement, paras. 147–150 (also in relation to Article 5).

1476 *Kvočka et al.* Appeal Judgement, para. 260. Relevant factors to be considered when assessing whether a victim died include but are not limited to proof of incidents of mistreatment directed against the victim; patterns of mistreatment and disappearances of other victims; the coincident or near-coincident time of death of other victims; the fact that the victims were present in an area where an armed attack was carried out; the time, location, and circumstances in which the victim was last seen; the behaviour of soldiers in the vicinity, as well as towards other civilians, at the relevant time; and the lack of contact by the victim with others whom he/she would have been expected to contact, such as his/her family. *See* Lukić and Lukić Trial Judgement, para. 904; Martić Trial Judgement, para. 59, fn. 112; Halilović Trial Judgement, para. 37; Krnojelac Trial Judgement, para. 327.

perpetrator's act or omission does not require this to be the sole cause for the victim's death; it is sufficient that the "perpetrator's conduct contributed substantially to the death of the person".[1477]

ii. Mens rea

447. In order to satisfy the *mens rea* of murder, the Prosecution must prove that the act was committed, or the omission was made, with an intention to kill (*animus necandi*) or to wilfully cause serious injury or grievous bodily harm which the perpetrator should reasonably have known might lead to death.[1478]

448. Thus, the *mens rea* of murder includes both direct intent (*dolus directus*), which is a state of mind in which the perpetrator desired the death of the individual to be the result of his act or omission, and indirect intent (*dolus eventualis*), which is knowledge on the part of the perpetrator that the death of a victim was a probable consequence of his act or omission.[1479]

c. Unlawful attacks on civilians as a violation of the laws or customs of war

449. In Count 10 of the Indictment, the Accused is charged with criminal responsibility for unlawful attacks on civilians as a violation of the laws or customs of war, punishable under Article 3 of the Statute.[1480] While Article 3 does not explicitly prohibit "unlawful attacks on civilians" as such, the Appeals Chamber has held that attacks on the civilian population or individual civilians meet the threshold requirements for war crimes and are therefore covered by Article 3 of the Statute.[1481] In so ruling, Chambers of the Tribunal have relied on Article 51(2) of Additional Protocol I and Article 13(2) of Additional Protocol II, both of which read in relevant parts that the civilian population and individual civilians shall not be the object of attack.[1482] Thus, the targeting of civilians has been deemed by this Tribunal to be absolutely prohibited at all times and, as such, cannot be justified by military necessity or by the actions of the opposing side.[1483]

1477 *Orić* Trial Judgement, para. 347. *See also Đorđević* Trial Judgement, para. 1708; *Popović et al.* Trial Judgement, para. 788; *Milutinović et al.* Trial Judgement, Vol. I, para. 137; *Lukić and Lukić* Trial Judgement, para. 899.

1478 *Kvočka et al.* Appeal Judgement, para. 261. *See also Dragomir Milošević* Appeal Judgement, para. 108; *Milutinović et al.* Trial Judgement, Vol. I, para. 138; *Orić* Trial Judgement, para. 348.

1479 *Delić* Trial Judgement, para. 48; *Martić* Trial Judgement, para. 60; *Strugar* Trial Judgement, paras. 235–236; *Stakić* Trial Judgement, para. 587. *See also Stakić* Appeal Judgement, paras. 236, 239, 242 (discussing the application of *dolus eventualis* as the requisite *mens rea* of murder).

1480 Indictment, paras. 76–82.

1481 *Kordić and Čerkez* Appeal Judgement, paras. 40–46; *Galić* Appeal Judgement, para. 123 (confirming the findings in the *Galić* Trial Judgement, paras. 16, 19–32).

1482 *Dragomir Milošević* Appeal Judgement, para. 53; *Kordić and Čerkez* Appeal Judgement, para. 48; *Galić* Trial Judgement, paras. 16–19.

1483 *Galić* Appeal Judgement, para. 130 (confirming *Galić* Trial Judgement, paras. 44, 49); *Dragomir Milošević* Appeal Judgement, paras. 53, 69. *See also Blaškić* Appeal Judgement, para. 109; *Martić* Appeal Judgement,

450. As for the elements of the offence of unlawful attacks on civilians, they consist of (i) acts of violence directed against the civilian population or individual civilians not taking a direct part in hostilities causing death or serious injury to body or health within the civilian population (*actus reus*) and (ii) the offender wilfully making the civilian population or individual civilians not taking a direct part in hostilities the object of those acts of violence (*mens rea*).[1484]

i. Actus reus

451. Article 49 of Additional Protocol I defines "attacks" as "acts of violence against the adversary, whether in offence or defence".[1485] Accordingly, the issue of who made use of force first is irrelevant.[1486]

452. The meaning of civilian for the purposes of unlawful attacks on civilians stems from Article 50(1) of Additional Protocol I[1487] which provides that a "civilian is any person who does not belong to one of the categories of persons referred to in Article 4(A)(1), (2), (3) and (6) of the Third [Geneva] Convention[1488] and in Article 43 of [Additional] Protocol [I][1489]." This is a negative

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paras. 268, 270; *Strugar* Appeal Judgement, para. 275. The Tribunal's jurisprudence here is consistent with that of the International Court of Justice which, at paragraph 78 of the ICJ Advisory Opinion on Nuclear Weapons, held that civilians must never be made the object of an attack.

1484 *Galić* Trial Judgement, para. 56; *Dragomir Milošević* Trial Judgement, paras. 942, 951. *See also Kordić and Čerkez* Trial Judgement, para. 328; *Kordić and Čerkez* Appeal Judgement, paras. 47–68. This is consistent with the three fundamental principles of international humanitarian law, namely the principles of distinction, precaution, and protection. Under Article 48 of Additional Protocol I, the principle of distinction obliges the warring parties to distinguish at all times between the civilian population and combatants, and between civilian objects and military objectives. Article 57(2)(a)(ii) of Additional Protocol I requires that those planning an attack take all reasonable precautions in the choice of the means and methods of attack in order to avoid or minimise the incidental loss of civilian life, injury to civilians, and damage to civilian property. Finally, the principle of protection, as referred to in Article 51(1) of Additional Protocol I and Article 13(1) of Additional Protocol II, ensures that the civilian population and individual civilians enjoy general protections against dangers arising from military operations. *See also Dragomir Milošević* Trial Judgement, para. 941.

1485 *Kordić and Čerkez* Appeal Judgement, para. 47.

1486 *Kordić and Čerkez* Appeal Judgement, para. 47.

1487 Given that the origin of the offence of unlawful attacks against civilians can be found in Additional Protocols I and II, the definition of "civilians" and "civilian population," relied upon in cases dealing with this offence is derived from Article 50 of Additional Protocol I. *See Galić* Trial Judgement, paras. 47 and the footnotes therein; *Dragomir Milošević* Trial Judgement, para. 945; *Kordić and Čerkez* Appeal Judgement, para. 48–50. *See also Dragomir Milošević* Appeal Judgement, para. 50 (where the Appeals Chamber held that the definition of civilians contained in Article 50(1) of Additional Protocol applies to crimes under both Article 3 and Article 5 of the Statute).

1488 Article 4 of Geneva Convention III states, *inter alia*:

"A. Prisoners of war, in the sense of the present Convention, are persons belonging to one of the following categories, who have fallen into the power of the enemy: (1) Members of the armed forces of a Party to the conflict, as well as members of militias or volunteer corps forming part of such armed forces. (2) Members of other militias and members of other volunteer corps, including those of organized resistance movements, belonging to a Party to the conflict and operating in or outside their own territory, even if this territory is occupied, provided that such militias or volunteer corps, including such organized resistance movements, fulfil the following conditions: (a) that of being commanded by a person responsible for his subordinates; (b) that of having a fixed distinctive sign recognizable at a distance; (c) that of carrying arms openly; (d) that of conducting their operations in accordance with the laws and customs of war. (3) Members of regular armed forces who profess allegiance to a government or an authority not recognized by the Detaining Power. [....] (6) Inhabitants of a non-occupied territory, who on the approach of the

definition of "civilian" as it includes anyone who is not a member of the armed forces or an organised military group belonging to a party to the conflict.[1490] Article 50(1) of Additional Protocol I also provides that in case of doubt whether a person is a civilian, that person shall be considered to be a civilian.[1491] The protection from attack afforded to individual civilians by Article 51 of Additional Protocol I continues until such time as they take direct part in hostilities, that is until they engage in acts of war which, by their very nature and purpose, are likely to cause actual harm to the personnel or materiel of the enemy forces.[1492] Thus, in order to establish that unlawful attacks against civilians have been committed, the Chamber has to find that the victims of these attacks were civilians and that they were not participating in the hostilities.[1493]

453. The jurisprudence is also clear that the presence of individual combatants within the civilian population attacked does not necessarily change the fact that the ultimate character of the population remains a civilian one.[1494] In determining whether the presence of soldiers within a civilian population deprives the population of its civilian character, the number of soldiers, as well as whether they are on leave, must be examined.[1495]

454. As stated above,[1496] for the attack to constitute an unlawful attack on civilians, the Prosecution has to show that it was directed against individual civilians or the civilian population. Whether this is the case can be determined from a number of factors, including the means and methods used in the course of the attack, the status and the number of victims, the distance between the victims and the source of fire, the ongoing combat activity at the time and location of the incident, the presence of military activities or facilities in the vicinity of the incident, the nature of the acts of violence committed, the indiscriminate nature of the weapons used, and the extent to

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enemy spontaneously take up arms to resist the invading forces, without having had time to form themselves into regular armed units, provided they carry arms openly and respect the laws and customs of war."

1489 Article 43 of Additional Protocol I provides as follows:

"1. The armed forces of a Party to a conflict consist of all organized armed forces, groups and units which are under a command responsible to that Party for the conduct of its subordinates, even if that Party is represented by a government or an authority not recognized by an adverse Party. Such armed forces shall be subject to an internal disciplinary system which, 'inter alia', shall enforce compliance with the rules of international law applicable in armed conflict. 2. Members of the armed forces of a Party to a conflict (other than medical personnel and chaplains covered by Article 33 of the Third Convention) are combatants, that is to say, they have the right to participate directly in hostilities. 3. Whenever a Party to a conflict incorporates a paramilitary or armed law enforcement agency into its armed forces it shall so notify the other Parties to the conflict."

1490 *Galić* Trial Judgement, para. 47; *Milošević* Trial Judgement, para. 945.

1491 *See also Galić* Trial Judgement, para. 50; *Dragomir Milošević* Trial Judgement, para. 946.

1492 *Dragomir Milošević* Appeal Judgement, para. 57; *Galić* Trial Judgement, para. 48. *See also Dragomir Milošević* Trial Judgement, para. 947 (where the Trial Chamber, relying on the ICRC Commentary 1945, made a distinction between direct participation in hostilities and "participation in war effort").

1493 *Dragomir Milošević* Appeal Judgement, para. 57.

1494 *Galić* Appeal Judgement, paras. 136–138. *See also Galić* Trial Judgement, para. 50; *Dragomir Milošević* Trial Judgement, para. 922; *Dragomir Milošević* Appeal Judgement, paras. 50–51.

1495 *Galić* Appeal Judgement, para. 137, citing to *Blaškić* Appeal Judgement, para. 115. *See also* paras. 474–476.

1496 *See* para. 450.

which the attacking force has complied or attempted to comply with the precautionary requirements of the law of war.[1497] In this respect, the jurisprudence is also clear that both indiscriminate attacks and disproportionate attacks may qualify as attacks directed against civilians or give rise to an inference that an attack was directed against civilians.[1498] This is to be determined on a case by case basis, in light of the available evidence.[1499]

455. Finally, before criminal responsibility can be incurred for the unlawful attacks on the civilian population or individual civilians, the Chamber has to find that they have resulted in the death or serious injury to body or health of the victims in question.[1500]

ii. Mens rea

456. For unlawful attacks on civilians to be established, the Prosecution must show that the perpetrator *wilfully* made the civilian population or individual civilians the object of the acts of violence.[1501] In other words, the perpetrator has to act consciously and with intent, willing the act and its consequences. This encompasses the concept of recklessness but not negligence.[1502]

457. For the *mens rea* to be established, the Prosecution must also show that the perpetrator was aware, or should have been aware, of the civilian status of the persons attacked. In cases of doubt as to the status of those persons, the Prosecution must show that a reasonable person could not have believed that the individuals attacked were combatants.[1503] In addition, it is not required to establish the intent to attack particular civilians; rather, it is prohibited to make the civilian population as such, as well as individual civilians, the object of an attack.[1504]

1497 *Galić* Appeal Judgement, para. 132 (citing to *Kunarac* Appeal Judgement, para. 91 and *Blaškić* Appeal Judgement, para. 106); *Dragomir Milošević* Appeal Judgement, para. 66; *Strugar* Appeal Judgement, para. 271. *See also Dragomir Milošević* Trial Judgement, para. 948.

1498 *Galić* Appeal Judgement, paras. 132–134 (confirming *Galić* Trial Judgement, paras. 57–58, 60); *Dragomir Milošević* Appeal Judgement, para. 66; *Strugar* Appeal Judgement, para. 275.

1499 *Galić* Appeal Judgement, paras. 132–133 (confirming *Galić* Trial Judgement, para. 60); *Dragomir Milošević* Appeal Judgement, para. 67.

1500 *Kordić and Čerkez* Appeal Judgement, paras. 55–68. The discussion in these paragraphs concerns not only unlawful attacks on civilians but also unlawful attacks on civilian objects as both were charged in the *Kordić and Čerkez* case. In the present case, however, the Indictment charges only unlawful attacks on civilians. *See* Indictment, paras. 76–82.

1501 *Galić* Appeal Judgement, para. 140 (confirming *Galić* Trial Judgement, para. 54). *See also Dragomir Milošević* Trial Judgement, para. 951; *Strugar* Appeal Judgement, para. 270.

1502 ICRC Commentary on Additional Protocols, Commentary 3474.

1503 *Dragomir Milošević* Appeal Judgement, para. 60 (citing to *Kordić and Čerkez* Appeal Judgement, para. 48 and *Blaškić* Appeal Judgement, para. 111). *See also Dragomir Milošević* Trial Judgement, para. 952; *Strugar* Appeal Judgement, para. 271; *Galić* Trial Judgement, paras. 50, 55.

1504 *Strugar* Appeal Judgement, para. 271.

d. Terror as a violation of the laws or customs of war

458. In Count 9 of the Indictment, the Accused is alleged to be criminally responsible for acts of violence the primary purpose of which was to spread terror among the civilian population of Sarajevo as a violation of the laws or customs of war, punishable under Article 3 of the Statute.[1505] While Article 3 does not explicitly refer to the offence of terror as such, the Appeals Chamber has held that this offence meets the threshold requirements for war crimes and is therefore covered by Article 3 of the Statute.[1506] The prohibition of terror stems from Article 51(2) of Additional Protocol I and Article 13(2) of Additional Protocol II, both of which prohibit "acts or threats of violence the primary purpose of which is to spread terror among the civilian population" and both of which have been deemed by the Appeals Chamber to be part of customary international law.[1507]

459. The following elements need to be established before the Chamber can enter a conviction for terror:

> (a) acts or threats of violence directed against the civilian population or individual civilians not taking direct part in hostilities;
>
> (b) the perpetrator wilfully made the civilian population or individual civilians not taking direct part in hostilities the object of those acts of violence;
>
> (c) the above was committed with the primary purpose of spreading terror among the civilian population.[1508]

i. Actus reus

460. The *actus reus* of terror[1509] consists of acts or threats of violence directed against the civilian population or individual civilians not taking direct part in hostilities.[1510] As such, it is similar to the *actus reus* of unlawful attacks on civilians.[1511] Accordingly, as is the case with unlawful attacks on civilians, the acts or threats of violence constituting terror need not be limited

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1505 Indictment, paras. 76–82.

1506 *Galić* Appeal Judgement, paras. 87–98 (confirming *Galić* Trial Judgement, paras. 87–130).

1507 *Galić* Appeal Judgement, paras. 87–90; *Dragomir Milošević* Appeal Judgement, paras. 31–33.

1508 *Galić* Appeal Judgement, paras. 100–101.

1509 The *Galić* Trial Chamber defined terror as "extreme fear". The *Galić* Appeals Chamber later stated that terror "could" be defined in that way. *See Galić* Trial Judgement, para. 137; *Galić* Appeal Judgement, footnote 320.

1510 The Chamber notes that, with respect to Count 9 of the Indictment, the Prosecution alleges that the Accused is responsible only for acts of violence designed to spread terror and makes no mention of threats of violence. *See* Indictment, para. 82.

1511 *See* para. 451. The Chamber also reiterates that Article 49(1) of Additional Protocol I defines "attacks" as "acts of violence" which in turn means that terror can encompass *attacks* or *threats of attacks* on civilian population. *See also Galić* Appeal Judgement, para. 102.

to direct attacks on civilians or threats thereof, but may include indiscriminate or disproportionate attacks.[1512] In addition, they do not include legitimate attacks against combatants.[1513]

461. The nature of the acts or threats of violence directed against the civilian population or individual civilians can vary.[1514] The Appeals Chamber has held that causing death or serious injury to body or health represents only one of the possible modes of commission of terror and thus is not an element of the offence *per se*. What is required—for this offence to fall under the jurisdiction of the Tribunal—is that the victims suffer grave consequences resulting from the acts or threats of violence, which may include but are not limited to death and/or serious injury to body or health.[1515] However, while "extensive trauma and psychological damage form part of the acts or threats of violence", the actual infliction of terror on the civilian population is not a legal requirement of this offence.[1516]

462. The definition of civilians and civilian population has already been discussed by the Chamber in the preceding section and, therefore, shall not be repeated here.[1517]

ii. Mens rea

463. The *mens rea* of terror consists of both general intent and specific intent.[1518] As in the case of unlawful attacks on civilians, to have the general intent the perpetrator must wilfully make the civilian population or individual civilians the object of acts or threats of violence.[1519] The Chamber has already discussed the definition of "wilfully" in the context of unlawful attacks on civilians above, and shall therefore not repeat it here.[1520]

464. The specific intent for this offence is the intent to spread terror among the civilian population.[1521] The prohibition on terror also excludes terror which is not intended by the perpetrator but is merely an incidental effect of acts of warfare which have another primary object and are in all other aspects lawful.[1522] Accordingly, the particular circumstances must be taken into

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1512 *Galić* Appeal Judgement, para. 102.
1513 *Galić* Trial Judgement, para. 135.
1514 *Galić* Appeal Judgement, para. 102.
1515 *Dragomir Milošević* Appeal Judgement, paras. 32–33 (overturning *Dragomir Milošević* Trial Judgement, para. 880).
1516 *Dragomir Milošević* Appeal Judgement, para. 35; *Galić* Appeal Judgement, paras. 102–104.
1517 *See* paras. 452–454.
1518 *Dragomir Milošević* Appeal Judgement, para. 37. *See also Dragomir Milošević* Trial Judgement, para. 878.
1519 *Dragomir Milošević* Appeal Judgement, para. 37.
1520 *See* paras. 456–457.
1521 *Galić* Trial Judgement, para. 136; *Dragomir Milošević* Trial Judgement, para. 878.
1522 *Galić* Appeal Judgement, para. 103. *See also Dragomir Milošević* Trial Judgement, para. 888.

account in determining whether the perpetrator intended to spread terror among the civilian population or individual civilians.[1523]

465. The fact that the spreading of terror is referred to as the "primary purpose" does not mean that the infliction of terror is the only objective of the acts or threats of violence. Accordingly, the co-existence of other purposes behind the acts or threats of violence would not disprove the charge of terror, so long as the intent to spread terror was the "principal among the aims".[1524]

466. The intent to spread terror can be inferred from the circumstances surrounding the acts or threats of violence, including their nature, manner, timing, and duration.[1525] While, as stated above,[1526] the actual infliction of terror on the civilian population is not a legal requirement of this offence, the evidence of actual terrorisation may contribute to establishing other elements of the offence, including the specific intent to terrorise.[1527] The Appeals Chamber has also affirmed that the indiscriminate nature of an attack can be a factor in determining specific intent for terror.[1528]

e. Taking of hostages as a violation of the laws or customs of war

467. Count 11 charges the Accused with the taking of hostages as a "violation of the laws or customs of war, as recognised by Common Article 3(1)(b), and punishable under Article 3 of the Statute".[1529] The crime of hostage-taking is not explicitly mentioned as one of the offences listed under Article 3 but stems from the provision in Common Article 3(1)(b),[1530] which protects "persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed *hors de combat* by sickness, wounds, detention, or any other cause" from a list of prohibited acts, including hostage-taking.[1531] The plain text of Common Article 3 indicates that the prohibition on hostage-taking is both absolute and without exception.[1532]

1523 *Dragomir Milošević* Trial Judgement, para. 888.

1524 *Galić* Appeal Judgement, para. 104; *Dragomir Milošević* Appeal Judgement, para. 37.

1525 *Galić* Appeal Judgement, para. 104; *Dragomir Milošević* Appeal Judgement, para. 37. *See also Galić* Trial Judgement, para. 134.

1526 *See* para. 461.

1527 *Dragomir Milošević* Appeal Judgement, paras. 35, 37; *Dragomir Milošević* Trial Judgement, para. 880.

1528 *Dragomir Milošević* Appeal Judgement, para. 37; *Dragomir Milošević* Trial Judgement, para. 881.

1529 Indictment, paras. 83–87.

1530 For the residual nature of Article 3 of the Statute, *see* para. 440.

1531 Common Article 3(1)(b) of the Geneva Conventions of 1949; Appeal Decision on Count 11, para. 22 (citing ICRC Commentary III, p. 40). *See also Kordić and Čerkez* Trial Judgement, para. 319. While Article 2(h) of the Statute prohibits taking civilians as hostages as a grave breach of the Geneva Conventions of 1949, Article 3 of the Statute prohibits hostage-taking of all persons not taking direct part in the hostilities pursuant to Common Article 3.

1532 Appeal Decision on Hostage-Taking, para. 16.

468. In addition to fulfilling the chapeau requirements for Article 3, the offence of hostage-taking requires the following elements. The *actus reus* of this offence is the detention of persons and the use of a threat concerning the detained persons, including a threat to kill, injure or continue to detain, in order to obtain a concession or gain an advantage.[1533] The Appeals Chamber has held that the prohibition on the taking of hostages pursuant to Common Article 3 applies to "all detained individuals, irrespective of whether their detention is explicitly sought in order to use them as hostages and irrespective of their prior status as combatants".[1534] The *mens rea* required for hostage-taking is the intention to compel a third party to act or refrain from acting as a condition for the release of the detained persons.[1535] Because the essential feature of the offence of hostage-taking is the use of a threat to detainees to obtain a concession or gain an advantage,[1536] which may happen at any time during the detention, the requisite intent may be formed at the time of the detention or it may be formed at some later time, after the person has been detained.[1537] The erroneous belief that detained combatants are not entitled to Common Article 3 protections is not a defence should the elements of hostage-taking be met.[1538]

2. Article 5 of the Statute of the Tribunal

469. The Accused is charged with five counts of crimes against humanity under Article 5 of the Statute. Count 3 charges him with persecution on political, racial, and religious grounds punishable under Article 5(h) of the Statute.[1539] In Counts 4 and 5, the Accused is charged, respectively, with extermination under Article 5(b) of the Statute and murder under Article 5(a).[1540] Finally, Counts 7

1533 *Blaškić* Appeal Judgement, para. 639, in which the Appeals Chamber cites to Article 1 of the International Convention Against the Taking of Hostages, adopted by the UN General Assembly on 17 December 1979, which states:

"Any person who seizes or detains and threatens to kill, to injure or to continue to detain another person (hereinafter referred to as the "hostage") in order to compel a third party, namely, a State, an international intergovernmental organization, a natural or juridical person, or group of persons, to do or abstain from doing any act as an explicit or implicit condition for the release of the hostage commits the offence of taking hostages ("hostage-taking") within the meaning of this Convention."

1534 Appeal Decision on Hostage-Taking, para. 21. The Accused argues that unlawful detention is an element of the crime of hostage taking and that this element has not been proven because the "Bosnian Serbs were lawfully entitled to detain UN personnel as prisoners of war after they had become combatants by virtue of the NATO air strikes". Defence Final Brief, para. 2738. The Chamber notes that the Appeals Chamber also recalled that under Common Article 3, the detention of a combatant during an armed conflict automatically renders him *hors de combat* and that such detention triggers the protections of Common Article 3. Appeal Decision on Hostage-Taking, paras. 16–17.

1535 *Blaškić* Appeal Judgement, para. 639.

1536 *Blaškić* Appeal Judgement, para. 639.

1537 Appeal Decision on Hostage-Taking, para. 17. *See also Sesay et al.* Appeal Judgement, paras. 597–598.

1538 Appeal Decision on Hostage-Taking, para. 22.

1539 Indictment, paras. 48–60.

1540 Indictment, paras. 61–67.

and 8 charge him with deportation and inhumane acts (forcible transfer) punishable, respectively, under Articles 5(d) and 5(i) of the Statute.[1541]

470. As it did for Article 3 above, the Chamber will first assess the general requirements for offences charged under Article 5 of the Statute before proceeding with its analysis of the elements in relation to each of these offences.

a. General requirements for crimes against humanity

471. Article 5 of the Statute gives the Tribunal jurisdiction over various offences "when committed in armed conflict, whether international or internal in character, and directed against any civilian population". Unlike the exigency in Article 3 that the offences be closely related to the armed conflict, the requirement under Article 5 that the offence be committed in armed conflict is a purely jurisdictional prerequisite which is satisfied by proof that there was an armed conflict at the time and place relevant to the indictment but does not mandate any material nexus between the acts of the accused and the armed conflict.[1542]

472. Tribunal jurisprudence has identified the following five general requirements for crimes against humanity under Article 5 of the Statute:

(i) There must be an attack;

(ii) the attack must be directed against any civilian population;

(iii) the attack must be widespread or systematic;

(iv) the acts of the perpetrator must be part of the attack; and

(v) the perpetrator[1543] must know that there is a widespread or systematic attack directed against a civilian population and know that his acts constitute part of this attack.[1544]

i. There must be an attack

473. The concepts of "attack" and "armed conflict" are not identical.[1545] An attack could precede, outlast, or continue during the armed conflict but need not be part of it.[1546] Furthermore,

1541 Indictment, paras. 68–75.

1542 *Šešelj* Appeal Jurisdiction Decision, para. 13. *See also Kunarac et al.* Appeal Judgement, para. 83; *Tadić* Appeal Judgement, para. 249.

1543 The use of the term "perpetrator" by the Chamber in this context includes the direct perpetrator as well as any indirect perpetrator or individual at whose behest the perpetrator is operating.

1544 *Kunarac et al.* Appeal Judgement, para. 85.

in the context of a crime against humanity, an attack is not limited to the use of armed force but encompasses any mistreatment of the civilian population.[1547]

ii. The attack must be directed against any civilian population

474. A population is considered to be a civilian population under Article 5 of the Statute if it is predominantly civilian in nature.[1548] The presence within a population of persons who do not come within the definition of civilians[1549] does not necessarily deprive the population of its civilian character.[1550] The Appeals Chamber has held that a determination as to whether the presence of soldiers within a civilian population deprives the population of its civilian character will depend on the number of soldiers, as well as whether they are on leave.[1551]

475. For the purpose of Article 5 of the Statute, an attack can be considered to have been directed against a civilian population if the civilian population was the "primary rather than an incidental target of the attack".[1552] In order to determine whether the attack was so directed, the Appeals Chamber has identified a non-exhaustive list of relevant factors, such as the means and method used during the course of the attack, the status of the victims, their number, the discriminatory nature of the attack, the nature of the crimes committed in the course of the attack, the resistance to the assailants at the time of the attack, and the extent to which the attacking force may be said to have complied or attempted to comply with the precautionary requirements of the laws of war.[1553] The term "population" does not mean that the entire population of the geographical entity in which the attack is occurring was subjected to the attack.[1554] However, the attack must have targeted more than "a limited and randomly selected number of individuals" within the population.[1555]

1545 *Kunarac et al.* Appeal Judgement, para. 86.

1546 *Kunarac et al.* Appeal Judgement, para. 86. *See also Šešelj* Appeal Jurisdiction Decision, para. 13 (stating that "there is no requirement that an attack directed against a civilian population be related to the armed conflict").

1547 *Kunarac et al.* Appeal Judgement, para. 86.

1548 *Tadić* Trial Judgement, para. 638 (cited in numerous trial judgements, including *Blagojević and Jokić* Trial Judgement, para. 544; *Milutinović et al.* Trial Judgement, Vol. I, para. 146).

1549 Article 50(1) of Additional Protocol I provides that a civilian is any person who does not belong to one of the categories of persons referred to in Article 4(A)(1), (2), (3) and (6) of Geneva Convention III and in Article 43 of Additional Protocol I. For Article 4(A) of Geneva Convention III and Article 43 of Additional Protocol I, *see* fn. 1488, 1489.

1550 *See Kordić and Čerkez* Appeal Judgement, para. 50, reiterated in *Mrkšić and Šljivančanin* Appeal Judgement, para. 31.

1551 *Blaškić* Appeal Judgement, para. 115 (quoting the Trial Judgement which refers to the ICRC Commentary to Additional Protocol I, Article 50, p. 612, para. 1922,which specifies that the presence of soldiers does not alter the civilian character of a civilian population as long as "these are not regular units with fairly large numbers").

1552 *Kunarac et al.* Appeal Judgement, para. 92. *See also Dragomir Milošević* Trial Judgement, para. 921; *Galić* Trial Judgement, para. 142.

1553 *Kunarac et al.* Appeal Judgement, para. 91 (reiterated in *Mrkšić and Šljivančanin* Appeal Judgement, para. 25).

1554 *Kunarac et al.* Appeal Judgement, para. 90 (confirming *Kunarac et al.* Trial Judgement, para. 424).

1555 *Kunarac et al.* Appeal Judgement, para. 90 (as recalled in *Kordić and Čerkez* Appeal Judgement, para. 95).

476. Finally, as discussed above, while the civilian status of the victims, the number of civilians, and the proportion of civilians within a civilian population are factors relevant to the determination as to whether an attack is directed against a "civilian population", there is no requirement that individual victims of crimes against humanity be civilians.[1556] It is therefore possible for a person *hors de combat* to be a victim of an act amounting to a crime against humanity.[1557]

iii. The attack must be widespread or systematic

477. The attack must be widespread or, in the alternative, systematic.[1558] While the term "widespread" refers to the large-scale character of the attack and the number of persons targeted, the term "systematic" refers to the organised nature of the acts of violence and the improbability of their random occurrence.[1559] The assessment of what constitutes "widespread" or "systematic" is to be conducted on a case by case basis and may take into account the consequences of the attack upon the targeted population, the number of victims, the nature of the acts, the possible participation of officials or authorities, and any identifiable patterns of crimes.[1560] While the existence of a plan or policy may be used to demonstrate the existence of a widespread or systematic attack directed against a civilian population, it is not a legal element under Article 5 of the Statute.[1561]

iv. The acts of the perpetrators must be part of the attack

478. The acts of the perpetrator must be part of the attack on the civilian population, although they need not be committed in the midst of that attack.[1562] An offence which is committed before or after the attack against the civilian population or away from it could still, if sufficiently connected, be part of that attack.[1563] Whether a given offence is sufficiently connected to the attack

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1556 *Mrkšić and Šljivančanin* Appeal Judgement, paras. 29, 32 (citing *Martić* Appeal Judgement, para. 307).

1557 *Martić* Appeal Judgement, paras. 313–314.

1558 *Kunarac et al.* Appeal Judgement, para. 93 (citing *Tadić* Appeal Judgement, para. 248).

1559 *Blaškić* Appeal Judgement, para. 101 (citing *Kunarac et al.* Appeal Judgement, para. 94).

1560 *Kunarac et al.* Appeal Judgement, para. 95.

1561 *Kunarac et al.* Appeal Judgement, para. 98 (reiterated in *Blaškić* Appeal Judgement, para. 120).

1562 *Kunarac et al.* Appeal Judgement, para. 100 and *Blaškić* Appeal Judgement, para. 124 (referring to the "acts of the accused") *But see Milutinović et al.* Trial Judgement, Vol. I, para. 152 (holding that "[i]t is the conduct of the physical perpetrator that must form part of the attack") and para. 155 (recalling that the then practice of the Tribunal demonstrated that the requirement that the conduct charged related to the attack on the civilian population was satisfied by proof that the underlying offences comprised part of the attack regardless as to whether they were physically committed by the accused or by those for whose acts he bore responsibility); *Popović et al.* Trial Judgement, paras. 751, 757 (referring to both the "acts of the perpetrator" and the "acts of the accused"); and *Stanišić and Župljanin* Trial Judgement, Vol. I, para. 29 (referring to the "acts of the perpetrator").

1563 *Kunarac et al.* Appeal Judgement, para. 100 (as reiterated in *Mrkšić and Šljivančanin* Appeal Judgement, para. 41).

will depend on the factual circumstances of the case but, in any event, it should not be so far removed from the attack so as to constitute an isolated act void of any nexus to the attack.[1564]

v. The perpetrator must know that there is a widespread or systematic attack against a civilian population and know that his acts constitute part of this attack

479. The perpetrator must know that there is a widespread or systematic attack on the civilian population and know that his acts comprise part of that attack.[1565] For the purpose of Article 5, the perpetrator need not have the knowledge of the details of the attack.[1566] Furthermore, his motives are irrelevant.[1567] It is the attack, not his acts, which must be directed against the targeted population and the perpetrator need only know that his acts are a part of that attack.[1568]

b. Murder as a crime against humanity

480. Under Count 5 of the Indictment, the Accused is charged with murder, a crime against humanity, punishable under Article 5(a) of the Statute.[1569]

481. The elements of murder under Article 5 of the Statute are the same as those articulated for murder as a violation of the laws or customs of war under Article 3.[1570] The Chamber therefore refers here to its earlier discussion as to the elements of murder pursuant to Article 3 of the Statute.

c. Extermination as a crime against humanity

482. Under Count 4 of the Indictment, the Accused is charged with extermination, a crime against humanity, punishable under Article 5(b) of the Statute.[1571]

1564 *Mrkšić and Šljivančanin* Appeal Judgement, para. 41.

1565 *See Tadić* Appeal Judgement, para. 248; *Kunarac et al.* Appeal Judgement, para. 102; *Blaškić* Appeal Judgement, para. 124; *Kordić* Appeal Judgement, para. 99 (referring to the requisite knowledge of the accused); *Šainović et al.* Appeal Judgement, para. 264; *Mrkšić and Šljivančanin* Appeal Judgement, para. 42 (assessing the nexus of the crimes charged to the attack through the acts of the perpetrators); *Stanišić and Župljanin* Trial Judgement, Vol. I, para. 213 and *Stanišić and Simatović* Trial Judgement, Vol. I, para. 972 (both assessing the knowledge of the perpetrators). *But see Popović et al.* Trial Judgement, para. 786 (assessing the knowledge of the accused). *See also Milutinović et al.* Trial Judgement, Vol. I, paras. 153–162, (conducting an in-depth analysis of Tribunal jurisprudence on this requirement and concluding as follows: "Either the physical perpetrator or the person who planned, ordered, or instigated the acts of the physical perpetrator or a member of the joint criminal enterprise, must know that there is an attack on the civilian population and know, or take the risk, that his acts comprise part of this attack").

1566 *Kunarac et al.* Appeal Judgement, para. 102.

1567 *Kunarac et al.* Appeal Judgement, para. 103.

1568 *Kunarac et al.* Appeal Judgement, para. 103.

1569 Indictment, paras. 61–67.

1570 *See Stanišić and Župljanin* Trial Judgement, Vol. I, para. 42; *Tolimir* Trial Judgement, para. 714; *Popović et al.* Trial Judgement, para. 787; *Milutinović et al.* Trial Judgement, Vol. I, para. 136; *Lukić and Lukić* Trial Judgement, para. 903; *Martić* Trial Judgement, para. 58; *Blagojević and Jokić* Trial Judgement, para. 556.

1571 Indictment, paras. 61–67.

i. Actus reus

483. The *actus reus* of extermination consists of "the act of killing on a large scale".[1572] This involves "any act, omission or combination thereof which contributes directly or indirectly to the killing of a large number of individuals".[1573] In determining what is sufficient for a finding that a large number of individuals were killed, the Tribunal's jurisprudence has consistently held that there is no minimum numerical threshold of victims that must be reached.[1574] Furthermore, it is not necessary that the victims of extermination be precisely identified by name, and it suffices to establish that killings occurred on a mass scale.[1575] An assessment of whether the element of "massiveness" has been met must be made on a case by case basis, taking into account all the relevant factors.[1576] Relevant factors include, for example, the time and place of the killings, the selection of the victims and the manner in which they were targeted, and whether the killings were aimed at the collective group rather than victims in their individual capacity.[1577] There is no requirement to establish that there was a "vast scheme of collective murder".[1578]

484. Trial Chambers have previously found that it was possible to establish extermination "on an accumulation of separate and unrelated incidents, meaning on an aggregated basis".[1579] The Appeals Chamber recently stated in *Tolimir* that the *actus reus* of extermination "may be established through an aggregation of separate incidents".[1580] The Chamber notes that, in this formulation, the possibility of accumulating "*unrelated*" incidents was removed. The *Tolimir* Appeals Chamber went on to state that for the purpose of aggregating separate incidents, it is not

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1572 *Lukić and Lukić* Appeal Judgement, para. 536; *Stakić* Appeal Judgement, para. 259; *Seromba* Appeal Judgement, para. 189.

1573 *Seromba* Appeal Judgement, para. 189. *See also Ntakirutimana and Ntakirutimana* Appeal Judgement, para. 522 (in relation to the notion of contributing "directly" and "indirectly" to the killing of a large number of individuals).

1574 *Lukić and Lukić* Appeal Judgement, para. 537; *Rukundo* Appeal Judgement, para. 185; *Brđanin* Appeal Judgement, paras. 471–472; *Ntakirutimana and Ntakirutimana* Appeal Judgement, para. 516; *Stakić* Appeal Judgement, para. 260.

1575 *Ntakirutimana and Ntakirutimana* Appeal Judgement, paras. 521–522; *Stakić* Appeal Judgement, para. 259, fn. 552. *See also Rukundo* Appeal Judgement, para. 186.

1576 *Lukić and Lukić* Appeal Judgement, para. 538. *See also Tolimir* Appeal Judgement, para. 146; *Tolimir* Trial Judgement, para. 725; *Perišić* Trial Judgement, para. 107; *Popović et al.* Trial Judgement, para. 800.

1577 *Lukić and Lukić* Appeal Judgement, para. 538 (citing *Martić* Trial Judgement, fn. 120; *Krajišnik* Trial Judgement, para. 716; *Nahimana et al.* Trial Judgement, para. 1061; *Stakić* Trial Judgement, para. 653; *Vasiljević* Trial Judgement, para. 227).

1578 *Stakić* Appeal Judgement, paras. 258–259.

1579 *Brđanin* Trial Judgement, para. 391. *See also Tolimir* Trial Judgement, para. 725; *Lukić and Lukić* Trial Judgement, para. 938; *Martić* Trial Judgement, para. 63. The Appeals Chamber in *Brđanin* noted that the approach of the Trial Chamber to "consider all of the killings in the territory of the ARK as a whole rather than to distinguish them by location and incident" was not challenged in that case. The Appeals Chamber thus decided that it need not consider the issue but found that, with respect to specific killing incidents, the *actus reus* for extermination had been established and upheld the Trial Chamber's assessment that the scale of killings met the threshold of massiveness for the purposes of extermination. *Brđanin* Appeal Judgement, paras. 471–472.

1580 *Tolimir* Appeal Judgement, para. 147 (referring to *Karemera* Appeal Judgement, paras. 661–662).

required that the killing be on a vast scale in a concentrated location over a short period of time. However, even with respect to separate incidents, the Appeals Chamber made it clear that killing incidents which did not form part of the same murder operation could not be accumulated for the purposes of extermination.[1581] In assessing whether specific killing incidents formed part of the same murder operation, the *Tolimir* Appeals Chamber also recalled that the ICTR Appeals Chamber stated that "as a general matter, the element of killing on a large scale cannot be satisfied by a collective consideration of distinct events committed in different prefectures, in different circumstances, by different perpetrators, and over an extended period of time".[1582]

ii. Mens rea

485. The *mens rea* of extermination requires the intention that a large number of individuals be killed.[1583]

486. In line with jurisprudence on the *actus reus*, the *mens rea* of extermination similarly does not require the intent to kill a certain threshold number of victims.[1584] Additionally, there is no

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1581 *Tolimir* Appeal Judgement, para. 147. The *Tolimir* Appeals Chamber found that the killing of three Bosnian Muslim leaders from Žepa in late August and September 1995 was not part of the same murder operation as the mass killings of the Bosnian Muslim men and boys of Srebrenica which began on 13 July 1995, such that these incidents could not be accumulated for the purposes of extermination. *Tolimir* Appeal Judgement, 135, 145–150. The Appeals Chamber noted the Trial Chamber's findings of five shared factors between the killings, including the fact that the victims were all Bosnian Muslims, "the general identity of the perpetrators of the killings as members of the Bosnian Serb Forces", and "the link to the overall goal of the Bosnian Serb Forces of 'ridding the enclaves of its Bosnian Muslim population'". *Tolimir* Appeal Judgement, para. 148. The Appeals Chamber noted, however, that the three leaders were killed "after the main attack against the civilian population" of the enclaves of Srebrenica and Žepa and that the incidents in question were charged under two different JCEs. *Tolimir* Appeal Judgement, para. 149. The Appeals Chamber concluded that the killings of the three leaders were killed in a "different context and [...] circumstances" from the Bosnian Muslim males of Srebrenica. *Tolimir* Appeal Judgement, paras. 149–150.

1582 *Tolimir* Appeal Judgement, para. 147; *Karemera* Appeal Judgement, para. 661 (citing *Bagosora* Appeal Judgement, para. 396). The Chamber notes that in *Karemera*, the Appeals Chamber found that it had not been demonstrated in the context of that case that it was impermissible to aggregate killings to establish the large-scale requirement for extermination. *Karemera* Appeal Judgement, paras. 661–662. For some of the killings, the Appeals Chamber considered that "the [...] facts as found by the Trial Chamber reflect that these incidents individually satisfy the element of killings on a large scale". *Karemera* Appeal Judgement, para. 661. *Karemera* Appeal Judgement, para. 661, fns. 1796–1797; *Karemera* Trial Judgement, paras. 1199, 1294, 1450, 1612, 1649–1653, 1662. The Appeals Chamber noted that "[w]ith respect to the remaining massive killings throughout Rwanda by mid-July 1994, [...] the Trial Chamber connected sets of massive killings to specific acts of a member of the joint criminal enterprise or a particular group of assailants". *Karemera* Appeal Judgement, para. 662 (citing *Karemera* Trial Judgement, paras. 1619–1648). In *Bagosora*, the Appeals Chamber found that the incidents in question "presented distinct features" and "could not be considered to constitute one and the same crime sharing the same *actus reus*". *Bagosora* Appeal Judgement, para. 396. *See also Bagosora* Appeal Judgement, paras. 111, 125, 140, 155, 174, 236, 304, 332, 349, 396, fn. 922; *Bagosora* Trial Judgement, paras. 1064, 2140–2157.

1583 *See Lukić and Lukić* Appeal Judgement, para. 536; *Stakić* Appeal Judgement, paras. 259–260; *Tolimir* Trial Judgement, para. 726.

1584 *Stakić* Appeal Judgement, para. 260. *See also Tolimir* Trial Judgement, para. 726; *Popović et al.* Trial Judgement, para. 801; *Krajišnik* Trial Judgement, para. 716.

requirement that the act of extermination be carried out with the intent to destroy the group or part of the group to which the victims belong,[1585] or pursuant to a pre-existing plan or policy.[1586]

d. Deportation and inhumane acts (forcible transfer) as crimes against humanity

487. Under Counts 7 and 8 of the Indictment, the Accused is charged with deportation and inhumane acts (forcible transfer) as crimes against humanity pursuant to Articles 5(d) and 5(i) of the Statute, respectively.[1587] The Accused is also charged with persecution, pursuant to Article 5(h) of the Statute, through the underlying act of forcible transfer or deportation.[1588]

i. Actus reus

488. The elements of deportation and forcible transfer are substantially similar.[1589] Deportation and forcible transfer are defined as: (i) the forced displacement of one or more persons by expulsion or other forms of coercion, (ii) from an area in which they are lawfully present, (iii) without grounds permitted under international law.[1590] There is an important distinction between the two crimes; for deportation, the displacement of persons must be across a *de jure* border between two states or, in certain circumstances, a *de facto* border,[1591] and for forcible transfer, the removal may take place within national boundaries.[1592]

489. To establish deportation and forcible transfer, there must be a forced displacement of persons carried out by expulsion or other forms of coercion.[1593] The term "forced" may include physical force, as well as the threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression, or abuse of power, or the act of taking advantage of a

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1585 *Tolimir* Trial Judgement, para. 726; *Popović et al.* Trial Judgement, para. 801; *Stakić* Trial Judgement, para. 639; *Vasiljević* Trial Judgement, para. 227.

1586 *Krstić* Appeal Judgement, para. 225.

1587 Indictment, paras. 68–75.

1588 Indictment, para. 60(f).

1589 *See Simić et al.* Trial Judgement, para. 123. *See also Popović et al.* Trial Judgement, para. 890; *Milutinović et al.* Trial Judgement, Vol. I, para. 163.

1590 *Krajišnik* Appeal Judgement, para. 304; *Stakić* Appeal Judgement, paras. 278, 317. *See also Stanišić and Župljanin* Trial Judgement, Vol. I, para. 61; *Tolimir* Trial Judgement, para. 793; *Popović et al.* Trial Judgement, para. 891; *Milutinović et al.* Trial Judgement, Vol. I, para. 164.

1591 *Đorđević* Appeal Judgement, paras. 532, 535; *Krajišnik* Appeal Judgement, para. 304; *Stakić* Appeal Judgement, paras. 278, 289–300, 317. *See also Stanišić and Župljanin* Trial Judgement, Vol. I, para. 61; *Tolimir* Trial Judgement, para. 793; *Popović et al.* Trial Judgement, para. 892; *Milutinović et al.* Trial Judgement, Vol. I, para. 164.

1592 *Stakić* Appeal Judgement, para. 317. *See also Stanišić and Župljanin* Trial Judgement, Vol. I, para. 61; *Tolimir* Trial Judgement, para. 793; *Popović et al.* Trial Judgement, para. 892; *Milutinović et al.* Trial Judgement, Vol. I, para. 164.

1593 *Stakić* Appeal Judgement, para. 279.

coercive environment.[1594] The forced character of the displacement is determined by the absence of genuine choice by the victim in his or her displacement.[1595] As such, while persons may consent to, or even request, their removal, any consent or request to be displaced must be given voluntarily and as a result of the individual's free will, assessed in light of the surrounding circumstances of the particular case.[1596]

490. Furthermore, the involvement of a non-governmental organisation in facilitating displacements does not in and of itself render lawful an otherwise unlawful transfer.[1597] An agreement among military commanders, political leaders, or other representatives of the parties in a conflict cannot make a displacement lawful either; it is the consent of the individual that determines whether a displacement is voluntary.[1598]

491. As stated above, an element of deportation and forcible transfer is that the victim must be "lawfully present" in the area from which the forced displacement takes place.[1599] In analysing this element of deportation and forcible transfer, the terms "lawfully present" should be given their common meaning and should not be equated to the legal concept of lawful residence.[1600]

492. International law recognises certain grounds permitting forced removals, such as the evacuation of: (i) a civilian population for its security or for imperative military reasons; and (ii) prisoners of war out of combat zones and into internment facilities, subject to the conditions set out therein.[1601] If an act of forced removal is carried out on such bases, that act cannot constitute the *actus reus* of deportation or forcible transfer.[1602] Evacuation is an exceptional measure which is permitted to protect the civilian population. However, it is unlawful to use evacuation measures based on imperative military reasons as a pretext to remove the civilian population and seize

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1594 *Šainović et al.* Appeal Judgement, para. 366; *Krajišnik* Appeal Judgement, para. 319; *Stakić* Appeal Judgement, paras. 279, 281; *Krnojelac* Appeal Judgement, paras. 229, 233; *Simić et al.* Trial Judgement, para. 126.

1595 *Stakić* Appeal Judgement, para. 279; *Krnojelac* Appeal Judgement, paras. 229, 233; *Blagojević and Jokić* Trial Judgement, para. 596; *Brđanin* Trial Judgement, para. 543.

1596 *Stakić* Appeal Judgement, paras. 279, 282.

1597 *Stakić* Appeal Judgement, para. 286.

1598 *Tolimir* Trial Judgement, para. 796; *Popović et al.* Trial Judgement, para. 897; *Simić et al.* Trial Judgement, paras. 127–128; *Naletilić and Martinović* Trial Judgement, para. 523.

1599 *See* para. 488.

1600 *Popović et al.* Trial Judgement, para. 900 (finding that the prohibition against forcible transfer and deportation should protect the right of victims to live in their homes and communities, whether long term or temporarily; therefore encompassing, for example, "internally displaced persons who have established temporary homes after being uprooted from their original community"). *See also Tolimir* Trial Judgement, para. 797.

1601 *Stakić* Appeal Judgement, paras. 284–285 (quoting Article 19 of Geneva Convention III, Article 49 of Geneva Convention IV, and Article 17 of Additional Protocol II). *See also Popović et al.* Trial Judgement, paras. 901–902; *Milutinović et al.* Trial Judgement, Vol. I, para. 166; *Blagojević and Jokić* Trial Judgement, para. 597.

1602 *Stakić* Appeal Judgement, para. 284.

control over a desired territory.[1603] Although forced removal for humanitarian reasons is justifiable in certain situations, it is not justified where the humanitarian crisis that caused the displacement is itself the result of the perpetrator's own unlawful activity.[1604]

ii. Mens rea

493. The *mens rea* required for deportation is the intent to forcibly displace the population across a *de jure* or *de facto* border.[1605] The *mens rea* for the crime of forcible transfer is the intent to forcibly displace the population within a national border.[1606] Deportation and forcible transfer do not require intent that the victims be displaced permanently, only that they be intentionally displaced.[1607]

iii. Forcible transfer as "other inhumane acts" pursuant to Article 5(i)

494. The category of "other inhumane acts" contained in Article 5(i) of the Statute is a residual category of crimes against humanity which includes serious criminal acts that are not exhaustively enumerated in Article 5.[1608] The following elements are required for an act or omission to constitute an inhumane act under Article 5(i): (i) there was an act or omission of similar seriousness to the other enumerated acts under Article 5; (ii) the act or omission caused serious mental or physical suffering or injury or constituted a serious attack on human dignity; and (iii) the act or omission was committed with the intent to inflict serious physical or mental suffering or to commit a serious attack on the human dignity of the victim(s), or with the knowledge that this act or omission was likely to cause such suffering or a serious attack upon human dignity.[1609]

495. The Appeals Chamber has confirmed that "specific "acts of forcible transfer *may* be sufficiently serious as to amount to other inhumane acts".[1610] A Trial Chamber must therefore

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1603 *Popović et al.* Trial Judgement, para. 901; *Blagojević and Jokić* Trial Judgement, para. 597.

1604 *Stakić* Appeal Judgement, para. 287. *See also Popović et al.* Trial Judgement, para. 903.

1605 *See Tolimir* Trial Judgement, para. 801; *Popović et al.* Trial Judgement, para. 904; *Milutinović et al.* Trial Judgement, Vol. I, para. 164; *Martić* Trial Judgement, para. 111. *See also Stakić* Appeal Judgement, para. 278.

1606 *Stakić* Appeal Judgement, para. 317. *See also Tolimir* Trial Judgement, para. 801; *Popović et al.* Trial Judgement, para. 904; *Milutinović et al.* Trial Judgement, Vol. I, para. 164; *Martić* Trial Judgement, para. 111.

1607 *Brđanin* Appeal Judgement, para. 206; *Stakić* Appeal Judgement, paras. 278, 304, 307, 317. *See also Tolimir* Trial Judgement, para. 801; *Popović et al.* Trial Judgement, para. 905; *Milutinović et al.* Trial Judgement, Vol. I, para. 164.

1608 *Stakić* Appeal Judgement, paras. 315–316; *Kordić and Čerkez* Appeal Judgement, para. 117 (quoting *Kupreškić et al.* Trial Judgement, para. 563).

1609 *Kordić and Čerkez* Appeal Judgement, para. 117. *See also Vasiljević* Trial Judgement, paras. 234–236; *Krnojelac* Trial Judgement, paras. 130–132; *Kayishema and Ruzindana* Trial Judgement, paras. 153–154.

1610 *Stakić* Appeal Judgement, para. 317 (emphasis added). *See also Krajišnik* Appeal Judgement, para. 331.

assess on a case-by-case basis if the specific instances of forcible transfer are sufficiently serious to amount to "other inhumane acts" pursuant to Article 5(i) of the Statute.[1611]

e. Persecution as a crime against humanity

496. Under Count 3 of the Indictment, the Accused is charged with persecution pursuant to the following underlying acts: (a) killings; (b) torture, beatings, and physical and psychological abuse; (c) rape and other acts of sexual violence; (d) establishment and perpetuation of inhumane living conditions; (e) terrorising and abuse;[1612] (f) forcible transfer or deportation; (g) unlawful detention; (h) forced labour at front lines and the use of human shields; (i) appropriation or plunder of property; (j) wanton destruction of private property, including cultural monuments and sacred sites; and (k) imposition and maintenance of restrictive and discriminatory measures.[1613] The Prosecution charges the acts listed in (b), (c), (d), and (e) above as forms of "cruel and/or inhumane treatment".

i. General elements

497. Persecution is defined in the jurisprudence of the Tribunal as an act or omission (i) which discriminates in fact and denies or infringes upon a fundamental right laid down in international customary law or treaty law (*actus reus*); and (ii) is carried out deliberately with the intention to discriminate on political, social or religious grounds (*mens rea*).[1614] Although the Statute refers to the listed grounds in the conjunctive, the presence of discriminatory intent on any one of these listed grounds is sufficient to fulfill the *mens rea* requirement for persecution.[1615]

498. Persecution may take different forms.[1616] It may be committed through acts or omissions, some of which are listed in the Statute.[1617] For persecution to be established, the act or omission

1611 *Krajišnik* Appeal Judgement, para. 331; *Stakić* Appeal Judgement, para. 317; *Kordić and Čerkez* Appeal Judgement, para. 117.

1612 This allegation only pertains to the Srebrenica component of the case, *see* Indictment, para. 60(e).

1613 Indictment, paras. 48–60; Schedules A, B, C, D, and E (Parts 1 and 2).

1614 *Stakić* Appeal Judgement, para. 327; *Kordić and Čerkez* Appeal Judgement, para. 101; *Blaškić* Appeal Judgement, para. 131; *Vasiljević* Appeal Judgement, para. 113; *Krnojelac* Appeal Judgement, para. 185.

1615 *See Simić et al.* Trial Judgement, para. 52; *Tadić* Trial Judgement, para. 713.

1616 *Krnojelac* Appeal Judgement, para. 219.

1617 *Brđanin* Appeal Judgement, para. 296; *Kvočka et al.* Appeal Judgement, paras. 321–323; *Krnojelac* Appeal Judgement, para. 219; *Stanišić and Simatović* Trial Judgement, Vol. I, para. 1239.

must discriminate in fact.[1618] An act, or omission, is discriminatory if the victim is targeted due to his membership in one of the protected groups.[1619]

499. For the alleged underlying acts or omissions to be considered serious enough to amount to persecution, they must be of equal gravity to the other crimes listed in Article 5 of the Statute, whether considered in isolation or in conjunction with other underlying acts.[1620] The Appeals Chamber held that in considering which underlying acts could amount to persecution, it must be demonstrated that "these acts must constitute a denial of or infringement upon a fundamental right laid down in international customary law".[1621]

500. Persecution requires the specific intent to discriminate on political, racial or religious grounds and it is this discriminatory intent which distinguishes this offence from other offences listed in Article 5 of the Statute.[1622] This discriminatory intent requires that the perpetrator acted with the intent to harm the victim because he belongs to a particular community or group.[1623] While the discriminatory intent may not be inferred solely from the "general discriminatory nature of an attack characterised as a crime against humanity",[1624] it may be inferred from the context as long as the circumstances surrounding the commission of the alleged acts substantiate the existence

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1618 *Lukić and Lukić* Appeal Judgement, para. 455; *Kvočka et al.* Appeal Judgement, para. 320; *Krnojelac* Appeal Judgement, para. 185.

1619 *Kvočka et al.* Appeal Judgement, paras. 366, 455; *Kordić* Appeal Judgement, para. 111; *Brđanin* Trial Judgement, paras. 992–993; *Simić et al.* Trial Judgement, para. 51; *Kupreškić et al.* Trial Judgement, paras. 635–636.

1620 *Brđanin* Appeal Judgement, para. 296; *Simić* Appeal Judgement, para. 177 ; *Naletilić and Martinović* Appeal Judgement, para. 574 ; *Kvočka et al.* Appeal Judgement, paras. 321, 323; *Kordić and Čerkez* Appeal Judgement, paras. 102–103, 672; *Blaškić* Appeal Judgement, paras. 135, 139; *Krnojelac* Appeal Judgement, paras. 199, 221; *Nahimana et al.* Appeal Judgement, para. 985. The Appeals Chamber has recently stated that it is not required that each underlying act be a violation of international law and that a "trial chamber does not need to establish the elements of the underlying acts, including the *mens rea*, even when the underlying act also constitutes a crime under international law". *Popović et al.* Appeal Judgement, para. 738. However, the Chamber is of the view that while it may not be *necessary* to look to the strict elements of the underlying acts to establish whether persecution has been committed, when those elements have been satisfied, this assessment is instructive in determining whether the underlying acts also amount to other crimes under Article 5 of the Statute or are of equal gravity to the other crimes listed under Article 5 of the Statute. For this purpose, the Chamber will set out how the underlying acts of persecution as charged in the Indictment have been defined.

1621 *Blaškić* Appeal Judgement, para. 139. Some Trial Chambers have stated that this gravity test is met when the act or omission amounts to a gross or blatant denial of fundamental human rights. *Brđanin* Trial Judgement, para. 995; *Krnojelac* Trial Judgement, para. 434; *Kupreškić et al.* Trial Judgement, paras. 620–621. This is also broadly similar to the ICC definition of persecution which refers to the "intentional and severe deprivation of fundamental rights contrary to international law [...]". Rome Statute, Article 7(2)(g).

1622 *Tadić* Appeal Judgement, para. 305; *Krnojelac* Trial Judgement, para. 435; *Kordić and Čerkez* Trial Judgement, para. 217; *Blaškić* Trial Judgement, para. 235.

1623 *Kordić and Čerkez* Appeal Judgement, para. 111 (holding that the discriminatory intent to cause injury to "a human being because he belongs to a particular community or group" does not require the perpetrator to possess a "specific persecutory intent" over and above a discriminatory intent); *Blaškić* Appeal Judgement, para. 165.

1624 *Kordić and Čerkez* Appeal Judgement, para. 110; *Blaškić* Appeal Judgement, para. 164; *Krnojelac* Appeal Judgement, para. 184.

of the discriminatory intent.[1625] The Appeals Chamber has held that circumstances which may be taken into account include the systematic nature of the crimes committed against a certain group and the general attitude of the alleged perpetrator as demonstrated by his behaviour.[1626] However, the existence of a discriminatory policy is not a requirement for proving persecution, although persecutory acts may form a part of a discriminatory policy or practice.[1627]

ii. Underlying acts

(A) Killings

501. Under Count 3, the Accused is charged with persecution, pursuant to Article 5(h) of the Statute, through the underlying act of killings.[1628]

502. Murder is set out as a crime against humanity under Article 5(a). Accordingly killings can constitute persecution, provided the general elements for persecution are met.[1629] The Chamber has already found that the elements of murder under Article 5 of the Statute are the same as those articulated for murder as a violation of the laws or customs of war under Article 3 of the Statute.[1630] The Chamber thus refers to this earlier discussion.[1631]

(B) Cruel and/or inhumane treatment

503. The Accused is charged under Count 3 with persecution, pursuant to Article 5(h) of the Statute, through the underlying act of "cruel and/or inhumane treatment". The Prosecution charges the following forms of cruel and/or inhumane treatment in the Indictment: (i) "torture, beatings, and physical and psychological abuse during and after the takeovers in the Municipalities and in detention facilities in the Municipalities"; (ii) "rape and other acts of sexual violence during and after takeovers in the Municipalities and in detention facilities in the Municipalities"; (iii) the establishment and perpetuation of inhumane living conditions in detention facilities in the

1625 *Kordić and Čerkez* Appeal Judgement, para. 110; *Blaškić* Appeal Judgement, para. 164; *Krnojelac* Appeal Judgement, para. 184.

1626 *Kvočka et al.* Appeal Judgement, para. 460; *Krnojelac* Appeal Judgement, para. 184.

1627 *Popović et al.* Trial Judgement, para. 967; *Blagojević and Jokić* Trial Judgement, para. 582; *Brđanin* Trial Judgement, para. 996; *Stakić* Trial Judgement, para. 739; *Krnojelac* Trial Judgement, para. 435; *Kupreškić et al.* Trial Judgement, paras. 615, 625.

1628 Indictment, para. 60(a).

1629 *Popović et al.* Trial Judgement, para. 972.

1630 *See* para. 481.

1631 *See* paras. 446–448.

Municipalities; and (iv) "terrorising and abuse of Bosnian Muslims of Srebrenica in Potočari and the beating of men and boys of Srebrenica prior to their execution".[1632]

504. The Appeals Chamber has held that the right to be free from "cruel, inhuman or degrading treatment or punishment" is recognised under customary international law and enshrined in international human rights instruments.[1633] Cruel and/or inhumane treatment is defined as an act or omission which causes serious mental or physical suffering or injury, or which constitutes a serious attack on human dignity.[1634] The act or omission must be committed with the intent to cause serious mental or physical suffering or injury or a serious attack on human dignity, or with the knowledge that serious mental or physical suffering or injury or the serious attack on human dignity was a probable consequence of the act or omission.[1635] The Chamber will now examine, in turn, the various forms of cruel or inhumane treatment listed by the Prosecution as underlying acts of persecution under Count 3 of the Indictment.

(1) Torture

505. Torture is expressly prohibited in Article 5(f) of the Statute and may constitute persecution if the general requirements of persecution are met.[1636] The Appeals Chamber has held that the definition of torture, as set out in the Convention Against Torture may be considered to reflect customary international law.[1637] Torture constitutes one of the most serious attacks upon a person's mental or physical integrity.[1638] The seriousness of torture lies in the infliction of severe mental or

1632 Indictment, paras. 60(b)–(e).

1633 *Kordić and Čerkez* Appeal Judgement, para. 106; *Blaškić* Appeal Judgement, para. 143.

1634 *Čelebići* Appeal Judgement, paras. 424, 426. The Chamber notes that it is settled jurisprudence that the material elements of cruel treatment under Article 3 and "inhuman" treatment under Article 2 are the same and that the sole distinct element between cruel and inhuman treatment stems from the protected person requirement under Article 2. *Čelebići* Appeal Judgement, para. 426; *Blagojević and Jokić* Trial Judgement, para. 586, fn. 1938. Furthermore, it is settled that these offences and other *inhumane* acts under Article 5(i) of the Statute are also the same. *See, e.g., Simić et al.* Trial Judgement, para. 74. While in this present case cruel and/or inhumane treatment is charged as an underlying act of the offence of persecution, the Tribunal's jurisprudence has established that the definition of this underlying act is same as cruel treatment and inhuman treatment. *See, e.g., Gotovina et al.* Trial Judgement, Vol. II, para. 1791; *Tolimir* Trial Judgement, para. 853; *Popović et al.* Trial Judgement, para. 975.

1635 *Popović et al.* Trial Judgement, para. 974; *Strugar* Trial Judgement, para. 261; *Limaj et al.* Trial Judgement, para. 231.

1636 *See* paras. 497–500.

1637 *Brđanin* Appeal Judgement, para. 246; *Kunarac et al.* Appeal Judgement, para. 146; *Furundžija* Appeal Judgement, para. 111. *See also* Article 1(1) of the Convention Against Torture which defines torture as:

"[A]ny act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions".

1638 *Krnojelac* Trial Judgement, para. 180.

physical pain in order to attain a certain result or purpose.[1639] Accordingly, the level of harm an act or omission must cause in order to constitute torture must be "severe pain or suffering, whether physical or mental".[1640]

506. Torture has been defined as follows:

> i) The infliction, by act or omission, of severe pain or suffering, whether physical or mental;
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> ii) the act or omission must be intentional; and
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> iii) the act or omission must be aimed at obtaining information or a confession, or at punishing, intimidating or coercing the victim or a third person, or at discriminating, on any ground, against the victim or third person.[1641]

507. There is no exhaustive enumeration of all the acts or omissions which may constitute torture.[1642] The allegations of torture must be considered on a case by case basis, so as to determine whether, in light of the acts committed and their context, severe physical or mental pain or suffering was inflicted.[1643] Acts inflicting physical pain may amount to torture even when they do not cause pain of the type accompanying serious injury, as long as severe pain or suffering is inflicted.[1644]

508. The perpetrator must intentionally act in such a way which, in the normal course of events, would cause severe pain or suffering, whether physical or mental, to the victim(s), in pursuance of one of the purposes prohibited by the definition of the crime of torture as stated above.[1645] This purpose need not be the "predominant or sole purpose" behind inflicting the severe pain or suffering.[1646] There is no requirement that the perpetrator acted in an official capacity as a state official or other person in authority.[1647]

1639 *Krnojelac* Trial Judgement, para. 180.

1640 *Brđanin* Appeal Judgement, para. 246. *See also Furundžija* Appeal Judgement, para. 111; Convention Against Torture, Article 1(1).

1641 *Haradinaj et al.* Appeal Judgement, para. 290; *Kunarac et al.* Appeal Judgement, para. 142.

1642 *Naletilić and Martinović* Appeal Judgement, para. 299, affirmed by *Brđanin* Appeal Judgement, para. 251.

1643 *Naletilić and Martinović* Appeal Judgement, para. 299, affirmed by *Brđanin* Appeal Judgement, para. 251.

1644 *Brđanin* Appeal Judgement, para. 251.

1645 *Kunarac et al.* Appeal Judgement, para. 153.

1646 *Simić et al.* Trial Judgement, para. 81; *Krnojelac* Trial Judgement, para. 184; *Kvočka et al.* Trial Judgement, para. 153; *Čelibići* Trial Judgement, para. 470.

1647 *Kvočka et al.* Appeal Judgement, para. 284 (affirming *Kunarac et al.* Appeal Judgement, para. 148).

(2) Beatings and physical and psychological abuse

509. Beatings and physical abuse, although not expressly prohibited under Article 5 of the Statute, may constitute cruel and/or inhumane treatment as persecution if they reach the same level of gravity as the other acts prohibited in Article 5.[1648] Beatings constitute cruel or inhumane treatment if (i) the beatings caused serious mental or physical suffering or injury or constituted a serious attack on human dignity, and (ii) the beatings were performed deliberately.[1649] The Chamber considers that the same elements apply to physical abuse.

510. Psychological abuse, including harassment and humiliation, is also not explicitly listed under Article 5 of the Statute, but may constitute persecution if the abuse reaches the same level of gravity as the other crimes listed under Article 5 of the Statute and the general requirements of persecution are met.[1650] For example subjecting victims to constant humiliation and degradation may amount to psychological abuse as an underlying act of persecution.[1651]

(3) Rape and other acts of sexual violence

511. Rape is listed as a crime against humanity under Article 5(g) of the Statute and may constitute an underlying act of persecution if the general requirements of persecution are met.[1652] Rape involves sexual penetration, however slight: (a) of the vagina or anus of the victim by the penis of the perpetrator or any other object used by the perpetrator or (b) of the mouth of the victim by the penis of the perpetrator, where such sexual penetration occurs without the consent of the victim.[1653] Consent for this purpose must be given voluntarily, as a result of the victim's free will,

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1648 *Simić et al.* Trial Judgement, paras. 77, 83; *Stakić* Trial Judgement, paras. 751–753. *See also Kordić and Čerkez* Appeal Judgement, para. 672. *See* paras. 497–500.

1649 *Simić et al.* Trial Judgement, para. 78.

1650 *Blaškić* Appeal Judgement, paras. 154–155. *See* paras. 497–500.

1651 *Stakić* Trial Judgement, paras. 758–760, 807–808. Conditions of detention in camps including "gross overcrowding in small rooms without ventilation, requiring detainees to beg for water, and forcing them to relieve bodily functions in their clothes" which were intended to harass, humiliate and inflict mental harm on the detainees and "constant berating, demoralising and threatening of detainees, including guards' coercive demands for money from detainees, and housing of detainees in lice-infected and cramped facilities, both of which were calculated by participants in the operation of the camp to inflict psychological harm upon the detainees", and witnessing "torturous interrogations and random brutality perpetrated on fellow inmates" were all found to constitute psychological abuse. *Kvočka et al.* Trial Judgement, paras. 190, 192.

1652 *See* paras. 497–500.

1653 *Kunarac et al.* Appeal Judgement, paras. 127–128; *Kvočka et al.* Appeal Judgement, para. 395 (confirming *Kunarac et al.* Trial Judgement, para. 460).

and is assessed in the context of the surrounding circumstances.[1654] The perpetrator must intend to effect this penetration and have the knowledge that it occurs without the consent of the victim.[1655]

512. Other acts of sexual violence encompass acts which may fall short of rape, including crimes such as sexual slavery or molestation, but are of equal gravity to other crimes under Article 5 of the Statute.[1656] These acts are often characterised as "sexual assault".[1657] Serious abuses of a sexual nature inflicted upon the integrity of a person by means of coercion, threat of force, or intimidation in a way that is humiliating and degrading to the victim's dignity may constitute other acts of sexual violence.[1658] These acts are not limited to the physical invasion of the human body and may include acts which do not involve penetration or even physical contact.[1659]

513. Sexual violence is found when (i) the perpetrator commits an act of a sexual nature on another or requires the victim to perform such an act, (ii) that act infringes on the victim's physical integrity or amounts to an outrage to the victim's personal dignity, and (iii) the victim does not consent to the act.[1660] The perpetrator must intentionally commit the act, and be aware that the victim did not consent to the act.[1661]

(4) Establishment and perpetuation of inhumane living conditions

514. While there is no offence of "inhumane living conditions" recognised as such in international humanitarian law, inhumane living conditions is a factual description of the environment in which detainees are held and the treatment they receive.[1662] The establishment and perpetuation of inhumane living conditions has been considered a sub-category of cruel and/or inhumane treatment, which may constitute persecution if the acts reach the same level of gravity as the other crimes listed under Article 5 of the Statute and if the general requirements for persecution are also met.[1663]

1654 *Kunarac et al.* Appeal Judgement, paras. 127–128; *Kvočka et al.* Appeal Judgement, para. 395 (confirming *Kunarac et al.* Trial Judgement, para. 460).

1655 *Kunarac et al.* Appeal Judgement, paras. 127–128 (confirming *Kunarac et al.* Trial Judgement, para. 460).

1656 *Kvočka et al.* Trial Judgement, para. 180.

1657 *Đorđević* Trial Judgement, para. 1766; *Akayesu* Trial Judgement, para. 688.

1658 *Brđanin* Trial Judgement, para. 1012; *Stakić* Trial Judgement, para. 757. *See also Brima et al.* Trial Judgement, para. 720.

1659 *Akayesu* Trial Judgement, para. 688; *Furundžija* Trial Judgement, para. 186.

1660 *Đorđević* Trial Judgement, para. 1768; *Milutinović* Trial Judgement, Vol. I, para. 201.

1661 *Đorđević* Trial Judgement, para. 1768; *Milutinović* Trial Judgement, Vol. I, para. 201.

1662 *See Čelebići* Trial Judgement, paras. 554, 556.

1663 *Krajišnik* Trial Judgement, paras. 755–756; *Krnojelac* Trial Judgement, paras. 439, 443. *See* paras. 497–500.

(C) Forcible transfer and deportation

515. In Count 3 of the Indictment, the Accused is charged with persecution, punishable under Article 5(h) of the Statute, through the underlying act of forcible transfer or deportation.[1664]

516. Deportation is set out as a crime against humanity under Article 5(d) of the Statute and it has been settled that acts of forcible transfer may be sufficiently serious as to amount to "other inhumane acts" set out in Article 5(i) of the Statute.[1665] Accordingly, they can both constitute persecution provided the general elements for persecution are met.[1666] The Chamber thus refers to its discussion on the elements of deportation and inhumane acts (forcible transfer).[1667]

(D) Unlawful detention in detention facilities

517. The Accused is charged under Count 3 with persecution, pursuant to Article 5(h) of the Statute, through the underlying act of "unlawful detention in detention facilities in the Municipalities".[1668]

518. The Chamber interprets the charge of unlawful detention in paragraph 60(g) of the Indictment as relating to the crime of imprisonment, which is a crime under Article 5(e) of the Statute.[1669]

519. The term "imprisonment" pursuant to Article 5(e) of the Statute is understood as arbitrary imprisonment; that is the deprivation of liberty of an individual without the due process of law.[1670] The crime of imprisonment consists of the following elements: (i) an individual is deprived of his or her liberty; (ii) the deprivation of liberty is carried our arbitrarily, *i.e.*, there is no legal basis for it; and (iii) the accused or perpetrator acted with the intent to deprive the individual arbitrarily of his or her liberty.[1671]

1664 Indictment, para. 60(f).

1665 *See* para. 495.

1666 *Blaškić* Appeal Judgement, para. 153; *Krnojelac* Appeal Judgement, paras. 221–223.

1667 *See* paras. 488–495.

1668 Indictment, paras. 60(g).

1669 Other Trial Chambers have similarly found that unlawful detention as a crime against humanity relates to imprisonment pursuant to Article 5(e) of the Statute. *See Gotovina et al.* Trial Judgement, Vol II, para. 1814; *Krajišnik* Trial Judgement, para. 751.

1670 *Kordić and Čerkez* Appeal Judgement, para. 116; *Krajišnik* Trial Judgement, para. 752.

1671 *Krnojelac* Trial Judgement, para. 115; *Krajišnik* Trial Judgement, para. 752.

520. If there is a legal basis for the deprivation of liberty, it must apply throughout the period of imprisonment, for the deprivation of liberty will become arbitrary as soon as the legal basis ceases to exist.[1672]

521. Unlawful detention, carried out on discriminatory grounds, and for which the general elements of persecution are fulfilled, may constitute persecution.[1673]

(E) Forced labour and the use of human shields

522. In Count 3 of the Indictment, the Accused is charged with persecution, pursuant to Article 5(h) of the Statute, through the underlying act of forced labour at frontlines and the use of Bosnian Muslims and Bosnian Croats as human shields.[1674]

523. While not all forms of forced labour are *per se* unlawful,[1675] acts of forced labour have, in certain circumstances, and when performed with discriminatory intent, been considered to constitute persecution as a crime against humanity.[1676] Furthermore, the use of prisoners of war and civilian detainees as human shields is prohibited under international law,[1677] and has been held to constitute inhuman or cruel treatment under Articles 2 and 3 of the Statute, respectively,[1678] and persecution as a crime against humanity pursuant to Article 5 of the Statute.[1679]

524. The Prosecution needs to demonstrate that an individual was forced to perform labour and that the labour in question was prohibited under international law. The assessment as to whether the labour was performed involuntarily is done on a case-by-case basis and requires a consideration of both objective and subjective criteria.[1680] The following criteria may be examined in

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1672 *Stanišić and Župljanin* Trial Judgement, Vol. I, para. 79; Gotovina *et al.* Trial Judgement, Vol. II, para. 1816; *Krajišnik* Trial Judgement, para. 753; *Krnojelac* Trial Judgement, para. 114.

1673 *Blaškić* Appeal Judgement, para. 154; *Tadić* Trial Judgement, paras. 714, 717.

1674 Indictment, para. 60(h).

1675 *See* para. 525.

1676 *Krajišnik* Trial Judgement, paras. 759, 761; *Simić et al.* Trial Judgement, para. 93.

1677 Article 23 of Geneva Convention III provides: "No prisoner of war may at any time be sent to, or detained in areas where he may be exposed to the fire of the combat zone, nor may his presence be used to render certain points or areas immune from military operations." *See also* Article 83 of Geneva Convention IV, which provides that the "Detaining Power shall not set up places of internment in areas particularly exposed to the dangers of war." Finally, Article 51(7) of Additional Protocol I provides: "The presence or movements of the civilian population or individual civilians shall not used to render certain points or areas immune from military operations, in particular in attempts to shield military objectives from attacks or to shield, favour or impede military operations. The Parties to the conflict shall not direct the movement of the civilian population or individual civilians in order to attempt to shield military objectives from attacks or to shield military operations."

1678 *Blaškić* Appeal Judgement, para. 653 (referring to *Naletilić and Martinović* Trial Judgement, para. 303).

1679 *Blaškić* Appeal Judgement, paras. 155, 653; *Krajišnik* Trial Judgement, para. 764.

1680 *Krnojelac* Appeal Judgement, para. 195 (specifying that "[i]n this case, given the particular circumstances of the detention centre, there was sufficient objective evidence to prove that the detainees were in fact forced to work, thus bearing out their conviction that the labour they performed was forced").

determining whether an individual was not in a position to make a real choice to undertake labour: (i) the substantially uncompensated aspect of the labour performed; (ii) the vulnerable position in which the detainees found themselves; (iii) the allegations that detainees who were unable or unwilling to work were either forced to do so or put in solitary confinement; (iv) claims of longer term consequences of the labour on the detainees, including on their health; and (v) the fact and the conditions of the detention.[1681]

525. In relation to the second prong and whether the performed labour was prohibited under international law, the Chamber notes that not all forms of forced labour are *per se* unlawful during armed conflict.[1682] In that regard, the Appeals Chamber has held that "[t]here is a principle which states that the work required of a person in the ordinary course of lawful detention is not regarded as forced or compulsory labour."[1683] Furthermore, individuals deprived of liberty, if made to work, shall have the benefit of working conditions and safeguards similar to those enjoyed by the local civilian population.[1684] For instance, compelling individuals to dig trenches or to prepare other forms of military installations has been found to constitute cruel treatment and persecution punishable under Articles 3 and 5 of the Statute, respectively.[1685] The use of human shields, namely the placement or detention of persons in areas where they may be exposed to combat operations, for the purpose of rendering certain areas or activities immune from military operations or armed attack, is prohibited under international law.[1686] The prohibition of the use of human shields is not dependent on actual harm or attack.[1687]

526. In relation to forced labour, the perpetrator must have intended the victim to perform prohibited work involuntarily.[1688] In the absence of direct evidence, intent can be inferred from the circumstances in which the labour was performed.[1689] In relation to the use of human shields, the

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1681 *Naletilić and Martinović* Trial Judgement, para. 259; *Krnojelac* Trial Judgement, paras. 373, 378.

1682 *See* Article 49 of Geneva Convention III; Article 51. *See also Blaškić* Appeal Judgement, para. 597.

1683 *Krnojelac* Appeal Judgement, para. 200.

1684 Article 5(1)(e) of Additional Protocol II (referred to in *Simić et al.* Trial Judgement, para. 90). *See also* Article 52 of Geneva Convention III (prohibiting the forced use of prisoners of war to perform unhealthy or dangerous work); Commentary to Geneva Convention III, Article 52 (distinguishing between (a) work which is not dangerous in itself but which may be dangerous by reason of the general conditions in which it is carried out (*i.e.*: work done in the vicinity of military objectives or the battlefield), (b) work which is by its very nature dangerous or unhealthy (*e.g*: mine-lifting), (c) work which is not in itself dangerous but which may be or may become so if it is done in inadequate conditions).

1685 *Blaškić* Appeal Judgement, para. 597; *Krajišnik* Trial Judgement, para. 760; *Simić et al.* Trial Judgement, para. 835.

1686 *Krajišnik* Trial Judgement, para. 763 (referring to *Blaškić* Appeal Judgement, paras. 652–654).

1687 *Blaškić* Appeal Judgement, para. 654.

1688 *See Naletilić and Martinović* Trial Judgement, para. 260 (defining the *mens rea* as the Prosecution being required to establish "that the perpetrator had the intent that the victim would be performing prohibited work").

1689 *See Naletilić and Martinović* Trial Judgement, para. 260.

perpetrator must intend to shield a military objective from attack or shield, favour, or impede military operations.[1690]

(F) Plunder of property

527. In Count 3 of the Indictment, the Accused is charged with persecution, a crime against humanity punishable under Article 5(h) of the Statute, through the underlying act of appropriation or plunder of property.[1691] The Chamber considers that the formulation in the Indictment of the charge as "appropriation or plunder of property" is properly construed as "plunder of property", since the term "appropriation" has been used by the Appeals Chamber to define plunder.[1692]

528. Acts of plunder, which have been deemed by the Tribunal to include pillage, infringe various norms of international humanitarian law.[1693] The prohibition against plunder is general in scope and extends both to acts of looting committed by individual soldiers for their private gain and to the organised seizure of property undertaken within the framework of a systematic economic exploitation of occupied territory.[1694]

529. Plunder involves the intentional and unlawful appropriation of private or public property.[1695] Furthermore, pursuant to Articles 1 and 5 of the Statute, the offence must involve grave consequences for the victim.[1696] The assessment as to when a piece of property reaches the threshold level of a certain value so as to create grave consequences for the victim can only be made on a case by case basis in conjunction with the particular circumstances of the case.[1697] The threshold of seriousness can be met in circumstances where appropriation is *vis-à-vis* a large number of individuals even though there are no grave consequences for each individual as the

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1690 The Chamber notes that the *mens rea* of the use of human shields has not been defined in the Tribunal's jurisprudence. The Chamber therefore relies on the definition as set out in the ICC Elements of Crimes, *see* ICC Elements of Crimes, Article 8(2)(b)(xxiii).

1691 Indictment, para. 60(i).

1692 *Kordić and Čerkez* Appeal Judgement, para. 84. The Prosecution in its closing arguments clarified that with respect to footnote 8 of the Indictment, it did not allege criminal responsibility for both appropriation and plunder in certain municipalities, even though the footnote only referred to plunder. Closing Arguments, T. 47694 (30 September 2014).

1693 *Kordić and Čerkez* Appeal Judgement, para. 77; *Blaškić* Appeal Judgement, para. 147. Pillage is expressly prohibited in Articles 28 and 47 of The Hague Regulations, Article 33 of Geneva Convention IV, and Article 4 (2)(g) of Additional Protocol II. *See also Hadžihasanović and Kubura* Rule 98 *bis* Appeal Decision, paras. 37–38, for a discussion as to the customary nature of the prohibition against plunder both in international and non-international armed conflicts.

1694 *Čelebići* Trial Judgement, para. 590.

1695 *Kordić and Čerkez* Appeal Judgement, para. 84.

1696 *See* para. 499.

1697 *Kordić and Čerkez* Appeal Judgement, paras. 80–83.

overall effect on the civilian population and the multitude of offences committed would render the violation serious.[1698]

(G) Wanton destruction of private and public property, including cultural monuments and sacred sites

530. In Count 3 of the Indictment, the Accused is charged with persecution, a crime against humanity punishable under Article 5(h) of the Statute, through the underlying act of wanton destruction of private property, including homes and businesses, and public property, including cultural monuments and sacred sites.[1699]

531. The destruction of various types of property is prohibited by a number of international instruments.[1700] In this context, the term of property is understood to cover both private and public property, including cultural and religious property.[1701] While the destruction of property is listed as an offence under Articles 2 and 3 of the Statute in various forms,[1702] Article 5 makes no mention of it. However, the Appeals Chamber has held that, depending on the nature and the extent of the destruction and if committed with discriminatory intent, the destruction of property can be of equal gravity to other crimes listed under Article 5 and as such may constitute persecution as a crime against humanity.[1703]

532. For wanton destruction of property to be established, the Prosecution must prove the following elements: (i) the property was destroyed or damaged extensively; (ii) the destruction was not justified by military necessity; and (iii) the destruction was committed with the intent to destroy.[1704]

1698 *Kordić and Čerkez* Appeal Judgement, para. 83.

1699 Indictment, para. 60(j). *See also* Schedule D.

1700 *See* Article 23(g) of the Hague Regulations (prohibiting "to destroy [...] the enemy's property, unless such destruction [...] [is] imperatively demanded by the necessities of war"); Article 53 of Geneva Convention IV (providing: "Any destruction by the Occupying Power of real or personal property belonging individually or collectively to private persons, or to the State, or to other public authorities, or to social or cooperative organizations, is prohibited, except where such destruction is rendered absolutely necessary by military operations"); Article 147 of Geneva Convention IV (prohibiting the "extensive destruction [...], not justified by military necessity and carried out unlawfully and wantonly"); Article 52 of Additional Protocol I (protecting civilian objects); Article 53 of Additional Protocol I (protecting "historic monuments, works of art or places of worship which constitute the cultural or spiritual heritage of peoples"). *See also* the Nuremberg Principles, Principle 6(referring to the "wanton destruction of cities, towns, or villages, or devastation not justified by military necessity" as a crime punishable under international law).

1701 *See Blaškić* Appeal Judgement, para. 145.

1702 Article 2 of the Statute prohibits the "extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly" while Article 3 refers to the "wanton destruction of cities, towns or villages, or devastation not justified by military necessity".

1703 *Blaškić* Appeal Judgement, para. 146. *See also Kordić and Čerkez* Appeal Judgement, para. 108.

1704 *See Kordić and Čerkez* Appeal Judgement, para. 74; *Blaškić* Appeal Judgement, paras. 144–146; *Milutinović et al.* Trial Judgement, Vol. I, paras. 206–210; *Strugar* Trial Judgement, para. 308.

533. The property must not have been used for a military purpose at the time it suffered the destruction or extensive damage. It is for the Prosecution to establish that the destruction or extensive damage was not justified by military necessity.[1705] The Appeals Chamber has held that determining whether destruction occurred pursuant to military necessity involves a determination of what constitutes a military objective with reference to the definition in Article 52(2) of Additional Protocol I, according to which military objectives are "those objects which by their nature, location, purpose or use make an effective contribution to military action and whose total or partial destruction, capture or neutralisation, in the circumstances ruling at the time, offers a definite military advantage".[1706]

534. The act resulting in the destruction of property must have been committed with the intent, albeit direct or indirect, to destroy or damage extensively the property in question.[1707]

(H) Imposition and maintenance of restrictive and discriminatory measures

535. Finally, in Count 3 of the Indictment, the Accused is also charged with persecution, a crime against humanity punishable under Article 5(h) of the Statute, through the underlying act of imposition and maintenance of restrictive and discriminatory measures.[1708] According to the Indictment, the alleged restrictive and discriminatory measures include (i) the denial of freedom of movement; (ii) the removal from positions of authority in local government institutions and the police, and the general dismissal from employment; (iii) the invasion of privacy through arbitrary searches of homes; (iv) unlawful arrest and/or the denial of the right to judicial process; and/or (v) the denial of equal access to public services.[1709]

1705 *Brđanin* Appeal Judgement, para. 337; *Kordić and Čerkez* Appeal Judgement, para. 495 (within the context of Article 3 of the Statute); *Milutinović et al.* Trial Judgement, Vol. I, para. 208.

1706 *Brđanin* Appeal Judgement, para. 337.

1707 *Kordić and Čerkez* Appeal Judgement, para. 74; *Milutinović et al.* Trial Judgement, Vol. I, paras. 206, 210; *Orić* Trial Judgement, para. 589.

1708 Indictment, para. 60(k). In relation to this specific charged form of persecution, the Accused requested that the Chamber dismiss paragraph 60(k) of the Indictment on the grounds that the acts of persecution described therein were not sufficiently grave to qualify as a crime against humanity, punishable under Article 5(h) of the Statute. The Accused further argued that paragraph 60(k) was so devoid of facts that it is impossible to prepare a defence to the allegations therein. Preliminary Motion to dismiss Paragraph 60(k) for Lack of Jurisdiction, 10 March 2009, paras. 5–6. On 28 April 2009, the Chamber issued a decision on this motion in which it dismissed, *inter alia*, the motion on the grounds that it did not raise a genuine jurisdictional challenge, or valid challenge to the form of the Indictment. The Chamber concluded that the underlying offences enumerated in paragraph 60(k) of the Indictment, when considered together, are capable of satisfying the equal gravity test and thus of amounting to persecution in terms of Article 5 of the Statute. Decision on Motions Challenging Jurisdiction, paras. 37–44, 81.

1709 Indictment, para. 60(k).

536. It has been held that these restrictive and discriminatory measures can constitute persecution when considered in isolation or in conjunction with other acts amounting to persecution under Article 5(h) of the Statute.[1710]

3. Genocide

537. The Accused is charged with two counts of genocide under Article 4 (3)(a) of the Statute. Count 1 charges him with genocide against a part of the Bosnian Muslim and/or Bosnian Croat national, ethnical, and/or religious groups as such in the following municipalities: Bratunac, Foča, Ključ, Prijedor, Sanski Most, Vlasenica, and Zvornik, through (a) the killing of Bosnian Muslims and Bosnian Croats, including leading members of these groups; (b) the causing of serious bodily or mental harm to thousands of Bosnian Muslims and Bosnian Croats, including leading members of these groups, during their confinement in detention facilities where they were subjected to cruel or inhumane treatment, including torture, physical and psychological abuse, rape, other acts of sexual violence, and beatings; and (c) the detention of thousands of Bosnian Muslims and Bosnian Croats, including leading members of these groups, in detention facilities, under conditions of life calculated to bring about their physical destruction, namely through cruel and inhumane treatment, including torture, physical and psychological abuse, rape, other acts of sexual violence, inhumane living conditions, forced labour and the failure to provide adequate accommodation, shelter, food, water, medical care or hygienic sanitation facilities.[1711]

538. Count 2 charges the Accused with genocide against a part of the Bosnian Muslim national, ethnical, and/or religious group as such in Srebrenica, through (a) the killing of over 7,000 Bosnian Muslim men and boys of the Srebrenica enclave through executions; and (b) the causing of serious bodily or mental harm to thousands of Bosnian Muslims of Srebrenica, including, but not limited

1710 *Brđanin* Appeal Judgement, paras. 295, 297 (holding that (a) the denial of freedom of movement; (b) the denial of employment; and (c) the denial of the right to judicial process fall under the jurisdiction of the Tribunal as underlying acts of persecution for the purposes of Article 5(h) of the Statute). The denial of the right to proper medical care was also alleged in *Brđanin*, however, the Appeals Chamber did not consider it as the accused in that case was not convicted of the crime of persecution with respect to this specific allegation. *Brđanin* Appeal Judgement, para. 294, fn. 595 (referring to *Brđanin* Trial Judgement, para. 1076). *See also Brđanin* Trial Judgement, para. 1049. In addition, the Trial Chambers in the *Stanišić and Župljanin* and *Krajišnik* cases found that the same five specific restrictive and discriminatory measures alleged in paragraph 60(k) of the Indictment constituted persecution when considered in conjunction with other acts amounting to persecution. *Stanišić and Župljanin* Trial Judgement, Vol. I, paras. 91–92; *Krajišnik* Trial Judgement, paras. 736, 738–741 (citing to judgements issued by the Nuremberg Tribunal and by tribunals applying the Allied Control Council Law No. 10 which found that various acts committed against Jews were crimes against humanity, including the denial of freedom of movement, the denial of the right to judicial process, the denial of access to public services, and the invasion of privacy through arbitrary searches of homes).

1711 Indictment, para. 40(a)–(c). *See also* Schedule C Detention Facilities.

to, the separation of men and boys from their families and the forcible removal of the women, young children and some elderly men from the enclave.[1712]

539. The crime of genocide punishable under Article 4 of the Statute adopts the definition and list of punishable acts enumerated in Article II of the Genocide Convention.[1713] These provisions of the Genocide Convention have been considered to form part of customary international law and to constitute *jus cogens*.[1714] Genocide as defined in the Statute was thus a punishable crime under customary international law at the time of the acts alleged in the Indictment.

540. Article 4(2) of the Statute provides that the following acts constitute genocide when "committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such":

> (a) killing members of the group;
>
> (b) causing serious bodily or mental harm to members of the group;
>
> (c) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
>
> (d) imposing measures intended to prevent births within the group; and
>
> (e) forcibly transferring children of the group to another group.[1715]

a. The group

541. Article 4 of the Statute protects national, ethnical, racial or religious groups "as such" ("protected group"). The crime of genocide pertains to the destruction of a race, tribe, nation, or other group with a particular positive identity, not to the destruction of various people lacking a distinct identity.[1716] The group targeted for genocide thus cannot be defined in terms of a negative characteristic, such as "non-Serbs" for instance.[1717] The determination of the composition of the

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1712 Indictment, para. 47(a)–(b). *See also* Schedule E Killing Incidents.

1713 Genocide Convention, Article II.

1714 ICJ Advisory Opinion on Genocide, p. 23; 1993 Secretary General Report, para. 45, ICJ Bosnia Judgement, para. 161; *Jelisić* Trial Judgement, para. 60; *Akayesu* Trial Judgement, para. 495; *Rutaganda* Trial Judgement, para. 46.

1715 As discussed above, the Chamber notes that the acts listed in Article 4(2)(d) and (e), namely imposing measures intended to prevent births within the group and forcibly transferring children of the group to another group, are not charged in this case.

1716 *Stakić* Appeal Judgement, para. 21. *See also Stakić* Appeal Judgement paras. 22–24.

1717 *Stakić* Appeal Judgement, paras. 16–27. *See also Jelisić* Trial Judgement, paras. 71–72.

group is necessarily made on a case-by-case basis.[1718] When more than one group is targeted, the elements of the crime of genocide must be considered in relation to each group separately.[1719]

b. *Actus reus*

i. Killing members of the group

542. The requirements for "killing" referred to under Article 4(2)(a) are equivalent to those for murder under Article 5.[1720] Murder as an act of genocide requires proof of a result.[1721] The elements of murder have already been detailed in the sections on murder as a crime against humanity and as a violation of the laws or customs of war.[1722] A numeric assessment of the number of people killed is not required for the *actus reus* of genocide to be established.[1723]

ii. Causing serious bodily or mental harm to members of the group

543. Article 4(2)(b) refers to an intentional act or omission which causes serious bodily or mental harm to members of the protected group and requires proof of a result.[1724] The harm must go "beyond temporary unhappiness, embarrassment or humiliation", and result "in a grave and long-term disadvantage to a person's ability to lead a normal and constructive life".[1725] It need not be permanent and irreversible.[1726]

544. The Chamber notes that according to the *Seromba* Appeals Chamber "[t]o support a conviction for genocide, the bodily or the mental harm inflicted on members of a group must be of such a serious nature *as to threaten its destruction in whole or in part.*"[1727] However, in its assessment of the facts, the *Seromba* Appeals Chamber did not examine whether the evidence

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1718 *Stakić* Appeal Judgement, para. 25. fn. 68; *Blagojević and Jokić* Trial Judgement, para. 667; *Brđanin* Trial Judgement, para. 684; *Muvunyi* Trial Judgement, para. 484.

1719 *Stakić* Trial Judgement, para. 512; *Brđanin* Trial Judgement, para. 685.

1720 *Kayishema and Ruzidana* Appeal Judgement, para. 151.

1721 *Brđanin* Trial Judgement, para. 688; *Stakić* Trial Judgement, para. 514.

1722 *See* paras. 446–448, 481.

1723 Rule 98 *bis* Appeal Judgement, para. 23. However, the scale of atrocities is relevant to the assessment of the *mens rea* of genocide. *See* para. 550.

1724 *Tolimir* Trial Judgement, para. 737; *Popović et al.* Trial Judgement, para. 811; *Brđanin* Trial Judgement, para. 688; *Stakić* Trial Judgement, para. 514.

1725 *Krstić* Trial Judgement, para. 513.

1726 *Tolimir* Trial Judgement, para. 738; *Krstić* Trial Judgement, para. 513.

1727 *Seromba* Appeal Judgement, para. 46 (italics added) (citing *Kajelijeli* Trial Judgement, para. 814 (the Chamber notes that the *Seromba* Appeals Chamber erroneously cites para. 184 of the *Kajelijeli* Trial Judgement); *Krajišnik* Trial Judgement, para. 862; 1996 ILC Report, p. 46 (stating "The bodily harm or the mental harm inflicted on the members of a group must be of such a serious nature as to threaten its destruction in whole or in part")).

demonstrated that the inflicted harm was so serious as to threaten the group's destruction.[1728] Similarly, Trial Chambers of the Tribunal and the ICTR which recite the language in question have only examined the seriousness of acts without referring to any showing that the harm was such as to threaten the group's destruction.[1729] Moreover, the majority of trial judgements rendered prior to and after the *Seromba* Appeal Judgement consistently reiterate the language of Article 4(2)(b) of the Statute without requiring a showing that the harm was such as to threaten the group's destruction.[1730] Furthermore, in the instant case, the Appeals Chamber in the Rule 98 *bis* Appeal Judgement simply recalled Article 4(2)(b) without indicating the existence of an additional requirement.[1731] In light of the foregoing, the Chamber is therefore of the view that there is no additional requirement that the serious bodily or mental harm to members of the group be of such serious nature as to threaten the destruction of the group in whole or in part. The degree of threat to the group's destruction may, however, be considered as a measure of the seriousness of the bodily or mental harm.

545. Determination of what constitutes serious harm depends on the circumstances of each case.[1732] Examples of serious bodily or mental harm as an act of genocide include torture, inhumane or degrading treatment, sexual violence including rape, interrogations combined with beatings, threats of death, and harm that damages health or causes disfigurement or serious injury to the external or internal organs of members of the group.[1733] While forcible transfer does not of

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1728 *Seromba* Appeal Judgement, paras. 47–48 (discussing the *Seromba* Trial Chamber's failure to differentiate between the *actus reus* of causing serious bodily or mental harm and the physical elements of aiding and abetting the crime).

1729 *See, e.g., Karemera and Ngirumpatse* Trial Judgement, paras. 1609, 1666 (finding that "the sexual assaults, mutilations and rapes that Tutsi women were forced to endure from April to June 1994 certainly constituted acts of serious bodily and mental harm"); *Tolimir* Trial Judgement, paras. 738, 753–759; *Popović et al.* Trial Judgement, paras. 811, 844–847 (finding that through the killing operation, serious bodily and mental harm was inflicted upon the Bosnian Muslim males); *Nyiramasuhuko et al.* Trial Judgement, paras. 5731, 5868 (wherein the Trial Chamber made no factual findings due to its holding that the Indictment in that case was defective in failing to plead rape as genocide); *Gatete* Trial Judgement, paras. 584–608; *Kanyarukiga* Trial Judgement, paras. 637–641.

1730 *See, e.g., Blagojević and Jokić* Trial Judgement, para. 645; *Brđanin* Trial Judgement, para. 690; *Stakić* Trial Judgement, para. 51; *Krstić* Trial Judgement, para. 513; *Ntawukuliyayo* Trial Judgement, para. 452; *Kalimanzira* Trial Judgement, para. 159; *Renzaho* Trial Judgement, para. 762; *Bagasora* Trial Judgement, para. 2117; *Gacumbtsi* Trial Judgement, para. 291; *Ntagerura* Trial Judgement, para. 664; *Semanza* Trial Judgement, paras. 320–323; *Ntakirutimana* Trial Judgement, para. 784; *Bagilishema* Trial Judgement, para. 59; *Musema* Trial Judgement, para. 156; *Rutaganda* Trial Judgement, para. 51; *Akayesu* Trial Judgement, paras. 502–503.

1731 Rule 98 *bis* Appeal Judgement, para. 33. The Chamber notes that the ICJ did not apply any additional requirement to its factual findings in the ICJ Bosnia Judgement, *see* ICJ Bosnia Judgement, para. 319 (finding that "members of the protected group were systematically victims of massive mistreatment, beatings, rape and torture causing serious bodily and mental harm, during the conflict, and in particular in the detention camps. The requirements of the material element, as defined by Article II(b) of the [Genocide] Convention are thus fulfilled.").

1732 *Popović et al.* Trial Judgement, para. 811; *Blagojević and Jokić* Trial Judgement, para. 646; *Krstić* Trial Judgement para. 513.

1733 *Seromba* Appeal Judgement, para. 46; *Blagojević and Jokić* Trial Judgement, para. 645; *Brđanin* Trial Judgement, para. 690; *Krstić* Trial Judgement, para. 513. *See also* ICJ Bosnia Judgement, para. 319.

itself constitute an act of genocide,[1734] depending on the circumstances of a given case, it may cause such serious bodily or mental harm as to constitute an act of genocide under Article 4(2)(b).[1735]

iii. Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part

546. The acts punishable under Article 4(2)(c) are construed as "the methods of destruction by which the perpetrator does not immediately kill the members of the group, but which, ultimately, seek their physical destruction".[1736] Contrary to the acts prohibited by Articles 4(2)(a) and 4(2)(b), this provision does not require proof of that a result was attained; as such, it does not require proof that the conditions actually led to death or serious bodily or mental harm of members of the protected group.[1737] When such "a result is achieved, the proper charge will be paragraphs (a) or (b)" of Article 4.[1738]

547. Examples of such acts include, but are not limited to, subjecting the group to a subsistence diet; failing to provide adequate medical care; systematically expelling members of the group from their homes; and generally creating circumstances that would lead to a slow death such as the lack of proper food, water, shelter, clothing, sanitation, or subjecting members of the group to excessive work or physical exertion.[1739] Yet, Article 4(2)(c) applies only to acts that are deliberately

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1734 *Krstić* Appeal Judgement, para. 33 (referring to *Stakić* Trial Judgement, para. 519, which notes: "The expulsion of a group or part of a group does not in itself suffice for genocide"; *Blagojević and Jokić* Appeal Judgement, para. 123). *See also* ICJ Bosnia Judgement, para. 190 (noting: "Neither the intent, as a matter of policy, to render an area 'ethnically homogeneous', nor the operations that may be carried out to implement such policy, can *as such* be designated as genocide: the intent that characterizes genocide is to 'destroy, in whole or in part,' a particular group, and deportation or displacement of the members of a group, even if effected by force, is not necessarily equivalent to destruction of that group [...] (emphasis in original)" and referring to *Stakić* Trial Judgement, para. 519; *Tolimir* Trial Judgement, para. 739; *Popović et al.* Trial Judgement, para. 813).

1735 *Tolimir* Appeal Judgement, paras. 209, 212; *Blagojević and Jokić* Trial Judgement, para. 646; *Krstić* Trial Judgement, para. 513.

1736 *Akayesu* Trial Judgement, para. 505. *See also Stakić* Trial Judgement, paras. 517–518.

1737 *Popović et al.* Trial Judgement, para. 814; *Brđanin* Trial Judgement, para. 691; *Stakić* Trial Judgement, para. 517.

1738 *Tolimir* Appeal Judgement, paras. 227–228; *Brđanin* Trial Judgement, para. 905, fn. 2255. *See also Eichmann* Jerusalem District Court Judgement, para. 196, limiting the charge of imposing living conditions upon Jews calculated to bring about their physical extermination to persecution of Jews who had survived the Holocaust and ruling that Jews who were not saved should not be included "as if, in their case, there were two separate actions: first, subjection to living conditions calculated to bring about their physical destruction, and later the physical destruction itself". *See also Popović et al.* Trial Judgement, para. 814, fn. 2930. In this case the acts charged under Article 4(2)(c) are the same as those charged under Article 4(2)(b). Indictment, para. 40(b), (c); Schedule C.

1739 *Brđanin* Trial Judgement, para. 691; *Stakić* Trial Judgement, para. 517; *Musema* Trial Judgement, para. 157; *Kayishema and Ruzidana* Trial Judgement, paras. 115–116; *Akayesu* Trial Judgement, para. 506.

calculated to cause a group's physical destruction and, as such, these acts must be clearly distinguished from those acts designed to bring about the dissolution of the group.[1740]

548. In the absence of direct evidence of whether the conditions of life imposed on the group were deliberately calculated to bring about its physical destruction, a chamber can be guided by the objective probability of these conditions leading to the physical destruction of the group in part.[1741] The actual nature of the conditions of life, the length of time that members of the group were subjected to them, and the characteristics of the group such as its vulnerability are illustrative factors to be considered in evaluating the criterion of probability.[1742]

c. *Mens rea*

549. The *mens rea* required for the crime of genocide—"intent to destroy, in whole or in part, a national, ethnical, racial or religious group" as defined in Article 4 of Statute—has been referred to variously as, for instance, special intent, specific intent, *dolus specialis*, particular intent and genocidal intent.[1743] Genocide requires not only proof of intent to commit the alleged acts of genocide, but also proof of the specific intent to destroy the protected group, in whole or in part.[1744] Therefore, when genocide is charged through the framework of JCE I, the accused needs to share genocidal intent with other members of the JCE.[1745]

550. In assessing evidence of genocidal intent, a Chamber should consider whether "all of the evidence, taken together, demonstrates a genocidal mental state", instead of considering separately whether an accused intended to destroy a protected group through each of the relevant acts of genocide.[1746] Where direct evidence of genocidal intent is absent, the intent may still be inferred

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1740 *Brđanin* Trial Judgement, paras. 692, 694; *Stakić* Trial Judgement, para. 519.

1741 *Tolimir* Trial Judgement, para. 742; *Popović et al.* Trial Judgement, para. 816; *Brđanin* Trial Judgement, para. 906.

1742 *Tolimir* Trial Judgement, para. 742; *Popović et al.* Trial Judgement, para. 816; *Brđanin* Trial Judgement, para. 906. *See also Krajišnik* Trial Judgement, para. 863; *Kayishema and Ruzindana* Trial Judgement, para. 548.

1743 *Jelisić* Appeal Judgement, para. 45; *Akayesu* Trial Judgement, para. 498. *See also* Rule 98 *bis* Appeal Judgement, para. 22.

1744 *Krstić* Appeal Judgement, para. 20.

1745 Rule 98 *bis* Appeal Judgement, para. 79 (stating that "[...] in accordance with the allegations underlying Count 1 of the Indictment, it is the genocidal intent of Karadžić and other alleged JCE members, not the physical perpetrators of the underlying alleged genocidal acts, that is determinative for purposes of JCE I"). The Appeals Chamber stated that it was not persuaded that the Chamber's conclusions on genocidal intent were restricted to the physical perpetrators of the acts or that it failed to assess Karadžić's genocidal intent and that of other alleged JCE members. It went on to conclude that the Chamber's focus on physical perpetrators in relation to the allegations of genocide in Srebrenica under Count 2 did not demonstrate that the Chamber "necessarily considered that liability under JCE I *requires* a showing of the physical perpetrators' genocidal intent or that, in assessing the evidence of Count 1 of the Indictment, [it] failed to consider the genocidal intent of Karadžić and the other alleged JCE members". Rule 98 *bis* Appeal Judgement, para. 83.

1746 *Stakić* Appeal Judgement, para. 55; Rule 98 *bis* Appeal Judgement, para. 56. *See also* Tolimir Appeal Judgement, paras. 246–247.

from all the facts and circumstances.[1747] Factors relevant to this analysis may include, but are not limited to, the general context, the scale of atrocities, the systematic targeting of victims on account of their membership in a particular group, the repetition of destructive and discriminatory acts, or the existence of a plan or policy.[1748] Display of intent through public speeches[1749] or in meetings[1750] may also support an inference as to the requisite specific intent.

i. Intent to destroy the group "as such"

551. The specific intent to destroy the group "as such" makes genocide an exceptionally grave crime and distinguishes it from other serious crimes, such as persecutions as a crime against humanity.[1751] The term "as such" has great significance as it shows that the crime of genocide requires intent to destroy a collection of people because of their particular group identity based on nationality, race, ethnicity, or religion.[1752]

552. For example, the *Krstić* Trial Chamber found that the destruction of a sizeable number of men would inevitably result in the physical disappearance of the Bosnian Muslim population at Srebrenica.[1753] The Appeals Chamber in that case upheld this finding, stating that "[t]he physical destruction of the men therefore had severe procreative implications for the Srebrenica Muslim community, potentially consigning the community to extinction".[1754] The *Krstić* Appeals Chamber further held that "[t]he finding that some members of the VRS Main Staff devised the killing of the male prisoners with full knowledge of the detrimental consequences it would have for the physical survival of the Bosnian Muslim community in Srebrenica further supports the Trial Chamber's conclusion that the instigators of that operation had the requisite genocidal intent".[1755]

553. The Genocide Convention and customary international law prohibit only the physical and biological destruction of a group, not attacks on cultural or religious property or symbols of the

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1747 *Popović et al.* Appeal Judgement, para. 468; *Hategekimana* Appeal Judgement, para. 133; *Stakić* Appeal Judgement, para. 55; *Krstić* Appeal Judgement, para. 34; *Jelisić* Appeal Judgement, para. 47.

1748 *Tolimir* Appeal Judgement, para. 246; *Popović et al.* Appeal Judgement, paras. 430, 440 (holding that the existence of a state policy is not a legal requirement of genocide), 468; *Hategekimana* Appeal Judgement, para. 133; *Jelisić* Appeal Judgement, paras. 47–48; Rule 98 *bis* Appeal Judgement, paras. 80, 99.

1749 *Gacumbitsi* Appeal Judgement, para. 43.

1750 *Kamuhanda* Appeal Judgement, paras. 81–82. *See also Tolimir* Trial Judgement, para. 745.

1751 ICJ Bosnia Judgement, para. 187 (noting that "[i]t is not enough that the members of the group are targeted because they belong to that group, that is because the perpetrator has a discriminatory intent. Something more is required. That acts listed in [Article 4 of the Statute] must be done with intent to destroy the group as such in whole or in part. The words 'as such' emphasise that intent to destroy the protected group."); *Brđanin* Trial Judgement, para. 699; *Krstić* Trial Judgement, para. 553; *Kupreškić et al.* Trial Judgement, para. 636.

1752 *Stakić* Appeal Judgement, para. 20; *Niyitegeka* Appeal Judgement, para. 53.

1753 *Krstić* Trial Judgement, para. 595.

1754 *Krstić* Appeal Judgement, para. 28.

1755 *Krstić* Appeal Judgement, para. 29.

group.[1756] However, while such attacks may not constitute underlying acts of genocide, they may be considered evidence of intent to physically destroy the group.[1757] Forcible transfer alone would not suffice to demonstrate the intent to "destroy" a group but it is a relevant consideration as part of the Chamber's overall factual assessment.[1758]

554. Specific intent is distinguished from personal motive; however, the existence of a personal motive does not exclude the possession of genocidal intent.[1759]

ii. "In whole or in part"

555. It is well established that where a conviction for genocide relies on the intent to destroy a group "in part", such part must be a substantial part of the whole protected group.[1760] The targeted portion must be a "significant enough [portion] to have an impact on the group as a whole".[1761] The *Krstić* Appeal Chamber stated that in determining substantiality, the following considerations can be made:

> The numeric size of the targeted part of the group is the necessary and important starting point, though not in all cases the ending point of the inquiry. The number of individuals targeted should be evaluated not only in absolute terms, but also in relation to the overall size of the entire group. In addition to the numeric size of the targeted portion, its prominence within the group can be a useful consideration. If a specific part of the group is emblematic of the overall group, or is essential to its survival, that may support a finding that the part qualifies as substantial within the meaning of Article 4.[1762]

1756 *Krstić* Appeal Judgement, para. 25.

1757 *Tolimir* Appeal Judgement, para. 230 (finding that the Trial Chamber erred in concluding that the destruction of mosques was an additional act of genocide under Article 4(2)(c) of the Statute); *Krstić* Trial Judgement, para. 580.

1758 *Krstić* Appeal Judgement, para. 33. *See also Blagojević and Jokić* Appeal Judgement, para. 123; *Krstić* Appeal Judgement, para. 133 (holding that Krstić harboured no genocidal intent as "his own particular intent was directed to a forcible displacement. Some other members of the VRS Main Staff harboured the same intent to carry out forcible displacement, but viewed this displacement as a step in the accomplishment of their genocidal objective. It would be erroneous, however, to link Krstić's specific intent to carry out forcible displacement with the same intent possessed by other members of the Main Staff, to whom the forcible displacement was a means of advancing the genocidal plan (footnotes omitted)."); ICJ Bosnia Judgement, para. 190 (holding: "Neither the intent, as a matter of policy, to render an area 'ethnically homogeneous', nor the operations that may be carried out to implement such policy, can *as such* be designated as genocide: the intent that characterizes genocide is to 'destroy, in whole or in part,' a particular group, and deportation or displacement of the members of a group, even if effected by force, is not necessarily equivalent to destruction of that group [...] (emphasis in original)" and referring to *Stakić* Trial Judgement, para. 519).

1759 *Simba* Appeal Judgement, paras. 88, 269; *Stakić* Appeal Judgement, para. 45; *Jelisić* Appeal Judgement, para. 49.

1760 *Krstić* Appeal Judgement, paras. 8, 12.

1761 *Krstić* Appeal Judgement, para. 8. *See also Tolimir* Trial Judgement, para. 749; *Popović et al.* Trial Judgement, paras. 831–832.

1762 *Krstić* Appeal Judgement, para. 12. *See also* Rule 98 *bis* Appeal Judgement, para. 66; *Gacumbitsi* Appeal Judgement, para. 40.

Furthermore, the area of the perpetrators' activity, control, and the possible extent of their reach should be considered.[1763] The applicability of these factors and their relative weight will vary depending on the circumstances of a particular case.[1764]

B. LEGAL STANDARDS FOR INDIVIDUAL CRIMINAL RESPONSIBILITY

1. Liability under Article 7(1) of the Statute

556. The Indictment charges the Accused with individual criminal responsibility under Article 7(1) for having, *inter alia*, committed crimes referred to in Articles 3, 4, and 5 of the Statute.[1765] The Prosecution does not allege that the Accused physically committed any of the crimes charged personally.[1766] Rather, he is alleged to have participated in four JCEs.[1767]

557. The Accused is alleged to have shared the intent for the commission of each crime encompassed within each of the JCEs,[1768] and to have made significant contributions to each of them.[1769] Alternatively, the Prosecution asserts that if the implementation of the objective of the Overarching JCE only included the commission of forcible transfer and deportation, the Accused was aware of the risk that genocide and persecution, as well as murder and/or extermination, were possible consequences of the implementation of that objective,[1770] and the Accused willingly took those risks.[1771]

558. The Prosecution further alleges that through the acts and omissions outlined in the Indictment,[1772] the Accused is also responsible for planning,[1773] instigating,[1774] and/or ordering the crimes charged in the Indictment.[1775] According to the Prosecution, the Accused either "directly intended or was aware of the substantial likelihood that the execution of his plans and orders,

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1763 *Krstić* Appeal Judgement, para. 13.
1764 *Krstić* Appeal Judgement, para. 14.
1765 Indictment, para. 5.
1766 Indictment, para. 5.
1767 *See* para. 3 (referring to paras. 9–31 of the Indictment).
1768 Indictment, paras. 9, 16, 21, 26, 39, 42, 50, 58, 75, 77, 84.
1769 Indictment, paras. 14, 19, 24, 29.
1770 Indictment, paras. 10, 39, 50, 64.
1771 Indictment, paras. 10, 39, 43, 50, 59, 64, 67.
1772 Indictment, para. 14.
1773 Indictment, paras. 30–31 (referring to acts described in paras. 14(a) and/or (e)).
1774 Indictment, paras. 30–31 (referring to acts and omissions described in paras. 14(a)–(f) and/or (h)).
1775 Indictment, paras. 30–31 (referring to acts described in paras. 14(d) and/or (j)).

and/or the carrying out of the the acts and conduct which he instigated, would involve or result in the crimes charged" in the Indictment.[1776]

559. According to the Prosecution, the Accused's acts and omissions also render him responsible for aiding and abetting the crimes charged in the Indictment.[1777] In this regard, the Prosecution submits that the Accused was aware of the probability that the crimes charged would be committed and that his acts or omissions would contribute to their commission.[1778]

a. Commission through participation in a JCE

560. When two or more persons act together to further a common criminal purpose, the jurisprudence of the Tribunal recognises three forms of criminal responsibility which may accrue to all members of the group.[1779] The first, "basic" category of JCE encompasses situations where all participants, acting pursuant to a common purpose, possess the same criminal intention to effectuate that purpose.[1780] The second, "systemic" form of JCE pertains to organised systems of ill-treatment.[1781] The third, "extended" type of JCE involves the liability of a JCE participant for a crime which falls outside the common purpose or design, but which is nevertheless a natural and foreseeable consequence of effectuating that common purpose.[1782]

561. In order to find an accused criminally responsible on the basis of his participation in any of the three types of JCE, the following elements must be established: (i) the existence of a plurality of persons who act pursuant to a common purpose;[1783] (ii) the existence of a common plan, design, or purpose which amounts to or involves the commission of a crime provided for in the Statute; and (iii) the participation of the accused in furthering the common design or purpose.[1784] The Chamber will discuss each of these requirements in more detail below.

1776 Indictment, para. 31.

1777 Indictment, paras. 30–31 (referring to acts and omissions described in paras. 14(a)–(i), and/or (j)).

1778 Indictment, para. 31.

1779 *Tadić* Appeal Judgement, paras. 195–226; *Brđanin* Appeal Judgement, para. 364; *Kvočka et al.* Appeal Judgement, para. 82; *Vasiljević* Appeal Judgement, paras. 96–99. *See also Milutinović et al.* May 2003 Appeal Decision, paras. 18–23, 25–26, 28–30.

1780 *Tadić* Appeal Judgement, para. 196 (*as confirmed in Kvočka et al.* Appeal Judgement, para. 82; *Vasiljević* Appeal Judgement, para. 97).

1781 *Tadić* Appeal Judgement, paras. 202–203 (*as confirmed in Kvočka et al.* Appeal Judgement, para. 82; *Vasiljević* Appeal Judgement, para. 98).

1782 *Tadić* Appeal Judgement, para. 204 (*as confirmed in Kvočka et al.* Appeal Judgement, para. 83; *Vasiljević* Appeal Judgement, para. 99).

1783 Action by a "plurality" of persons denotes the concerted action of two or more persons. *See Tadić* Appeal Judgement, paras. 195–226.

1784 *Tadić* Appeal Judgement, para. 227 (*as confirmed in Brđanin* Appeal Judgement, paras. 364, 430; *Stakić* Appeal Judgement, para. 64; *Kvočka et al.* Appeal Judgement, para. 81; *Vasiljević* Appeal Judgement, para. 100; *Krnojelac* Appeal Judgement, para. 31).

562. The Appeals Chamber has held that the plurality of persons need not be organised in a military, political, or administrative structure,[1785] and it may be sufficient to identify the plurality as a category or a group rather than as individuals by name.[1786] However, the criterion used to identify the group must be sufficiently specific to prevent vagueness and ambiguity.[1787]

563. All three forms of JCE require proof of the existence of a "common plan, design or purpose which amounts to or involves the commission of a crime provided for in the Statute".[1788] The existence of a common plan or purpose can be inferred from the fact that the plurality of persons acts in unison,[1789] and the plan may materialise extemporaneously rather than being previously arranged or formulated.[1790] Additionally, the Chamber must "specify the common criminal purpose in terms of both the criminal goal intended and its scope (for example, the temporal and geographic limits of this goal, and the general identities of the intended victims)".[1791] A JCE can come to embrace expanded criminal means, as long as the evidence shows that the JCE members agreed on such an expansion of means.[1792] Such an expanded agreement need not be explicit, may also materialise extemporaneously, and can be inferred from circumstantial evidence.[1793]

564. An accused must have participated in furthering the common purpose at the core of the JCE by assisting in or contributing to the execution of the common plan or purpose, but need not have performed any part of the *actus reus* of the crime charged.[1794] The accused's contribution need not be *sine qua non*, without which the crime would not have been committed, nor must it necessarily be a substantial contribution to the JCE.[1795] However, the accused must "contribut[e] to the common purpose in a way that lends a significant contribution to the crimes".[1796]

1785 *Stakić* Appeal Judgement, para. 64; *Vasiljević* Appeal Judgement, para. 100; *Krnojelac* Appeal Judgement, para. 31; *Tadić* Appeal Judgement, para. 227.

1786 *Krajišnik* Appeal Judgement, para. 156 (citing *Limaj et al.* Appeal Judgement, para. 99).

1787 *Krajišnik* Appeal Judgement, para. 157; *Stanišić and Župljanin* Trial Judgement, Vol. I, para. 101; *Tolimir* Trial Judgement, para. 889; *Đorđević* Trial Judgement, para. 1861.

1788 *Tadić* Appeal Judgement, para. 227(ii).

1789 *Vasiljević* Appeal Judgement, para. 109; *Tadić* Appeal Judgement, para. 227(ii).

1790 *Brđanin* Appeal Judgement, para. 418 (citing *Tadić* Appeal Judgement, para. 227(ii); *Vasiljević* Appeal Judgement, para. 100; *Kvočka et al.* Appeal Judgement, para. 117).

1791 *Brđanin* Appeal Judgement, para. 430.

1792 *Krajišnik* Appeal Judgement, para. 163.

1793 *Krajišnik* Appeal Judgement, para. 163.

1794 *Tadić* Appeal Judgement, para. 227(iii); *Krajišnik* Appeal Judgement, para. 215; *Brđanin* Appeal Judgement, para. 427; *Stakić* Appeal Judgement, para. 64; *Kvočka et al.*Appeal Judgement, para. 99; *Vasiljević* Appeal Judgement, paras. 100, 119.

1795 *Krajišnik* Appeal Judgement, paras. 215, 675; *Kvočka et al. Appeal* Judgement, paras. 97–98.

1796 *Krajišnik* Appeal Judgement, paras. 662, 706. *See also Brđanin* Appeal Judgement, para. 430. The Appeals Chamber has observed that any disparity in the scope of the contributions of JCE members would be adequately dealt with at the sentencing stage. *Brđanin* Appeal Judgement, para. 432.

565. The question of whether the accused significantly contributed to a JCE is a question of fact to be determined on a case by case basis.[1797] In determining whether an accused's conduct constituted a significant contribution to a JCE, the Chamber may consider the size of the criminal enterprise, the function(s) performed by the accused, and the accused's position as well as other relevant factors.[1798]

566. A significant contribution to a JCE may consist of an act or, where there is a legal duty to act, an omission.[1799] While the Accused accepts that, in theory, an omission may constitute a significant contribution, by reference to the *Mrkšić and Šljivančanin* Appeal Judgement, he contends that "the Appeals Chamber has held that the *actus reus* for 'commission by omission' is a higher standard than for aiding and abetting by omission, namely, the accused must exert 'concrete influence' on the perpetration of the crime".[1800] However, the Chamber observes that the relevant passages of both the *Mrkšić and Šljivančanin* Appeal Judgement as well as the *Orić* Appeal Judgement—to which the *Mrkšić and Sjivančanin* Appeals Chamber cited—primarily concern other forms of liability, namely aiding and abetting under Article 7(1) and superior liability under Article 7(3) of the Statute.[1801] The Chamber considers that the relevant enquiry—which should be done on a case by case basis[1802]—is whether an accused was obligated by law to act, and if so, whether such an omission significantly contributed to the JCE.[1803]

567. In order to hold an accused criminally responsible where the person who carries out the *actus reus* of the crime charged is not a member of the JCE,[1804] there must be a link between that accused and such conduct.[1805] This link, which must be assessed on a case-by-case basis, is established if criminal responsibility for the other person's conduct can be imputed to one of the JCE members who, when using the other person, acted in accordance with the common plan.[1806] In such instances, "the crime in question"—meaning the crime with which the accused is charged—

1797 *Krajišnik* Appeal Judgement, para. 696.

1798 *See Tolimir* Trial Judgement, para. 893; *Milutinović et al.* Trial Judgement, Vol. I, para. 105 (citing *Kvočka et al.* Trial Judgement, para. 311).

1799 *See Tadić* Appeal Judgement, para. 188; *Blaškić* Appeal Judgement, para. 663; *Brđanin* Appeal Judgement, para. 274; *Galić* Appeal Judgement, para. 175 (holding that an omission may lead to individual criminal responsibility pursuant to Article 7(1) where there is a legal duty to act); *Mrkšić and Šljivančanin Appeal* Judgement, para. 134; *Ntagerura* Appeal Judgement, p. 334; *Tolimir* Trial Judgement, para. 894, fn. 3528; *Milutinović et al.* Trial Judgement, Vol. I, para. 103.

1800 Defence Final Brief, para. 3158 (citing *Mrkšić and Šljivančanin Appeal* Judgement, para. 156).

1801 *See Mrkšić and Šljivančanin* Appeal Judgement, paras. 155–156; *Orić* Appeal Judgement, paras. 36–49.

1802 *Krajišnik* Appeal Judgement, para. 696.

1803 Further, the Chamber notes that responsibility pursuant to the first form of JCE requires that the Accused shares the intent of the relevant crime, or crimes, with other members of the JCE.

1804 *Brđanin* Appeal Judgement, para. 410.

1805 *Brđanin* Appeal Judgement, paras. 412, 430.

1806 *Brđanin* Appeal Judgement, paras. 413, 430.

must also "for[m] part of the common criminal purpose".[1807] This, in turn, may be inferred from the close co-operation of the accused—or any other JCE member—with the non-member in order to further the common criminal purpose.[1808] It is not necessary, however, to establish the existence of an additional understanding or agreement between the accused and the non-member to commit that particular crime.[1809]

568. The mental elements differ substantially according to the relevant category of JCE.[1810] Since only the first and third categories are charged in the Indictment, the Chamber will limit its discussion to the jurisprudence relevant to these forms of JCE.

569. With regard to the basic category of JCE, the accused must both share the intent to effect the common purpose of the JCE as well as intend the commission of the crime with which he is charged.[1811] Where an accused is charged with a crime requiring specific intent which allegedly formed part of the JCE's common purpose, he and the other JCE members must share the requisite specific intent for that crime.[1812]

570. For a crime that falls outside the common purpose of the JCE ("extended crime"), an accused may nevertheless incur responsibility pursuant to the third category of JCE liability even when he does not share the intent to commit the extended crime if (i) he intended to participate in and contribute to the furtherance of the common criminal purpose, (ii) it was foreseeable to him that the extended crime might be perpetrated in carrying out the common purpose, and (iii) the accused willingly took the risk that the extended crime might occur by participating in the common purpose.[1813] This is true even where the extended crime is a specific intent crime such as genocide

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1807 *Brđanin* Appeal Judgement, paras. 410, 418.

1808 *Brđanin* Appeal Judgement, para. 410 (finding that when a member of the JCE uses a person outside the JCE to carry out the *actus reus* of a crime, the fact that the person in question knows of the existence of the JCE—without it being established that he or she shares the *mens rea* necessary to become a member of the JCE—may be a factor to be taken into account when determining whether the crime forms part of the common criminal purpose. However, this is not a *sine qua non* for imputing liability for the crime to that member of the JCE).

1809 *Brđanin* Appeal Judgement, para. 418.

1810 *Tadić* Appeal Judgement, para. 228. *See also Brđanin* Appeal Judgement, para. 365; *Stakić* Appeal Judgement, para. 65.

1811 *Kvočka et al.* Appeal Judgement, para. 82; *Brđanin* Appeal Judgement, para. 365; *Blaškić* Appeal Judgement, para. 33; *Vasiljević* Appeal Judgement, paras. 97, 101.

1812 *Kvočka et al.* Appeal Judgement, para. 110; *Krnojelac* Appeal Judgement, paras. 111–112; *Stanišić and Župljanin* Trial Judgement, Vol. I, para. 105; *Milutinović et al.* Trial Judgement, Vol. I, para. 109. *See also* Rule 98 *bis* Appeal Judgement, para. 79 ("[I]t is the genocidal intent of [the accused] and other JCE members, not the physical perpetrators of the underlying alleged genocidal acts, that is determinative for purposes of [the basic form of] JCE [...]."). *See also* para. 549.

1813 *Kvočka et al.* Appeal Judgement, para. 83. The *actus reus* of the extended crime may be perpetrated either by a JCE member or by a non-member who was used by a JCE member for that purpose. *Brđanin* Appeal Judgement, para. 411.

or persecution.[1814] Where that crime is genocide, the prosecution will be required to establish that it was reasonably foreseeable to the accused that an act specified in Article 4(2) would be committed and that it would be committed with genocidal intent.[1815] Moreover, the possibility of the crime being committed must be sufficiently substantial as to be reasonably foreseeable, based on the information available to the accused at the time,[1816] but an accused need not understand that the extended crime "would *probably* be committed".[1817] In other words, the accused must have sufficient knowledge that the extended crime was a natural and foreseeable consequence of the common criminal purpose.[1818]

b. Planning

571. To be found criminally responsible for planning under the Statute, the accused—either acting alone or with another—must have designed criminal conduct that is later carried out and which constitutes one or more crimes enumerated in the Statute.[1819] The planning must have been a factor substantially contributing to the criminal conduct,[1820] but the Prosecution need not establish that the crime would not have been committed but for the accused's plan.[1821] The accused must intend to plan the commission of a crime or, at a minimum, must be aware of the substantial likelihood that a crime will be committed in the execution of the acts or omissions planned.[1822]

c. Instigating

572. Criminal liability for instigation would be incurred when an accused prompts another person to commit an offence,[1823] which is actually committed.[1824] The prompt may be either

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1814 *Brđanin* 2004 Decision on Interlocutory Appeal, paras. 5–7, 9.

1815 *Brđanin* 2004 Decision on Interlocutory Appeal, para. 6.

1816 Appeal Decision on JCE III Foreseeability, para. 18; *Brđanin* 2004 Decision on Interlocutory Appeal, para. 5; *Tolimir* Trial Judgement, para. 897; *Milutinović et al.* Trial Judgement, Vol. I, para. 111.

1817 Appeal Decision on JCE III Foreseeability, para. 18.

1818 *Kvočka et al.* Appeal Judgement, para. 86.

1819 *Dragomir Milošević* Appeal Judgement, para. 268; *Kordić and Čerkez* Appeal Judgement, para. 26.

1820 *Dragomir Milošević* Appeal Judgement, para. 268; *Kordić and Čerkez* Appeal Judgement, para. 26. *See also* *Dragomir Milošević* Appeal Judgement, para. 270, fn. 793 (citing *Brđanin* Trial Judgement, paras. 357–358: "Responsibility for [planning] a crime could [...] only incur if it was demonstrated that the Accused was *substantially involved at the preparatory stage* of that crime in the concrete form it took, which implies that he possessed sufficient knowledge thereof in advance. [...] Although the Accused espoused the Strategic Plan, it has not been established that he personally devised it. [...] the Trial Chamber finds the evidence before it insufficient to conclude that the Accused *was involved in the immediate preparation of the concrete crimes*. This requirement of specificity distinguishes 'planning' from other modes of liability. [...]") (emphasis added).

1821 *Popović et al.* Trial Judgement, para. 1006; *Milutinović et al.* Trial Judgement, Vol. I, para. 82.

1822 *Dragomir Milošević* Appeal Judgement, para. 268; *Kordić and Čerkez* Appeal Judgement, paras. 29–31. This is true regardless of whether the *mens rea* of the crime is general or specific. *See Kordić and Čerkez* Appeal Judgement, para. 112 (citing *Blaškić* Appeal Judgement, para. 166).

1823 *Kordić and Čerkez* Appeal Judgement, para. 27; *Kvočka et al.* Trial Judgement, para. 252.

express or implied,[1825] it need not be direct or public,[1826] and it may consist of either an act or an omission.[1827] The accused's prompting must have been a factor "substantially contributing to the conduct of another person committing the crime", but the Prosecution need not prove that the crime would not have been committed but for such prompting,[1828] or that the accused had effective control or any other sort of authority over the perpetrator.[1829] The accused must intend to instigate another person to commit a crime, or at a minimum, he must be aware of the substantial likelihood that a crime will be committed in the execution of the act or omission instigated.[1830]

d. Ordering

573. To be held criminally responsible for ordering the commission of a crime, an accused must have instructed another person to engage in an act or an omission,[1831] and such instruction must have resulted in the commission of a crime.[1832] The accused must have held a position of authority over the other person, but it need not be formal and may even be temporary.[1833] However, there must be "proof of some position of authority on the part of the accused that would compel another to commit a crime in following the accused's order".[1834] The order need not be in written or any particular form,[1835] nor must it be transmitted directly to the physical perpetrator.[1836] As with planning and instigating, it need not be shown that the crime would not have been perpetrated but

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1824 *Brđanin* Trial Judgement, paras. 267, 269 (citing, *inter alia, Blaškić* Trial Judgement, para. 280; *Galić* Trial Judgement, para. 168). *See also Orić* Trial Judgement, para. 269.

1825 *Tolimir* Trial Judgement, para. 902; *Brđanin* Trial Judgement, para. 269; *Blaškić* Trial Judgement, paras. 280–281.

1826 *Akayesu* Appeal Judgement, paras. 477–478, 483; *Stanišić and Župljanin* Trial Judgement, Vol. I, para. 96; *Popović et al.* Trial Judgement, para. 1008.

1827 *Orić* Trial Judgement, para. 273 (citing *Blaškić* Trial Judgement, paras. 270, 280; *Kordić* Trial Judgement, para. 387; *Naletilić* Trial Judgement, para. 60; *Brđanin* Trial Judgement, para. 269; *Limaj* Trial Judgement, para. 514; *Kamuhanda* Trial Judgement, para. 593)

1828 *Kordić and Čerkez* Appeal Judgement, para. 27.

1829 *Semanza* Appeal Judgement, para. 257; *Tolimir* Trial Judgement, para. 902; *Orić* Trial Judgement, para. 272 (holding that instigating does not presuppose any kind of superiority). *See also Brđanin* Trial Judgement, para. 359 (finding it immaterial whether the physical perpetrators were even subordinate to the instigator so long as a causal link between the instigation and the commission of a crime exists).

1830 *Nahimana et al.* Appeal Judgement, para. 480; *Kordić and Čerkez* Appeal Judgement, paras. 29, 32.

1831 *Kordić and Čerkez* Appeal Judgement, para. 28; *Blaškić* Appeal Judgement, para. 42. Such instruction necessarily requires a positive action on the part of the instructor. *Galić* Appeal Judgement, para. 176.

1832 *Nahimana et al.* Appeal Judgement, para. 481; *Stanišić and Župljanin* Trial Judgement, Vol. I, para. 98; *Martić* Trial Judgement, para. 441 (citing *Brđanin* Trial Judgement, para. 267).

1833 *Kordić and Čerkez* Appeal Judgement, para. 28; *Semanza* Appeal Judgement, para. 363.

1834 *Semanza* Appeal Judgement, para. 361 (citing *Kordić and Čerkez* Appeal Judgement, para. 28); *Galić* Appeal Judgement, para. 176. *See also Brđanin* Trial Judgement, para. 270 (finding that sufficient authority may be reasonably implied from the circumstances); *Mrkšić et al.* Trial Judgement, para. 550.

1835 *Kamuhanda* Appeal Judgement, para. 76 (citing *Kordić and Čerkez* Trial Judgement, para. 388); *Stanišić and Župljanin* Trial Judgement, Vol. I, para. 98. The order's existence may also be proven by circumstantial evidence. *Mrkšić et al.* Trial Judgement, para. 550 (citing, *inter alia, Galić* Appeal Judgement, paras. 170–171).

1836 *Blaškić* Trial Judgement, para. 282. *See also Tolimir* Trial Judgement, para. 905; *Popović et al.* Trial Judgement, para. 1012; *Strugar* Trial Judgement, para. 331; *Brđanin* Trial Judgement, para. 270; *Naletilić and Martinović* Trial Judgement, para. 61; *Kordić and Čerkez* Trial Judgement, para. 388.

for the accused's order,[1837] but the order must have had "a direct and substantial effect on the commission of the illegal act".[1838] The accused must intend to order a crime, or must be aware of the substantial likelihood that a crime would be committed in the execution of the act or omission ordered.[1839]

e. Aiding and Abetting

574. Aiding and abetting is a form of liability in which the accused contributes to the perpetration of a crime that is committed by another person.[1840] The Prosecution must establish that the crime for which it seeks to make the accused responsible in fact occurred.[1841]

575. The physical element of aiding and abetting consists of acts or omissions "specifically directed to assist, encourage or lend moral support to the perpetration of a certain specific crime [...]."[1842] This support must have a substantial effect upon the perpetration of the crime.[1843] Liability for "aiding and abetting by omission proper", which must be distinguished from aiding and abetting by tacit approval and encouragement,[1844] may only attach where an accused had both a legal duty to act and the means to fulfil this duty.[1845]

1837 *Strugar* Trial Judgement, para. 332.

1838 *Kamuhanda* Appeal Judgement, para. 75. *See also Stanišić and Župljanin* Trial Judgement, Vol. I, para. 98; *Tolimir* Trial Judgement, para. 905; *Strugar* Trial Judgement, para. 332.

1839 *Kordić and Čerkez* Appeal Judgement, paras. 29–30; *Blaškić* Appeal Judgement, paras. 41–42.

1840 *Blagojević and Jokić* Appeal Judgement, para. 127; *Simić* Appeal Judgement, para. 85; *Vasiljević* Appeal Judgement, para. 102(i). This other person may be either the person who carries out the *actus reus* of the crime with which the accused is charged or a participant in a JCE. *See Vasiljević* Appeal Judgement, para. 102. *See also Popović et al.* Trial Judgement, para. 1015.

1841 *Aleksovski* Appeal Judgement, para. 165.

1842 *Tadić* Appeal Judgement, para. 229(iii). *See also Blaškić* Appeal Judgement, para. 45 (construing the *Vasiljević* Appeals Chamber's quotation of the *Tadić* Appeal Judgement as "set[ting] out the *actus reus* and *mens rea* of aiding and abetting"); *Orić* Appeal Judgement, para. 43; *Simić et al.* Appeal Judgement, para. 85; *Kvočka et al.* Appeal Judgement, paras. 89–90. *See further* para. 576.

1843 *Aleksovski* Appeal Judgement, paras. 162, 164 (confirming the *Aleksovski* Trial Chamber's reliance on the *Furundžija* Trial Judgement, paras. 233–235). *See also Krstić* Trial Judgement, para. 601 (citing *Aleksovski* Appeal Judgement, paras. 162–164) ("'[A]iding and abetting' means rendering a substantial contribution to the commission of a crime."); *Perišić* Trial Judgement (Majority Opinion), para. 126; *Đorđević* Trial Judgement, paras. 1873–1874; *Lukić and Lukić* Trial Judgement, para. 901; *Milutinović et al.* Trial Judgement, Vol. I, para. 89; *Boškoski and Tarčulovski* Trial Judgement, paras. 401–402; *Mrkšić* et al. Trial Judgement, paras. 551–552; *Limaj et al.* Trial Judgement, paras. 516–517; *Blagojević and Jokić* Trial Judgement, para. 726; *Galić* Trial Judgement; paras. 168–169; *Naletilić and Martinović* Trial Judgement, para. 63; *Kvočka et al.* Trial Judgement, paras. 243, 253.

1844 *Brđanin* Appeal Judgement, paras. 273–274 (referring, for example, to the failure of an accused who holds a position of authority to intervene when physically present at the scene of a crime may be considered to amount to tacit and encouragement approval—as opposed to an omission proper—if found to have substantially contributed to the crime). In order for tacit approval to constitute a substantial contribution to the crime, however, the principal perpetrators must be aware of the encouragement and moral support. *Brđanin* Appeal Judgement, para. 277.

1845 *Mrkšić and Šljivančanin* Appeal Judgement, paras. 49, 154 (citing *Orić* Appeal Judgement, para. 43). *See also Mrkšić and Šljivančanin* Appeal Judgement, para. 134 (citing *Blaškić* Appeal Judgement, para. 47 and stating that the Appeals Chamber has "consistently found that, in the circumstances of a given case", the *actus reus* of

576. Whether an act or omission had a substantial effect on the commission of a crime is a fact-based inquiry.[1846] The aider and abettor's conduct may occur in a location remote from the scene of the crime.[1847] It is unnecessary to establish that the crime would not have been committed without the contribution of the aider and abettor.[1848] Nor must the Prosecution prove the existence of a plan or agreement between the aider and abettor and the perpetrator; the latter may not even know of the aider and abettor's contribution.[1849] Finally, specific direction is not an element of aiding and abetting responsibility under customary international law.[1850] This means that there is no requirement of a showing that the acts of the Accused were specifically directed to assist, encourage, or lend moral support to the commission of the crimes.[1851]

577. The requisite mental element for aiding and abetting is "knowledge that the acts performed by the aider and abettor assist the commission of a specific crime".[1852] The aider and abettor must be aware of the essential elements of the crime which was ultimately committed,[1853] including the perpetrators' state of mind and any relevant specific intent,[1854] although he need not share that specific intent.[1855] Moreover, an accused may be convicted for having aided and abetted a crime, including one which requires specific intent, even where the specific individuals who committed the crime have not been tried or identified.[1856] If an accused is aware that one or more crimes

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aiding and abetting may be perpetrated through an omission). *See further Brđanin* Appeal Judgement, para. 274 (holding that "omission proper" may lead to individual criminal responsibility under Article 7(1) of the Statute where there is a legal duty to act); *Galić* Appeal Judgement, para. 175; *Blaškić* Appeal Judgement, para. 663.

1846 *Lukić and Lukić* Appeal Judgement, para. 438 (citing *Blagojević and Jokić* Appeal Judgement, para. 134); *Mrkšić and Šljivančanin* Appeal Judgement, paras. 146, 200.

1847 *Mrkšić and Šljivančanin* Appeal Judgement, para. 81; *Blaškić* Appeal Judgement, para. 48.

1848 *Mrkšić and Šljivančanin* Appeal Judgement, para. 81 (citing *Blaškić* Appeal Judgement, para. 48); *Brđanin* Appeal Judgement, para. 348; *Simić* Appeal Judgement, para. 85.

1849 *Brđanin* Appeal Judgement, para. 263 (citing, *inter alia*, *Tadić* Appeal Judgement, para. 229(ii)); *Krnojelac* Appeal Judgement, para. 33.

1850 *Šainović et al.* Appeal Judgement, paras. 1649, 1651.

1851 *Šainović et al.* Appeal Judgement, para. 1651.

1852 *Tadić* Appeal Judgement, para. 229(iv). *See also Lukić and Lukić* Appeal Judgement, para. 428; *Mrkšić and Šljivančanin* Appeal Judgement, paras. 49, 159; *Orić* Appeal Judgement, para. 43; *Blagojević and Jokić* Appeal Judgement, para. 127; *Brđanin* Appeal Judgement, para. 484; *Simić* Appeal Judgement, para. 86; *Blaškić* Appeal Judgement, paras. 45, 49; *Vasiljević* Appeal Judgement, para. 102; *Šainović et al.* Appeal Judgement, para. 1649. This knowledge need not have been explicitly expressed, but may be inferred from all relevant circumstances. *Tolimir* Trial Judgement, para. 911; *Đorđević* Trial Judgement, para. 1876; *Milutinović et al.* Trial Judgement, Vol. I, para. 94; *Strugar* Trial Judgement, para. 350.

1853 *Mrkšić and Šljivančanin* Appeal Judgement, paras. 49, 159; *Orić* Appeal Judgement, para. 43; *Brđanin* Appeal Judgement, paras. 484, 487.

1854 *Blagojević and Jokić* Appeal Judgement, para. 127; *Krstić* Appeal Judgement, para. 140; *Vasiljević* Appeal Judgement, para. 142; *Krnojelac* Appeal Judgement, para. 52.

1855 *Simić* Appeal Judgement, para. 86 (citing *Krnojelac* Appeal Judgement, para. 52; *Aleksovski* Appeal Judgement, para. 162).

1856 *Brđanin* Appeal Judgement, para. 355 (approving the Trial Chamber's identification of the perpetrators as "members of the 'Bosnian Serb forces'"); *Krstić* Appeal Judgement, para. 143.

would probably be committed, and one of these crimes is in fact committed, he is deemed to have intended the facilitation of the commission of that crime and is guilty as an aider and abettor.[1857]

2. Liability under Article 7(3) of the Statute

578. The Accused is also charged with individual criminal responsibility under Article 7(3) of the Statute on the basis that as the highest civilian and military authority in the RS, he was the superior of, and had effective control over, the Bosnian Serb Forces and Bosnian Serb Political and Governmental Organs who participated in the crimes alleged in the Indictment.[1858] It is alleged that the Accused knew or had reason to know that the alleged crimes were about to be committed or had been committed and that he failed to take necessary and reasonable measures to prevent and/or punish these alleged crimes.[1859]

579. Under Article 7(3) of the Statute, a superior may incur criminal responsibility with respect to a crime for which his subordinate is criminally responsible if the following three elements are established: (i) there was a superior-subordinate relationship between the accused and the perpetrator of the underlying crime; (ii) the superior knew or had reason to know that the criminal act was about to be or had been committed; and (iii) the superior failed to take the necessary and reasonable measures to prevent the criminal act or punish the perpetrator thereof.[1860] A superior can bear responsibility under Article 7(3) with respect to the criminal conduct of his subordinates under "all other modes of participation under Article 7(1)", namely the "planning, instigating, ordering, committing or otherwise aiding and abetting a crime" by his subordinates.[1861]

a. Superior-subordinate relationship

580. In order to establish that a superior-subordinate relationship exists between the accused and the perpetrator of an underlying crime, it must be proven that he exercised "effective control" over the perpetrator.[1862] A superior is someone who possesses "the power or authority in either a *de jure* or a *de facto* form to prevent a subordinate's crime or to punish the perpetrators of the crime". In assessing whether there is a superior-subordinate relationship it does not matter whether the

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1857 *Mrkšić and Šljivančanin* Appeal Judgement, para. 159 (citing *Simić* Appeal Judgement, para. 86; *Blaškić* Appeal Judgement, para. 50).

1858 Indictment, paras. 32–33.

1859 Indictment, paras. 34–35.

1860 *Perišić* Appeal Judgement, para. 86; *Gotovina* Appeal Judgement, para. 128; *Orić* Appeal Judgement, para. 18; *Halilović* Appeal Judgement, para. 59; *Blaškić* Appeal Judgement, para. 484; *Aleksovski* Appeal Judgement, para. 72.

1861 *Orić* Appeal Judgement, para. 21; *Blagojević* Appeal Judgement, para. 280.

1862 *Orić* Appeal Judgement, paras. 20, 91; *Halilović* Appeal Judgement, para. 59. *See also Čelebići* Appeal Judgement, paras. 196–197, 266.

accused was a civilian or military superior.[1863] An evaluation of effective control is more a question of fact than of law and requires consideration of factors that show "that the accused had the power to prevent, punish, or initiate measures leading to proceedings against the alleged perpetrators where appropriate."[1864]

581. Factors to be considered in assessing whether a superior exercised effective control include, *inter alia*, (i) his capacity to issue orders and whether those orders were in fact followed,[1865] (ii) the authority to issue disciplinary measures, and (iii) the power to promote personnel and terminate positions held.[1866] The superior's *de jure* authority "constitutes *prima facie* a reasonable basis for assuming that he has effective control over his subordinates" but still requires the Prosecution to prove that he exercised effective control.[1867]

582. In assessing effective control what is relevant is whether the "superior has the material ability to prevent or punish the criminally responsible subordinate".[1868] In this regard the Appeals Chamber has held:

> Whether the effective control descends from the superior to the subordinate culpable of the crime through intermediary subordinates is immaterial as a matter of law; instead; what matters is whether the superior has the material ability to prevent or punish the criminally responsible subordinate. The separate question of whether – due to proximity or remoteness of control – the superior indeed possessed effective control is a matter of evidence, not of substantive law.[1869]

583. Furthermore, for the purposes of liability under Article 7(3), the accused need not know the exact identity of a subordinate perpetrator.[1870]

b. Knew or had reason to know

584. For the accused to be held responsible under Article 7(3), the accused must have known or had reason to know that the subordinate committed a crime or was going to do so.[1871]

1863 *Alekovski* Appeal Judgement, para. 76; *Čelebići* Appeal Judgement, paras. 195–196.

1864 *Perišić* Appeal Judgement, para. 87; *Blaškić* Appeal Judgement, para. 69; *Aleksovski* Appeal Judgement, para. 76.

1865 *Strugar* Appeal Judgement, para. 254; *Halilović* Appeal Judgement, para. 207. *See also Blaškić* Appeal Judgement, para. 609

1866 *Perišić* Appeal Judgement, para. 97. *See also Čelebići* Appeal Judgement, paras. 190, 206.

1867 *Hadžihasanović and Kubura* Appeal Judgement, para. 21. *See also Orić* Appeal Judgement, paras. 91–92; *Čelebići* Appeal Judgement, para. 197.

1868 *Čelebići* Appeal Judgement, paras. 192, 195–198, 256. *See also Orić* Appeal Judgement, paras. 91–92; *Halilović* Appeal Judgement, para. 59; *Limaj et. al.* Appeal Judgement, para. 273.

1869 *Orić* Appeal Judgement, para. 20 (citing *Blaškić* Appeal Judgement, para. 69). *See also Čelebići* Appeal Judgement, para. 252.

1870 *Blagojević* Appeal Judgement, para. 287.

585. Knowledge may be inferred from circumstantial evidence[1872] but requires an assessment of the specific circumstances of each case and the "specific situation of the superior concerned at the time in question".[1873]

586. To prove that the accused had reason to know of crimes committed, it is necessary to show that he had information available to him which would have put him on notice of unlawful acts committed or about to be committed by his subordinates.[1874] In this regard "it must be established whether, in the circumstances of the case, he possessed information sufficiently alarming to justify further inquiry".[1875] This information does not need to contain extensive or specific details about the unlawful acts committed or about to be committed.[1876] A failure by the accused to punish the past offences of his subordinates may be relevant to determining whether he "possessed information that was sufficiently alarming to put him on notice of the risk that similar crimes might subsequently be carried out by subordinates and justify further inquiry".[1877]

c. Necessary and reasonable measures

587. For the accused to be held responsible under Article 7(3), it must be established that he failed to take the necessary and reasonable measures to prevent or punish the commission of the crimes charged.[1878] Determining what measures are necessary and reasonable to prevent or punish crimes committed by subordinates is a question of fact and not of substantive law.[1879] The degree of effective control can be used to determine "the necessary and reasonable measures within the competence of a superior".[1880]

588. The measures which are "necessary" are those which are "appropriate for the superior to discharge his obligation" to prevent or punish the underlying crime, while "reasonable" measures are those "reasonably falling within the material powers of the superior".[1881] Reasonable and necessary measures can include reporting the matter to competent authorities where this report is

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1871 *Kordić and Čerkez* Appeal Judgement, para. 839. *See also Orić* Appeal Judgement, para. 18; *Čelebići* Appeal Judgement, para. 222.

1872 *Galić* Appeal Judgement, paras. 171, 180–184.

1873 *Krnojelac* Appeal Judgement, para. 156; *Čelebići* Appeal Judgement, para. 239.

1874 *Čelebići* Appeal Judgement, paras. 238, 241. *See also Blaškić* Appeal Judgement, para. 62.

1875 *Strugar* Appeals Judgement, paras. 297–301; *Hadžihasanović and Kubura* Appeal Judgement, para. 28 (footnotes omitted).

1876 *Hadžihasanović and Kubura* Appeal Judgement, para. 28; *Galić* Appeal Judgement, para. 184; *Krnojelac* Appeal Judgement, para. 155; *Čelebići* Appeal Judgement, para. 238.

1877 *Hadžihasanović and Kubura* Appeal Judgement, paras. 30–31; *Krnojelac* Appeal Judgement, para. 155.

1878 *Orić* Appeal Judgement, para. 18.

1879 *Blaškić* Appeal Judgement, para. 72. *See also* Hadžihasnović *and Kubura* Appeal Judgement, para. 33.

1880 *Boškoski and Tarčulovski* Appeal Judgement, paras. 230–231; *Strugar* Appeal Judgement, paras. 297–301; *Halilović* Appeal Judgement, para. 63; *Blaškić* Appeal Judgement, para. 72.

likely to trigger an investigation or initiate disciplinary or criminal proceedings,[1882] carrying out an effective investigation to establish the facts,[1883] issuing specific orders prohibiting or stopping the criminal activities and securing implementation of those orders,[1884] protesting or criticising criminal action and taking disciplinary measures against the commission of crimes.[1885]

589. The duty to prevent a crime is distinct from the duty to punish a crime as it involves "different conduct committed at different times".[1886] The failure to punish relates to past crimes committed by subordinates and the failure to prevent concerns future crimes of subordinates.[1887] The obligation to prevent or punish "does not provide an accused with two alternative and equally satisfying options" in that where the accused knew or had reason to know that subordinates were about to commit a crime and failed to prevent that crime, "he cannot make up for his failure to act by punishing the subordinates afterwards".[1888]

590. For the purposes of Article 7(3), there is no requirement of causality between the superior's failure to prevent and the occurrence of the crime.[1889]

d. Interaction between Articles 7(1) and 7(3)

591. Where both Article 7(1) and Article 7(3) responsibility are alleged under the same count, and where the legal requirements of both are met, a conviction should only be entered on the basis of Article 7(1) and the accused's superior position should be considered as an aggravating factor in sentencing.[1890] The Appeals Chamber in *Popović* further specified that it was "improper to

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1881 *Halilović* Appeal Judgement, para. 63.

1882 *Boškoski and Tarčulovski* Appeal Judgement, paras. 230, 234; *Blagojević and Jokić* Trial Judgement, para. 793; *Blaškić* Trial Judgement, para. 335;

1883 *Limaj et al.* Trial Judgement, para. 529; *Halilović* Trial Judgement, paras. 97, 100; *Strugar* Trial Judgement, para. 376 (referring to *Kordić* Trial Judgement, para. 446).

1884 *Halilović* Trial Judgement, paras. 74, 89; *Strugar* Trial Judgement, para. 374.

1885 *Halilović* Trial Judgement, para. 89; *Strugar* Trial Judgement, para. 374.

1886 *Perišić* Appeal Judgement, para. 88 (citing, *inter alia*, *Blaškić* Appeal Judgement, para. 83). *See also Orić* Trial Judgement, para. 326.

1887 *Blaškić* Appeal Judgement, para. 83.

1888 *Blaškić* Trial Judgement, para. 336. *See also Strugar* Trial Judgement, para. 373.

1889 *Blaškić* Appeal Judgement, paras. 73–77. *See also Hadžihasanović and Kubura* Appeal Judgement, paras. 38–40.

1890 *Blaškić* Appeal Judgement, paras. 91–92 (citing *Aleksovski* Appeal Judgement, para. 183 and *Čelebići* Appeal Judgement, para. 745). *See also Galić* Appeal Judgement, para. 186; *Kvočka et. al.*, Appeal Judgement, para. 104.

maintain a conviction under Article 7(3) of the Statute in addition to a conviction under Article 7(1) of the Statute for the same count and *the same set of facts*".[1891]

IV. FINDINGS

A. MUNICIPALITIES COMPONENT

1. Facts

592. The Prosecution alleges that from at least October 1991 until 30 November 1995, the Accused participated in an overarching JCE to permanently remove Bosnian Muslim and Bosnian Croat inhabitants from the territories of BiH claimed as Bosnian Serb territory by means which included the commission of the following crimes: genocide, persecution, extermination, murder, deportation, and inhumane acts (forcible transfer).[1892] In this component, the Prosecution refers to the following municipalities: Bijeljina, Bratunac, Brčko, Foča, Rogatica, Višegrad, Sokolac, Vlasenica, and Zvornik (in relation to Eastern BiH); Banja Luka, Bosanski Novi, Ključ, Prijedor, and Sanski Most (in relation to the ARK); Hadžići, Ilidža, Novi Grad, Novo Sarajevo, Pale, and Vogošća (in relation to the Sarajevo area).[1893]

593. The Prosecution alleges that under the direction of the Accused and the Bosnian Serb leadership, civilian, military, and paramilitary organs collaborated to take over municipalities and territories throughout BiH in order to establish Serb control and permanently remove non-Serbs by force or threat of force. It is alleged that the physical take-overs of the Municipalities began in late March 1992 and that during and after these take-overs, Serb Forces and authorities, acting under the direction of the Accused, killed and mistreated thousands of individuals and expelled hundreds of thousands, while others fled in fear of their lives.[1894]

594. The Accused's case in relation to the Municipality component is that (i) the Bosnian Serb leadership in Pale did not control events in the field and other organs of the RS;[1895] (ii) the Bosnian Serb leadership in Pale lacked meaningful communications with the Municipalities to be able to control events in the field;[1896] (iii) the Bosnian Serb leadership in Pale instructed Municipalities to protect the non-Serb civilian population;[1897] (iv) the Bosnian Serb leadership in Pale took all

1891 *Popović et al.* Appeal Judgement, para. 1806 (referring to *Nahimana et al.* Appeal Judgement, para. 487; *Blaškić* Appeal Judgement, para. 91) (emphasis added).
1892 Indictment, para. 9.
1893 Indictment, para. 48.
1894 Prosecution Final Brief, para. 4.
1895 Defence Final Brief, paras. 402–499, 904–965.
1896 Defence Final Brief, paras. 500–540.
1897 Defence Final Brief, paras. 541–554.

possible measures to prevent and punish crimes against non-Serbs;[1898] (v) the Bosnian Serb leadership in Pale did not create a climate of impunity that furthered crimes against non-Serbs;[1899] and (vi) the Bosnian Serb leadership did not commit crimes or support the perpetrators of crimes.[1900]

595. The Chamber will examine the allegations with respect to each of these Municipalities in turn.

a. Eastern Bosnia

i. Bijeljina

(A) Charges

596. Under Count 3, the Prosecution alleges that persecution, a crime against humanity, was committed in Bijeljina as part of the objective to permanently remove Bosnian Muslims and/or Bosnian Croats from the Municipalities.[1901] Acts of persecution alleged to have been committed by Serb Forces and Bosnian Serb Political and Governmental Organs include killings during and after the take-over of Bijeljina;[1902] killings related to detention facilities;[1903] and killings committed during, and deaths resulting from, cruel and inhumane treatment at scheduled detention facilities.[1904] The Prosecution also characterises these killings as extermination, a crime against humanity, under Count 4; murder, a crime against humanity, under Count 5; and murder, a violation of the laws or customs of war, under Count 6.[1905]

597. Other acts of persecution alleged to have been committed in Bijeljina by Serb Forces and Bosnian Serb Political and Governmental Organs include (i) torture, beatings, and physical and psychological abuse, during and after the take-over and in scheduled detention facilities, as cruel or inhumane treatment;[1906] (ii) rape and other acts of sexual violence, during and after the take-over and in scheduled detention facilities, as cruel and inhumane treatment;[1907] (iii) the establishment and perpetuation of inhumane living conditions in detention facilities in Bijeljina, including the

1898 Defence Final Brief, paras. 642–760.
1899 Defence Final Brief, paras. 761–898.
1900 Defence Final Brief, paras. 966–1219.
1901 Indictment, paras. 48–49.
1902 Indictment, para. 60(a)(i). *See* Scheduled Incident A.1.1.
1903 Indictment, para. 60(a)(ii). *See* Scheduled Incident B.2.1.
1904 Indictment, para. 60(a)(ii). *See* Scheduled Detention Facility C.2.1.
1905 Indictment, para. 63(a), 63(b).
1906 Indictment, para. 60(b). *See* Scheduled Detention Facility C.2.1.
1907 Indictment, para. 60(c). *See* Scheduled Detention Facility C.2.1.

failure to provide adequate accommodation, shelter, food, water, medical care, or hygienic sanitation facilities, as cruel or inhumane treatment;[1908] (iv) forcible transfer or deportation of Bosnian Muslims and Bosnian Croats from their homes;[1909] (v) unlawful detention in scheduled detention facilities;[1910] (vi) forced labour at the frontline and the use of Bosnian Muslims and Bosnian Croats as human shields;[1911] (vii) the appropriation or plunder of property, during and after the take-over, during arrests and detention and in the course of or following acts of deportation or forcible transfer;[1912] (viii) the wanton destruction of private property including homes and business premises and public property including cultural monuments and sacred sites;[1913] and (ix) the imposition and maintenance of restrictive and discriminatory measures.[1914]

598. Under Counts 7 and 8, the Prosecution alleges deportation and inhumane acts (forcible transfer), respectively, as crimes against humanity.[1915] In this regard, the Prosecution alleges that by the end of 1992 Serb Forces as well as Bosnian Serb Political and Governmental Organs had forcibly displaced Bosnian Muslims and Bosnian Croats from areas in Bijeljina in which they were lawfully present.[1916] It is alleged that from March 1992, restrictive and discriminatory measures, arbitrary arrest and detention, harassment, torture, rape and other acts of sexual violence, killing, destruction of houses, cultural monuments and sacred sites, as well as the threat of further such acts caused Bosnian Muslims and Bosnian Croats to flee in fear while others were physically driven out.[1917]

(B) Lead-up

599. Bijeljina is a municipality located in the northeast of BiH in the Semberija region.[1918] Approximately two-thirds of its municipal boundaries form part of the border between BiH and Serbia with the municipality bound by the Sava River to the north and the Drina River to the

1908 Indictment, para. 60(d), 60(h). *See* Scheduled Detention Facility C.2.1.

1909 Indictment, para. 60(f).

1910 Indictment, para. 60(g). *See* Scheduled Detention Facility C.2.1.

1911 Indictment, para. 60(h).

1912 Indictment, para. 60(i).

1913 Indictment, para. 60(j). *See* Scheduled Incident D.2.

1914 Indictment, para. 60(k). The restrictive and discriminatory measures alleged include the denial of freedom of movement; the removal from positions of authority; the invasion of privacy through arbitrary searches of homes; unlawful arrest and/ or the denial of the right to judicial process; and/or the denial of equal access to public services.

1915 Indictment, paras. 68–75.

1916 Indictment, paras. 69, 72.

1917 Indictment, para. 71.

1918 D484 (Map of BiH); Adjudicated Fact 2233; P3033 (Reynaud Theunens's expert report entitled "Radovan Karadžić and the SRBiH TO-VRS (1992-1995)"), e-court p. 374.

east.[1919] Bijeljina is the closest municipality in BiH to Belgrade with one of the roads connecting Sarajevo and Belgrade crossing the municipality.[1920] Prior to the war, approximately 60% of the population in the municipality of Bijeljina were Bosnian Serbs and approximately 30% were Bosnian Muslims.[1921]

600. Bijeljina controlled access to the "Posavina Corridor" which was the only land link connecting Krajina, Western Slavonia and the western part of SerBiH with Serbia, and the establishment of this corridor formed part of the Strategic Goals.[1922]

601. Following the formation of national parties in mid-1990, inter-ethnic relations in Bijeljina deteriorated.[1923] The SDS in Bijeljina was formed in July 1990 by Predrag Ješurić.[1924] Milan Novaković was the President of the SDS in Bijeljina[1925] and other members of the SDS leadership included Dragomir Ljubojević, Marko Stanković, and Dragan Vuković.[1926] Mirko Blagojević, an SDS member, established the Board of the SRS in Bijeljina.[1927]

1919 P3033 (Reynaud Theunens's expert report entitled "Radovan Karadžić and the SRBiH TO-VRS (1992-1995)"), e-court p. 374. *See* Adjudicated Fact 2233.

1920 *See* Adjudicated Fact 2234.

1921 P3033 (Reynaud Theunens's expert report entitled "Radovan Karadžić and the SRBiH TO-VRS (1992-1995)"), e-court p. 374; P4994 (Addendum to Ewa Tabeau's expert report entitled "Ethnic Composition in Internally Displaced Persons and Refugees from 27 Municipalities of BiH 1991 to 1997", 3 February 2009), p. 30. Defence evidence suggested that the figures provided by the "international experts" exaggerated the number of Bosnian Muslims in Bijeljina in 1991. D3125 (Stevo Pašalić's expert report entitled "Ethnic Composition, Displaced Persons and Refugees from 27 Municipalities in the Territory of BiH, 1991-1997", August 2012), paras. 8, 85–91; Stevo Pašalić, T. 35426–35434 (14 March 2013); P6198 (Diagram re percentage of Bijeljina population born before 1980). However, the Chamber notes that Pašalić and his methodology fails to successfully explain why he concluded that the international experts were in error in their calculation of the number of Bosnian Muslims in Bijeljina in 1991. In addition the Chamber notes that his evidence was marked by evasiveness and bias which substantially compromised the veracity of his evidence. The Chamber thus does not consider his evidence to be reliable in this regard.

1922 P3033 (Reynaud Theunens's expert report entitled "Radovan Karadžić and the SRBiH TO-VRS (1992-1995)"), e-court pp. 374–375. *See also* P2561 (Map of BiH re six Strategic Goals).

1923 D3140 (Witness statement of Živan Filipović dated 18 March 2013), para. 3.

1924 D3089 (Witness statement of Milivoje Kićanović dated 3 March 2013), para. 3 (stating that the SDA, HDZ and Party of Democratic Unity were formed before the SDS); D3133 (Witness statement of Cvijetin Simić dated 16 March 2013), paras. 2–3; P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 11. The Chamber notes that the wording of several paragraphs in Kićanović's statement was almost identical to the statement provided by another defence witness Cvijetin Simić. Milivoje Kićanović, T. 34879–34881 (6 March 2013); P6184 (Comparison of witness statements of Milivoje Kićanović and Cvijetin Simić). While Kićanović's explanation for this does not seem plausible, the Chamber does not find that this completely undermines the content of their evidence. However, the Chamber has had regard to the identical wording of certain portions of their respective statements in assessing and weighing the evidence of both Kićanović and Simić.

1925 P2929 (Witness statement of KDZ531 dated 25 June 2011), p. 3 (under seal) (testifying that Novaković was replaced by Savo Kojić who was in turn replaced by Savo Andrić); Milorad Davidović, T. 15541 (28 June 2011); P2848 (Witness statement of Milorad Davidović dated 22 June 2011), paras. 10–11, 116. *See also* Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 21658.

1926 P2929 (Witness statement of KDZ531 dated 25 June 2011), p. 3 (under seal).

1927 P2901 (SRT video footage of interview of Mirko Blagojević), p. 3.

602. Following the multi-party elections, in November 1990, the SDS won an absolute majority in Bijeljina but formed a coalition government with the SDA in which official positions were divided between Bosnian Serbs and Bosnian Muslims.[1928] After 1991, people in Bijeljina started joining the SDS to keep their positions.[1929] Milorad Davidović who had been the Chief of SJB in Bijeljina was dismissed from his position as he did not join the SDS and was replaced by Ješurić.[1930]

603. By mid-1991, ethnic divisions were rife between Bosnian Muslims and Bosnian Serbs in Bijeljina.[1931] Tensions in Bijeljina continued to increase following the war in Croatia[1932] and even more so in September 1991 after Bosnian Muslims boycotted the JNA mobilisation and started leaving their units; this resulted in the JNA units being manned almost completely by Serbs.[1933] Inter-ethnic relations in the municipality were further strained in the lead-up to and following the referendum on the independence of BiH.[1934]

1928 D3089 (Witness statement of Milivoje Kićanović dated 3 March 2013), paras. 5–6; Milivoje Kićanović, T. 34883–34884 (6 March 2013); D3090 (Result of Bijeljina municipal elections, 28 November 1990); D3144 (Witness statement of Dragomir Ljubojević dated 18 March 2013), para. 11; D3133 (Witness statement of Cvijetin Simić dated 16 March 2013), paras. 5–6; D3140 (Witness statement of Živan Filipović dated 18 March 2013), paras. 5–6; Živan Filipović, T. 35793 (21 March 2013). *See also* P2929 (Witness statement of KDZ531 dated 25 June 2011), pp. 2–3 (under seal).

1929 P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 10.

1930 P2848 (Witness statement of Milorad Davidović dated 22 June 2011), paras. 8, 10, 12–13; Milorad Davidović, T. 15579, 15639–15640 (29 June 2011); Milorad Davidović, D1411 (Excerpt of transcript from *Prosecutor v. Krajišnik*) T. 14400; P2629 (Bijeljina's SJB report, 9 April 1992), p. 1. Ješurić replaced Davidović and was appointed Bijeljina SJB Chief.

1931 D3141 (Witness statement of Dušan Spasojević dated 18 March 2013), para. 6; Živan Filipović, T. 35795 (21 March 2013); D3133 (Witness statement of Cvijetin Simić dated 16 March 2013), para. 18. The SDA also organised and staged demonstrations in 1990 and 1991 which contributed to the deterioration of inter-ethnic relations and there were also incidents of harassment of Bosnian Serbs. D3140 (Witness statement of Živan Filipović dated 18 March 2013), paras. 3–4; D3089 (Witness statement of Milivoje Kićanović dated 3 March 2013), paras. 10–11; D3144 (Witness statement of Dragomir Ljubojević dated 18 March 2013), para. 4. *See also* D3137 (Witness statement of Svetozar Mihajlović dated 17 March 2013), para. 2; D3133 (Witness statement of Cvijetin Simić dated 16 March 2013), paras. 4, 37.

1932 D3089 (Witness statement of Milivoje Kićanović dated 3 March 2013), para. 7; D3144 (Witness statement of Dragomir Ljubojević dated 18 March 2013), para. 6; D3133 (Witness statement of Cvijetin Simić dated 16 March 2013), para. 7. *See also* D3141 (Witness statement of Dušan Spasojević dated 18 March 2013), paras. 4–5 (stating that the SDA sent Bosnian Muslim men from the reserve police to Croatia for training).

1933 P2929 (Witness statement of KDZ531 dated 25 June 2011), p. 2 (under seal); KDZ531, T. 15864 (1 July 2011) (closed session); D3089 (Witness statement of Milivoje Kićanović dated 3 March 2013), para. 8; D3144 (Witness statement of Dragomir Ljubojević dated 18 March 2013), para. 6; D3133 (Witness statement of Cvijetin Simić dated 16 March 2013), para. 8; D3141 (Witness statement of Dušan Spasojević dated 18 March 2013), paras. 4–5.

1934 D3140 (Witness statement of Živan Filipović dated 18 March 2013), para. 3; D3089 (Witness statement of Milivoje Kićanović dated 3 March 2013), para. 4; D3144 (Witness statement of Dragomir Ljubojević dated 18 March 2013), paras. 3, 7; D3137 (Witness statement of Svetozar Mihajlović dated 17 March 2013), para. 2; D3133 (Witness statement of Cvijetin Simić dated 16 March 2013), paras. 15–17; D3141 (Witness statement of Dušan Spasojević dated 18 March 2013), paras. 3–4; D3142 (Criminal report against Hasan Tirić), pp. 21–22.

604. At a meeting in Banja Luka on 11 February 1992, attended by senior officials including Mićo Stanišić and Mandić, there was discussion about the creation of a Bosnian Serb MUP; thereafter the SJB in Bijeljina was instructed by Mandić to begin preparations for this purpose.[1935]

605. The existence of a Crisis Staff in Bijeljina was strongly contested by the Accused[1936] and Defence evidence suggested that there was no Crisis Staff in Bijeljina.[1937] However, the Chamber is satisfied, based on the evidence about the establishment and actions of the Crisis Staff, that there was a Crisis Staff in Bijeljina by the beginning of April 1992.[1938] In addition, local crisis staffs were also established in villages surrounding Bijeljina.[1939]

606. Milan Novaković[1940] and Ljubiša Savić ("Mauzer") were leaders in the Bijeljina Crisis Staff.[1941] Members of the Crisis Staff were all either from the SDS or prominent local people who were loyal to the party.[1942] The Crisis Staff took on authority which previously belonged to other municipal bodies and took on the role as "commanding body of defence and military forces" and also provided logistical support to the JNA which had barracks in Bijeljina.[1943] Initially, the Crisis

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1935 P1083 (Minutes of meeting of representatives of SerBiH MUP, 11 February 1992), p. 1; P1112 (Order of SRBiH MUP to all CSBs and SJBs, 13 February 1992); Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 8649.

1936 Defence Final Brief, para. 1378.

1937 *See* D3144 (Witness statement of Dragomir Ljubojević dated 18 March 2013), para. 11; Dragomir Ljubojević, T. 35899 (22 March 2013); D3133 (Witness statement of Cvijetin Simić dated 16 March 2013), paras. 34, 42; Cvijetin Simić, T. 35691–35695 (20 March 2013); D3089 (Witness statement of Milivoje Kićanović dated 3 March 2013), para. 27.

1938 P2929 (Witness statement of KDZ531 dated 25 June 2011), p. 3 (under seal); P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 89; P2626 (Report of Bijeljina Crisis Staff, 1 April 1992). For evidence on the existence and actions of the Bijeljina Crisis Staff, *see* P6214 (Report of JNA 17th Corps, 7 April 1992), p. 1. When Filipović was asked about this order he was not very clear and tried to suggest that this was not the Crisis Staff; however, the Chamber does not find his answers convincing in this regard. Živan Filipović, T. 35808 (21 March 2013). Similarly, on cross-examination, Kićanović acknowledged that when the municipal Assembly could not be convened a municipal Presidency was set up comprising 10 people who managed the municipality, but he did not consider this to be a Crisis Staff. The witness was presented with a number of documents which made reference to the Bijeljina Crisis Staff (*see* P2626, P5587, P2855) but maintained that he was not aware of any Crisis Staff in Bijeljina. However, when questioned by the Chamber, Kićanović acknowledged that a Bijeljina SDS Crisis Staff probably did exist but that it was different from the municipal Crisis Staff. Milivoje Kićanović, T. 34886, 34888–34889, 34903–34907 (6 March 2013). Other witnesses were also shown documents with references to the Bijeljina Crisis Staff (P2626, P6211, P2629) but maintained that there was no Crisis Staff in Bijeljina. Cvijetin Simić, T. 35655–35660, 35667 (20 March 2013); Dragomir Ljubojević, T. 35900–35901 (22 March 2013). The Chamber does not find the witnesses' answers in this regard to be convincing. The Chamber also received evidence about Biljana Plavšić meeting with the Bijeljina Crisis Staff which supports the fact that it did exist. *See* para. 626.

1939 P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 89.

1940 P2929 (Witness statement of KDZ531 dated 25 June 2011), p. 3 (under seal).

1941 Milorad Davidović, T. 15583–15584 (29 June 2011), 15753, 15771 (30 June 2011). *See also* KDZ446, P29 (Transcript from *Prosecutor v. S. Milošević*), T. 21056; Dragomir Andan, T. 40872 (5 July 2013) (identifying Mauzer's role as an SDS leader in Bijeljina).

1942 P2929 (Witness statement of KDZ531 dated 25 June 2011), p. 3 (under seal); P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 89; Cvijetin Simić, T. 35698–35699 (20 March 2013).

1943 P2929 (Witness statement of KDZ531 dated 25 June 2011), p. 3 (under seal).

Staff met every day with only the closest group of leaders in attendance.[1944] It however evolved to become the Presidency of the Municipal Assembly[1945] and subsequently the War Presidency.[1946] There was a very close relationship between the Bijeljina branch of the SDS and the SDS party in Pale; and the SDS leadership, including the Accused and Krajišnik, often visited Bijeljina.[1947] The Bijeljina Crisis Staff kept the SDS Main Board informed of its activities.[1948] In addition, the Chief of the Bijeljina SJB reported to Mićo Stanišić on the situation in the municipality.[1949]

607. In the two or three months leading up to the conflict, both sides established units and armed themselves.[1950] The SDS and SDA armed Bosnian Serbs and Bosnian Muslims respectively.[1951] Weapons were distributed to supporters of the SDS by the village level crisis staffs.[1952] By the time the conflict broke out in Bijeljina, an armed intervention unit had been formed by the SDS from villagers trusted by the party.[1953] Ješurić also sought and received material assistance from the Serbian MUP in the lead-up to the conflict.[1954] In contrast, by 11 April 1992 while there remained some armed Bosnian Muslims, most had handed in their weapons to the local authorities.[1955]

1944 P2929 (Witness statement of KDZ531 dated 25 June 2011), p. 3 (under seal).

1945 P2629 (Bijeljina's SJB report, 9 April 1992), p. 2.

1946 P2929 (Witness statement of KDZ531 dated 25 June 2011), p. 3 (under seal). *See also* D3144 (Witness statement of Dragomir Ljubojević dated 18 March 2013), para. 11; Dragomir Ljubojević, T. 35899 (22 March 2013) (testifying that while he was not aware of the Crisis Staff, he was aware that the War Presidency had an active role in decision making in the municipality and acted openly).

1947 P2929 (Witness statement of KDZ531 dated 25 June 2011) p. 4 (under seal).

1948 For example *see* P2626 (Report of Bijeljina Crisis Staff, 1 April 1992) in which the Bijeljina Crisis Staff reported to the SDS Main Board on the situation in the municipality.

1949 P2629 (Bijeljina's SJB report, 9 April 1992).

1950 KDZ059, P67 (Transcript from *Prosecutor v. S. Milošević*), T. 29101. *See also* D3065 (Witness statement of Aleksandar Vasiljević dated 26 February 2013), paras. 172–173; D3089 (Witness statement of Milivoje Kićanović dated 3 March 2013), paras. 9. 11; D3133 (Witness statement of Cvijetin Simić dated 16 March 2013), paras. 10–11; D3141 (Witness statement of Dušan Spasojević dated 18 March 2013), paras. 4, 9, 15–16; Dušan Spasojević, T. 35829–35830 (21 March 2013); D3142 (Criminal report against Hasan Tirić), pp. 3, 16, 21–23, 27, 30; Živan Filipović, T. 35793–35794 (21 March 2013); D1608 (Official note of the Croatian Security Information Service Centre, 9 May 1996), p. 1; KDZ555, T. 17366–17367 (17 August 2011). The Chamber is satisfied based on the above-mentioned evidence that Bosnian Muslim military formations, including the Patriotic League, were also established and operated in Bijeljina.

1951 P2929 (Witness statement of KDZ531 dated 25 June 2011), p. 8 (under seal).

1952 P2929 (Witness statement of KDZ531 dated 25 June 2011), p. 3 (under seal).

1953 P2929 (Witness statement of KDZ531 dated 25 June 2011), p. 3 (under seal). Simić testified that the Bosnian Serb authorities were against the formation of illegal organisations and the arming of the population and when officers from the Bijeljina garrison who were members of the League of Communists secretly distributed weapons to civilians, the authorities asked that the weapons be returned to the barracks and the officers were held to account. D3133 (Witness statement of Cvijetin Simić dated 16 March 2013), para. 10. The Chamber does not find this evidence to be reliable and notes that Simić's evidence was marked by indicators which led to the conclusion that he withheld information from the Chamber, was evasive, and lacked sincerity.

1954 P1083 (Minutes of meeting of representatives of SerBiH MUP, 11 February 1992), p. 2. *See also* P2875 (Freedom of movement pass issued by Semberija & Majevica Crisis Staff).

1955 D3142 (Criminal report against Hasan Tirić), p. 30; D3141 (Witness statement of Dušan Spasojević dated 18 March 2013), para. 15.

608. As discussed earlier in this Judgement, the Serbian National Guard, was a unit commanded by Mauzer, and later known as Mauzer's Panthers.[1956] Mauzer was also commander of the SAO Semberija TO and operated in Bijeljina with the support of the Presidency of the Bijeljina Municipal Assembly.[1957] There was also a local paramilitary group of approximately 50 men affiliated with the SRS under the command of Mirko Blagojević in Bijeljina.[1958] Prior to the war, the SDS had called on the youth to attend Arkan's training camp across the Drina and later the Bijeljina Crisis Staff and Mauzer invited Arkan to the municipality after which his men arrived in Bijeljina.[1959] Plavšić at the 22nd session of the RS Assembly in November 1992 acknowledged that

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1956 *See* para. 233; P2848 (Witness statement of Milorad Davidović dated 22 June 2011), paras. 79, 89; Milorad Davidović, T. 15479–15480 (28 June 2011); *see* Adjudicated Fact 2237; P2855 (VRS Main Staff report on paramilitary formations, 28 July 1992), p. 5; D1450 (Milorad Davidović's statement to Belgrade District Court, 26 December 2007), pp. 36–37; P3033 (Reynaud Theunens's expert report entitled "Radovan Karadžić and the SRBiH TO-VRS (1992-1995)"), e-court pp. 270–271; D1612 (Video footage of Arkan in "My Guest, His Truth", July/August 1994), pp. 11–12; Manojlo Milovanović, T. 25447 (28 February 2012); P2044 (BBC news report re interview with Major Mauzer, with transcript), p. 1; KDZ446, P29 (Transcript from *Prosecutor v. S. Milošević*), T. 21053–21054, 21056; Dragomir Andan, T. 40872 (5 July 2013). Predrag Ješurić was also involved in the operations of this unit. Čedomir Kljajić, T. 42219 (30 July 2013).

1957 P2884 (Article from List SAO Semberije I Majevice entitled "Semberija Lost for Alija's Islamic State", 15 June 1992), p. 4. The Chamber received evidence from Šešelj that Mauzer and his group were not under the control of the Accused or the Bosnian Serb leadership and he had heard the Accused complain about this group. D3665 (Witness statement of Vojislav Šešelj dated 1 June 2013), para. 47. The Chamber considers that Šešelj's assessment that Mauzer was not under the control of the Accused or the Bosnian Serb leadership to be his own opinion, and is therefore of little value.

1958 Adjudicated Fact 2241; KDZ531, T. 15867 (1 July 2011) (closed session); P3033 (Reynaud Theunens's expert report entitled "Radovan Karadžić and the SRBiH TO-VRS (1992-1995)"), para. 50, e-court pp. 256, 348, 381; D1612 (Video footage of Arkan in "My Guest, His Truth", July/August 1994), p. 11; P2901 (SRT video footage of interview of Mirko Blagojević), pp. 5–6; P2073 (BBC news report re Bijeljina, with transcript), p. 1; KDZ446, P29 (Transcript from *Prosecutor v. S. Milošević*), T. 21008–21010. *See also* D3065 (Witness statement of Aleksandar Vasiljević dated 26 February 2013), para. 173; Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 21652; P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 118. *But see* D3665 (Witness statement of Vojislav Šešelj dated 1 June 2013), para. 45 (stating that not a single man was sent by the SRS from Serbia to Bijeljina and that the local SRS members who fought in Bijeljina were not under his control). The Chamber does not find this evidence to be reliable given the interest of Šešelj in minimising his own involvement in this regard. The Chamber also notes that Šešelj himself granted the title of "Vojvoda" to Blagojević for his role in the Serbian Chetnik Movement and for his active participation in commanding units which operated in Bijeljina, Zvornik, and Brčko. P5035 (Order of Vojislav Šešelj, 13 May 1993), pp. 1–2. *See also* para. 234.

1959 P2848 (Witness statement of Milorad Davidović dated 22 June 2011), paras. 76, 117; Milorad Davidović, T. 15479–15484 (28 June 2011), T. 15716 (30 June 2011); KDZ446, P29 (Transcript from *Prosecutor v. S. Milošević*), T. 21052–21055. *See also* Živan Filipović, T. 35799 (21 March 2013); P6211 (Four video clips of interviews with Arkan and others, with transcript), pp. 3–4; KDZ531, T. 15868–15869, 15879 (1 July 2011) (closed session); D1459 (Video interview of Arkan in Bijeljina, April 1992); D1612 (Video footage of Arkan in "My Guest, His Truth", July/August 1994), p. 11; D1611 (Video footage depicting Arkan's pre-election campaign in Zvornik, 8 September 1996); KDZ555, T. 17381–17384 (17 August 2011); Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 21652–21563; D3065 (Witness statement of Aleksandar Vasiljević dated 26 February 2013), para. 174. *See also* D1442 (Conclusion of Bijeljina's Municipal Assembly Presidency, 29 May 1992) (which imposed a ban on engaging any individuals or groups which had not been invited by the legal authorities). However, Defence evidence suggested that no armed groups came to the municipality at the invitation of the municipal authorities. Svetozar Mihajlović, T. 35678 (20 March 2013); D3140 (Witness statement of Živan Filipović dated 18 March 2013), para. 13; Živan Filipović, T. 35800–35801 (21 March 2013); Cvijetin Simić, T. 35681–35682 (20 March 2013); The Chamber does not find the evidence of these witnesses to be reliable in this regard considering the other credible evidence received on this issue. In addition the Chamber notes that the evidence of Mihajlović and Simić was marked by contradictions and other indicators that they were not being straighforward in their testimony. Furthermore, the Chamber notes that Filipović's evidence on this point is contradictory in the sense that he testified that he did

she had sent letters to many people including Arkan and others willing to fight in the RS for the "Serbian cause".[1960]

609. At the end of March 1992, there were two violent incidents at a Bosnian Muslim and Bosnian Serb café respectively. In one incident a young Bosnian Serb threw a hand grenade into the Istanbul café, injuring a number of people.[1961] This café was frequented by Bosnian Muslims and the young man had previously been beaten and kicked out of the Istanbul café following an argument.[1962] In the other incident, a Bosnian Muslim set out from the Istanbul café on horseback on 31 March 1992, intending to throw a grenade at the Srbija café; this resulted in an exchange of fire between Bosnian Muslims and Bosnian Serbs.[1963] Following these incidents, barricades were erected by Bosnian Muslims at all the important points in Bijeljina and were secured by armed men with the support of the SDA.[1964] On 31 March 1992 there were armed clashes and shooting incidents between armed Bosnian Muslims, and Serb Forces.[1965]

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not know how Arkan and his men came to the municipality but at the same time testified that the authorities did not invite him.

1960 P1105 (Transcript of 22nd session of RS Assembly, 23-24 November 1992), p. 20. *See also* Vojislav Šešelj, T. 39594 (10 June 2013).

1961 P2929 (Witness statement of KDZ531 dated 25 June 2011), p. 7 (under seal); Živan Filipović, T. 35796 (21 March 2013); D3141 (Witness statement of Dušan Spasojević dated 18 March 2013), para. 8. *See also* D3065 (Witness statement of Aleksandar Vasiljević dated 26 February 2013), para. 173; D3133 (Witness statement of Cvijetin Simić dated 16 March 2013), para. 18.

1962 D3133 (Witness statement of Cvijetin Simić dated 16 March 2013), para. 18; D3141 (Witness statement of Dušan Spasojević dated 18 March 2013), para. 8.

1963 P2929 (Witness statement of KDZ531 dated 25 June 2011), p. 7 (under seal); Živan Filipović, T. 35796 (21 March 2013); D3141 (Witness statement of Dušan Spasojević dated 18 March 2013), paras. 7–8, 10. *See also* D3065 (Witness statement of Aleksandar Vasiljević dated 26 February 2013), para. 173; D3133 (Witness statement of Cvijetin Simić dated 16 March 2013), paras. 18–20; D3142 (Criminal report against Hasan Tirić), pp. 21–23; P2901 (SRT video footage of interview of Mirko Blagojević), p. 4; KDZ446, P29 (Transcript from *Prosecutor v. S. Milošević*), T. 21058.

1964 P2901 (SRT video footage of interview of Mirko Blagojević), pp. 5–6; P2929 (Witness statement of KDZ531 dated 25 June 2011) p. 8 (under seal); D3133 (Witness statement of Cvijetin Simić dated 16 March 2013), paras. 21–23; D3142 (Criminal report against Hasan Tirić), pp. 23, 25; D3137 (Witness statement of Svetozar Mihajlović dated 17 March 2013), para. 4; KDZ446, P29 (Transcript from *Prosecutor v. S. Milošević*), T. 21059 (testifying that he could not enter Bijeljina because of the barricades erected in both the Muslim and Serb settlements); D3140 (Witness statement of Živan Filipović dated 18 March 2013), para. 8; D3141 (Witness statement of Dušan Spasojević dated 18 March 2013), paras. 11–12; Dušan Spasojević, T. 35831 (21 March 2013). *See also* KDZ531, T. 15867 (1 July 2011) (closed session). The Accused submits that the speed at which barricades were erected indicated prior planning by the Bosnian Muslims and that they intended to take power in the municipality. Defence Final Brief, para. 1380, referring to D3133 (Witness statement of Cvijetin Simić dated 16 March 2013), para. 22; D3141 (Witness statement of Dušan Spasojević dated 18 March 2013), para. 11; D3140 (Witness statement of Živan Filipović dated 18 March 2013), paras. 7–8; D3137 (Witness statement of Svetozar Mihajlović dated 17 March 2013), para. 6. However, the Chamber does not accept this evidence given that it based purely on speculation by these witnesses.

1965 Adjudicated Facts 2240, 2235; D3140 (Witness statement of Živan Filipović dated 18 March 2013), paras. 7–8; D3141 (Witness statement of Dušan Spasojević dated 18 March 2013), para. 14; D3065 (Witness statement of Aleksandar Vasiljević dated 26 February 2013), para. 174; Aleksandar Vasiljević, T. 34700–34701 (4 March 2013) (testifying that the first clashes occurred when Arkan's men entered Bijeljina). For evidence on actions by Bosnian Muslims forces, *see* D3140 (Witness statement of Živan Filipović dated 18 March 2013), paras. 7–8, 10; D3137 (Witness statement of Svetozar Mihajlović dated 17 March 2013), para. 6; D3141 (Witness statement of Dušan Spasojević dated 18 March 2013), paras. 11–12, 13–14; Dušan Spasojević, T. 35831 (21 March 2013);

(C) Events in early April 1992

(1) Take-over

610. By 1 April 1992, Bijeljina was completely surrounded by check-points.[1966] Members of the Bosnian Serb leadership in the municipality in a live radio broadcast asked for all citizens to get off the streets and lift the barricades; they also called for restraint.[1967] On 1 April 1992, negotiations between Bosnian Serb and Bosnian Muslim representatives failed to reach an agreement on the lifting of barricades and fighting continued.[1968]

611. The take-over of Bijeljina began on 1 April 1992 and the Serb Forces involved included Arkan's men, a local unit affiliated with the SRS under the command of Mirko Blagojević, Mauzer's unit, the local TO, the police, the JNA and the local Bosnian Serb population.[1969]

612. Arkan's men came to Bijeljina on 1 April 1992 and, in co-operation with a local unit affiliated with the SRS under the command of Mirko Blagojević, took control of important town structures[1970] which were then guarded by the police.[1971] Arkan's men and Mauzer's unit operated

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D3142 (Criminal report against Hasan Tirić), pp. 17, 23–26; D3140 (Witness statement of Živan Filipović dated 18 March 2013), para. 10; Živan Filipović, T. 35796 (21 March 2013); Milivoje Kićanović, T. 34882 (6 March 2013); D3137 (Witness statement of Svetozar Mihajlović dated 17 March 2013), para. 6; D3133 (Witness statement of Cvijetin Simić dated 16 March 2013), paras. 21, 23–24; P6211 (Four video clips of interviews with Arkan and others, with transcript), pp. 1–2.

1966 P2929 (Witness statement of KDZ531 dated 25 June 2011), p. 7 (under seal).

1967 D3133 (Witness statement of Cvijetin Simić dated 16 March 2013), para. 25.

1968 D3133 (Witness statement of Cvijetin Simić dated 16 March 2013), para. 27; Cvijetin Simić, T. 35638–35639 (19 March 2013), 35675, 35692–35693 (20 March 2013); P6209 (JNA 2nd Military District report, 1 April 1992), p. 3. *See also* D3065 (Witness statement of Aleksandar Vasiljević dated 26 February 2013), para. 171; D3140 (Witness statement of Živan Filipović dated 18 March 2013), para. 12. The Accused submits that the meeting failed because the SDA representatives refused to negotiate due to their belief that they had gained control of the municipality. Defence Final Brief, para. 1381. The Chamber does not consider that the evidence in the record supports this proposition.

1969 *See* Adjudicated Fact 2241; KDZ531, T. 15867 (1 July 2011) (closed session); D1612 (Video footage of Arkan in "My Guest, His Truth", July/August 1994), pp. 11–12; P2901 (SRT video footage of interview of Mirko Blagojević), pp. 5–6; P6209 (JNA 2nd Military District report, 1 April 1992), pp. 1, 3, 5. *See also* P3033 (Reynaud Theunens's expert report entitled "Radovan Karadžić and the SRBiH TO-VRS (1992-1995)"), e-court pp. 256, 348; Adjudicated Facts 2235, 2242; Richard Butler, T. 27655 (19 April 2012); P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 118; D3665 (Witness statement of Vojislav Šešelj dated 1 June 2013), para. 49; KDZ446, P29 (Transcript from *Prosecutor v. S. Milošević*), T. 21008–21010, 21055, 21109; P2629 (Bijeljina's SJB report, 9 April 1992), p. 2.

1970 *See* Adjudicated Fact 2241; KDZ531, T. 15867 (1 July 2011) (closed session); D1612 (Video footage of Arkan in "My Guest, His Truth", July/August 1994), pp. 11–12; P2901 (SRT video footage of interview of Mirko Blagojević), pp. 5–6; P6209 (JNA 2nd Military District report, 1 April 1992), pp. 1, 3, 5. *See also* Adjudicated Fact 2235; Richard Butler, T. 27655 (19 April 2012); P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 118; D3665 (Witness statement of Vojislav Šešelj dated 1 June 2013), para. 49; KDZ446, P29 (Transcript from *Prosecutor v. S. Milošević*), T. 21008–21010, 21055, 21109. Spasojević testified that municipal structures remained unchanged and that neither Arkan nor any other paramilitary took over a single municipal structure or post. D3141 (Witness statement of Dušan Spasojević dated 18 March 2013), para. 21; Dušan Spasojević, T. 35837–35838 (21 March 2013). The Chamber does not consider that this evidence is of much significance or contradicts the other credible evidence received on this point.

1971 P2629 (Bijeljina's SJB report, 9 April 1992), p. 2.

under the supervision of the Bijeljina Crisis Staff and started to remove the Bosnian Muslim barricades in the centre of Bijeljina[1972] which resulted in clashes.[1973] Arkan's men also received the help of the local Bosnian Serb population who collected weapons that had been distributed to them from various depots.[1974] Members of the local TO were also present in Bijeljina town.[1975]

613. On 1 or 2 April 1992, armed JNA reservists surrounded the town and columns of JNA tanks and other vehicles were seen in the area.[1976] On 1 April 1992, the Bijeljina Crisis Staff reported to the SDS Main Board about the imposition of a curfew and about the use of ethnically mixed patrols of the JNA to control vital buildings and areas in the town.[1977] The army barracks were blocked by Bosnian Serbs and Arkan's men who threatened to attack the JNA if it were to interfere in the conflict.[1978] Arkan also encouraged Bosnian Serbs to leave the army and join his formations after which a large number of reservists took their weapons and did so.[1979]

614. On 2 April 1992, the Serbian flag was raised on the high-rise building in the centre of the city[1980] and by 4 April 1992, the town of Bijeljina was controlled by the SDS and Arkan's men.[1981] Arkan was welcomed in Bijeljina and "treated like a god"; some of his men were given official

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1972 P2629 (Bijeljina's SJB report, 9 April 1992), pp. 1–2. *See also* D3065 (Witness statement of Aleksandar Vasiljević dated 26 February 2013), para. 171; Aleksandar Vasiljević, T. 34700 (4 March 2013); P6211 (Four video clips of interviews with Arkan and others, with transcript), pp. 2, 4–5; P2884 (Article from List SAO Semberije I Majevice entitled "Semberija Lost for Alija's Islamic State", 15 June 1992), p. 1.

1973 D3142 (Criminal report against Hasan Tirić), pp. 26–27. *See also* Dušan Spasojević, T. 35887 (22 March 2013); D3133 (Witness statement of Cvijetin Simić dated 16 March 2013), para. 30; D3089 (Witness statement of Milivoje Kićanović dated 3 March 2013), para. 15; KDZ555, T. 17367 (17 August 2011); D1459 (Video interview of Arkan in Bijeljina, April 1992).

1974 D1612 (Video footage of Arkan in "My Guest, His Truth", July/August 1994), p. 11.

1975 *See* Adjudicated Fact 2242.

1976 Adjudicated Fact 2241.

1977 P2626 (Report of Bijeljina Crisis Staff, 1 April 1992), p. 1. *See also* P2629 (Report of Bijeljina SJB, undated) a report sent to Mićo Stanišić about the situation in Bijeljina in April 1992. *But see* P3033 (Reynaud Theunens's expert report entitled "Radovan Karadžić and the SRBiH TO-VRS (1992-1995)"), e-court p. 381 (reporting on Blagojević's observation that there was no significant support from the JNA).

1978 D3065 (Witness statement of Aleksandar Vasiljević dated 26 February 2013), para. 176.

1979 D3065 (Witness statement of Aleksandar Vasiljević dated 26 February 2013), para. 177; P5474 (Report of JNA 17th Corps, 4 April 1992), p. 1.

1980 P2901 (SRT video footage of interview of Mirko Blagojević), pp. 6–7. *See also* Milivoje Kićanović, T. 34892 (6 March 2013); P6185 (Article from Slobodna Bosna entitled "The Bloody Byram in Bijeljina", 10 April 1992), p. 2.

1981 P5474 (Report of JNA 17th Corps, 4 April 1992), pp. 1–2; P3033 (Reynaud Theunens's expert report entitled "Radovan Karadžić and the SRBiH TO-VRS (1992-1995)"), e-court pp. 377–378, 381; P2901 (SRT video footage of interview of Mirko Blagojević), pp. 5–6; P2073 (BBC news report re Bijeljina, with transcript), p. 1 *See also* Milivoje Kićanović, T. 34892–34894 (6 March 2013); P6211 (Four video clips of interviews with Arkan and others, with transcript), pp. 5–6. *But see* D239 (Report of 17th Corps, 3 April 1992), p. 1 (in which the JNA 17th Corps reported that the situation was out of control and that party leaders were "incapable of ensuring peace and preventing the anarchical behaviour of individuals and groups").

positions and based themselves in the local SDS building; they accompanied regular police patrols for several days and were involved in arresting members of Bijeljina's SDA presidency.[1982]

615. On 3 April 1992, the JNA 17th Corps reported that even though the situation in Bijeljina had "calmed somewhat" there was still "general chaos, anarchy and panic in the town" with rumours that Bosnian Muslims were being slaughtered.[1983]

616. Arkan left Bijeljina on 6 April 1992, but some of his men came to Bijeljina after that date from time to time.[1984] In late April or early May 1992 some of Arkan's men had taken over the SUP and threatened the police.[1985] When Davidović reported to Petar Gračanin, the Federal Minister of the Interior, and Mićo Stanišić that Arkan's men had taken over the SUP, Stanišić commented that he knew, that nothing else could be done, and that's "how it ha[d] to be".[1986] Mićo Stanišić told Davidović that Arkan's men were in Bijeljina and Zvornik "helping to liberate territory they believed should become part of the [RS]" and that "there was an agreement with Arkan that whatever area they took, they could take any property, any war booty and that would have been the price to pay for their engagement there."[1987]

1982 P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 117. *See* Adjudicated Fact 2242. Defence witnesses disputed the arrest of members of the SDA presidency in Bijeljina. D3133 (Witness statement of Cvijetin Simić dated 16 March 2013), para. 40; D3137 (Witness statement of Svetozar Mihajlović dated 17 March 2013), para. 18. However, the Chamber does not find this evidence to be reliable. In reaching that conclusion the Chamber noted that Simić's evidence was marked by indicators which led to the conclusion that he was withholding information from the Chamber, was evasive and lacked sincerity. The Chamber cannot rely on Mihajlović's qualified evidence on this point as he simply stated that he did not know of anyone arresting members of the SDA presidency.

1983 D239 (17th Corps Command combat report, 3 April 1992), p. 1; P3033 (Reynaud Theunens's expert report entitled "Radovan Karadžić and the SRBiH TO-VRS (1992-1995)"), e-court p. 377. *See also* D3140 (Witness statement of Živan Filipović dated 18 March 2013), para. 14 (stating that a meeting was held on 6 April 1992 in Janja where Bosnian Muslims were informed that the rumours about the massacre of Bosnian Muslims were false after which they surrendered their weapons).

1984 Živan Filipović, T. 35806 (21 March 2013). *See also* KDZ531, T. 15876 (1 July 2011) (closed session); Adjudicated Fact 2249. Defence evidence suggested that Arkan's men arrived on 1 April 1992 but only remained in Bijeljina for about five days. D3137 (Witness statement of Svetozar Mihajlović dated 17 March 2013), para. 19; Svetozar Mihajlović, T. 35724 (20 March 2013). *See also* D3133 (Witness statement of Cvijetin Simić dated 16 March 2013), para. 41; D3141 (Witness statement of Dušan Spasojević dated 18 March 2013), para. 23. The Chamber does not consider that evidence which suggested that Arkan left the municipality after a few days is inconsistent with the evidence that some of his men were in Bijeljina from time to time. *See also* P2881 (Report of Bijeljina CJB, July 1992), p. 2; P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 64; D1450 (Milorad Davidović's statement to Belgrade District Court, 26 December 2007), p. 57; P2900 (Letter from Bijeljina CSB to Radovan Karadžić, 29 July 1992), p. 2.

1985 P2848 (Witness statement of Milorad Davidović dated 22 June 2011), paras. 64, 66; D1450 (Milorad Davidović's statement to Belgrade District Court, 26 December 2007), p. 57; P2900 (Letter from Bijeljina CSB to Radovan Karadžić, 29 July 1992), p. 2.

1986 P2848 (Witness statement of Milorad Davidović dated 22 June 2011), paras. 66, 73.

1987 P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 66.

(2) Scheduled Incident A.1.1

617. The Prosecution alleges that at least 48 civilians were killed in the town of Bijeljina on 1 and 2 April 1992.

618. The Chamber took judicial notice of the fact that at least 48 civilians, were killed by Serb paramilitaries during the Bosnian Serb take-over of Bijeljina[1988] and a total of 48 bodies, including those of women and children, were collected from the town's streets and houses, 45 of these victims were non-Serbs and none wore uniforms.[1989] The Chamber also took judicial notice of the fact that most of the dead had been shot in the chest, mouth, temple, or back of the head, some at close range.[1990]

619. Witnesses also testified that civilians were killed in Bijeljina on 1 April 1992.[1991] A total of 55 individuals who went missing from Bijeljina between 1 April 1992 and 15 September 1993 were exhumed from individual or mass graves in the area.[1992] However, of these 55 exhumed bodies, only five are linked to this scheduled incident.[1993] The Chamber will not make a finding with respect to the remaining 50 exhumed bodies.

1988 Adjudicated Fact 2243. The Chamber notes that the Accused's submits that there was paramilitary activity prior to Scheduled Incident A.1.1. The Accused also submits that at the time of the incident the "local and military forces" were in a state of disarray and could not prevent the incident from occuring. *See* Defence Final Brief, para. 1388. However, the Chamber does not consider that the evidence cited by the Accused or the other evidence received in this case supports the conclusion that the local forces were unable to prevent the incident from occuring. The Accused also cites to D3142 to support his proposition that a criminal report was filed against the perpetrators of the attack who could be identified. The Chamber notes that D3142 is a criminal report filed against Bosnian Muslims for armed rebellion.

1989 Adjudicated Fact 2245.

1990 Adjudicated Fact 2246.

1991 KDZ531, T. 15866, 15930–15933 (1 July 2011) (closed session); Martin Bell, T. 9781–9782 (14 December 2010); P2001 (BBC news report re Zvornik, with transcript), p. 1; D3065 (Witness statement of Aleksandar Vasiljević dated 26 February 2013), para. 176; P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 117; P2919 (Witness statement of KDZ023 dated 29 September 1996), pp. 11, 28 (a photograph depicting a soldier identified as one of Arkan's men kicking bodies). KDZ446 testified about the killings of tens of people behind the SDS building and that he heard that some men were taken by Arkan's men to their garrison and shot: KDZ446, P29 (Transcript from *Prosecutor v. S. Milošević*), T. 21108. The database of the Missing Persons Institute of BiH included five individuals who had been exhumed and identified who were allegedly killed in Bijeljina in early April 1992 and who were linked by Mašović to Scheduled Incident A.1.1. P4853 (Updated Table 2 to the Report of Amor Mašović), pp. 1–2 (the Chamber notes that when the English translation of a document is incomplete, the references cited in this Judgement are to the original version); P4850 (Witness statement of Amor Mašović dated 23 March 2012), para. 118; Amor Mašović, T. 27218–27219 (10 April 2012). The Chamber notes that Amor Mašović was a member of the State Commission for Exchange of Prisoners of War, Captured Persons and Bodies of People Killed and Record of People Killed, Injured, and Missing on the Territory of the Republic of BiH, also referred to as State Commission for Tracing Missing Persons and the Missing Persons Institute. P4850 (Witness statement of Amor Mašović dated 23 March 2012), para. 2.

1992 P4853 (Updated Table 2 to the Report of Amor Mašović), pp. 1–2; Amor Mašović, T. 27218–27219 (10 April 2012).

1993 P4853 (Updated Table 2 to the Report of Amor Mašović), pp. 1–2 (referring to Adnan Komšić, Mustafa Komsić, Rijad Komšić, Muhamed Mulabdić, and Ajruš Ziberi).

620. The Accused disputed (i) the number of Bosnian Muslim victims; (ii) their status as civilians; (iii) the circumstances in which they were killed; and (iv) the identity of the perpetrators, and tendered evidence in support.[1994] However, the Chamber does not find the Accused's arguments to be convincing or the evidence adduced by the Accused on these issues to be reliable. In reaching this conclusion the Chamber considered that the evidence of the witnesses was either based on speculation or hearsay information and when cross-examined the source of the information was unclear.[1995] The Chamber does not accept the self-serving video of Arkan that he only killed "Albanian extremists" in Bijeljina.[1996]

621. A report of the 17th Corps of the JNA dated 7 April 1992 noted that the Bijeljina MUP had provided them with information that the conflict in Bijeljina had resulted in 43 casualties consisting of 28 Bosnian Muslims, two Bosnian Croats, eight Albanians, and five Bosnian Serbs and that some victims had been buried without identification.[1997] An article dated 10 April 1992 referred to the killing of 40 individuals in Bijeljina whose bodies were buried without religious rites.[1998]

1994 *See* Defence Final Brief, para. 1388. The Accused tendered the following evidence in support of his position: D3140 (Witness statement of Živan Filipović dated 18 March 2013), para. 22; Živan Filipović, T. 35796 (21 March 2013); D3089 (Witness statement of Milivoje Kićanović dated 3 March 2013), para. 24. Kićanović also claimed that there were 42 victims and that this number included seven Bosnian Serbs and that the Bosnian Muslims who had previously shot at him were not in uniform. On cross-examination he confirmed that this information was provided to him by those who conducted an on-site investigation at the hospital and that he had not seen the bodies himself. Milivoje Kićanović, T. 34889–34890 (6 March 2013). *See also* D3133 (Witness statement of Cvijetin Simić dated 16 March 2013), para. 39; Cvijetin Simić, T. 35633 (19 March 2013). Simić also stated that the armed Bosnian Muslims who guarded barricades were not in uniforms. Defence witnesses also denied knowledge of the killings. D3076 (Witness statement of Savo Bojanović dated 2 March 2013), para. 20. *See also* P2901 (SRT video footage of interview of Mirko Blagojević), p. 7. The District Council of Bijeljina on 16 April 1992 wrote to Cyrus Vance and the Accused that there had been false information regarding the number of victims in the town and invited them to visit Bijeljina to observe the situation and that the total number of victims was 41 and included "Muslim Fundamentalists and Albanian Mercenaries". D1463 (Bijeljina District Council letter to Cyrus Vance and Radovan Karadžić, 16 April 1992). KDZ531 confirmed that this was the figure of victims which was mentioned in public and that a three-member delegation did visit Bijeljina. KDZ531, T. 15877–15878 (1 July 2011) (closed session).

1995 For example *see* Dušan Spasojević, T. 35839, 35842–35843 (21 March 2013); Dušan Spasojević, T. 35841 (21 March 2013) (private session); P2919 (Witness statement of KDZ023 dated 29 September 1996), p. 28.

1996 D1461 (Video interview of Arkan in Bijeljina, April 1992); P5588 (Video footage of interviews with Ivan Rakić and Željko Ražnatović, Arkan), p. 3; D1612 (Video footage of Arkan in "My Guest, His Truth", July/August 1994), p. 11. Arkan in an interview suggested that after Serb Forces broke through to the hospital, Bosnian Muslims were treated fairly and those who did not carry weapons had no problems. P6211 (Four video clips of interviews with Arkan and others, with transcript), p. 5. However, the Chamber does not consider this media clip to be reliable for the purposes of making a finding in this regard. Similarly the Chamber does not regard Arkan's own denial of mistreatment to be reliable. *See* KDZ531, T. 15869, 15871–15872, 15932–15933 (1 July 2011) (closed session); D1459 (Video interview of Arkan in Bijeljina, April 1992); D3142 (Criminal report against Hasan Tirić), p. 22; P6211 (Four video clips of interviews with Arkan and others, with transcript), pp. 3–4; D1460 (Video interview of Arkan in Bijeljina, April 1992); D1461 (Video interview of Arkan in Bijeljina, April 1992). The Chamber also considered that KDZ531 testified that Arkan made unsubstantiated claims that Albanian extremists had arrived in the municipality. KDZ531, T. 15872 (1 July 2011) (closed session).

1997 P6214 (Report of JNA 17th Corps, 7 April 1992), p. 1.

1998 P6185 (Article from Slobodna Bosna entitled "The Bloody Byram in Bijeljina", 10 April 1992), p. 1. Of the 40 individuals referred to in the article, one was unidentified and four other individuals had been buried previously

622. The Bijeljina SJB in a report to the Bosnian Serb MUP referred to 31 individuals who were killed at a barricade near the hospital in Bijeljina.[1999] The SJB report also suggests that six of the individuals named as victims of this incident[2000] were killed by armed Bosnian Muslims.[2001] The Chamber does not accept the conclusion of the SJB report that 31 individuals were killed while "putting up armed resistance" at the barricade or that the six individuals were killed by Bosnian Muslims.[2002] In reaching that conclusion the Chamber noted that the language used in the Bijeljina SJB report is highly inflammatory and one-sided, which undermines its reliability and the weight which can be attributed to it.[2003] Similarly, while there are differing contemporaneous reports as to the number of individuals killed, the Chamber does not consider that these reports undermine the evidence that in total at least 45 non-Serb civilians were killed on 1 and 2 April 1992, that most of the dead had been shot in the chest, mouth, temple, or back of the head, some at close range and that the victims included women and children and were not wearing uniforms.[2004] Considering (i) the nature of the injuries; (ii) that the victims did not wear uniforms and were identified as civilians; and (iii) that the victims included women and children, the Chamber finds that these individuals were not killed during armed clashes.

623. The Chamber also received evidence which referred to the killing of Bosnian Muslims after 2 April 1992.[2005] However, beyond noting this evidence for the purpose of setting the general

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and appear to be Bosnian Serbs. The 39 named individuals in this article correspond to the names of listed victims. Prosecution Final Brief, Appendix, G.

1999 D3142 (Criminal report against Hasan Tirić), pp. 26–27. Of the 31 named individuals in this report, 27 correspond to the names of listed victims. Prosecution Final Brief, Appendix, G.

2000 Bisera Bišanović, Mirsada Bišanović, Nermina Bišanović, Zvonko Lazarević, Radmila Novaković and Ivo Vrhovec.

2001 D3142 (Criminal report against Hasan Tirić), pp. 16, 26–27.

2002 *See* D3142 (Criminal report against Hasan Tirić), p. 27.

2003 For example the report refers to the Muslim "fanatics", "extremists", "fundamentalists [...] [who] wanted to establish a Muslim state". It also refers to the crushing of barricades and Muslims who "have stained their hands with the Serbs' blood". D3142 (Criminal report against Hasan Tirić), p. 27. The Chamber also notes that on cross-examination Spasojević acknowledged that he did not know the source of the information which suggested that these Bosnian Muslims were killed while putting up armed resistance. Dušan Spasojević, T. 35842 (21 March 2013).

2004 Adjudicated Facts 2243, 2245, 2246.

2005 P2929 (Witness statement of KDZ531 dated 25 June 2011), pp. 7–8 (under seal); KDZ531, T. 15846–15847 (1 July 2011) (closed session) (testifying about the killing of SDA leaders); P2629 (Bijeljina's SJB report, 9 April 1992), p. 2; P6218 (Excerpt from report on war crimes trials in Serbia in 2012), pp. 2–5; P6219 (Order of Bijeljina Prosecutor's Office, 14 July 2009), pp. 2–3; Dušan Spasojević, T. 35857–35860 (22 March 2013); KDZ531, T. 15853 (1 July 2011) (closed session); P6217 (Certificate of Bijeljina Red Cross, 20 May 2002), pp. 1–2; P2878 (Announcement of SRS, September 1992), p. 1; P3033 (Reynaud Theunens's expert report entitled "Radovan Karadžić and the SRBiH TO-VRS (1992-1995)"), e-court p. 383; P2848 (Witness statement of Milorad Davidović dated 22 June 2011), paras. 121, 151–152; Milorad Davidović, T. 15507 (28 June 2011), T. 15585–15591 (29 June 2011). *See also* Dragomir Ljubojević, T. 35897 (22 March 2013); Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 21737, 21740, 21824–21826; D3807 (Official note of BiH Prosecutor's Office, 12 December 2007), p. 1. While some steps were taken to investigate these incidents there was an ultimate failure of the authorities in Bijeljina to initiate proceedings against the perpetrators. Dušan Spasojević, T. 35858, 35860–35864 (22 March 2013); P6218 (Excerpt from report on war crimes trials in Serbia in 2012), pp. 4, 5; P6219 (Order of Bijeljina Prosecutor's Office, 14 July 2009), pp. 3–5;

background in Bijeljina after the take-over, the Chamber did not consider this evidence for the purpose of establishing the occurrence of crimes charged in the Indictment and the Accused's responsibility thereon.[2006]

624. The Chamber therefore finds that at least 45 civilians were killed by Serb Forces on 1 and 2 April 1992 in the town of Bijeljina.

(D) Developments in Bijeljina after take-over

625. Following the removal of barricades from the municipality, Serb Forces continued with a "global mopping-up" in Bijeljina until 6 April 1992.[2007]

626. On 4 April 1992 a commission consisting of, amongst others, Biljana Plavšić and Fikret Abdić, and high-ranking army officials visited Bijeljina to assess the situation.[2008] The removal of bodies from the streets of Bijeljina was ordered by Serb Forces in anticipation of the visit of this delegation.[2009] Plavšić visited the Bijeljina Crisis Staff and congratulated Arkan for saving the Bosnian Serbs and was filmed kissing and hugging Arkan.[2010] When, in the course of the visit, Plavšić asked Arkan to hand over control of Bijeljina to the JNA, he replied that he had not yet

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Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 21827; P2929 (Witness statement of KDZ531 dated 25 June 2011), p. 8 (under seal); Milorad Davidović, T. 15506–15507 (28 June 2011); P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 159; D3807 (Official note of BiH Prosecutor's Office, 12 December 2007), p. 2; KDZ531, T. 15854 (1 July 2011) (closed session); Svetozar Mihajlović, T. 35735–35736, 35741 (20 March 2013); D3141 (Witness statement of Dušan Spasojević dated 18 March 2013), para. 25; Dušan Spasojević, T. 35844, 35846–35847 (21 March 2013); P6215 (Letter from Bijeljina CJB to Bijeljina Prosecutor's Office, 14 June 2002), p. 1; P6216 (Official note of Bijeljina SJB, 3 June 2002), pp. 1–2.

2006 The Chamber notes that the killing incidents alleged with respect to Bijeljina are limited to Scheduled Incident A.1.1 (killings on 1 and 2 April 1992 in Bijeljina town) and Scheduled Incident B.2.1 (killings at Batković camp from June 1992 until June 1995).

2007 P2629 (Report of Bijeljina SJB, undated), p. 2.

2008 D3137 (Witness statement of Svetozar Mihajlović dated 17 March 2013), para. 9; Svetozar Mihajlović, T. 35726 (20 March 2013); D3133 (Witness statement of Cvijetin Simić dated 16 March 2013), para. 32. *See also* P6211 (Four video clips of interviews with Arkan and others, with transcript), pp. 5–6; Milivoje Kićanović, T. 34893–34894 (6 March 2013); P6185 (Article from Slobodna Bosna entitled "The Bloody Byram in Bijeljina", 10 April 1992), p. 5; Živan Filipović, T. 35806 (21 March 2013); Momčilo Krajišnik, T. 43336 (12 November 2013); D1694 (Intercept of conversation between Ješirić and Čedo Kljajić, 16 April 1992), pp. 1–2; KDZ531, T. 15876–15877 (1 July 2011) (closed session).

2009 *See* Adjudicated Fact 2247.

2010 Momčilo Mandić, T. 4656 (6 July 2010); P1108 (Video footage of Biljana Plavšić and Arkan in Bijeljina); KDZ446, P5587 (Video footage of interviews with Biljana Plavšić), p. 3; P29 (Transcript from *Prosecutor v. S. Milošević*), T. 21012–21013; KDZ555, T. 17267–17268 (16 August 2011); P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 16; Aleksandar Vasiljević, T. 34701–34702 (4 March 2013); *see* Adjudicated Fact 2248; P6185 (Article from Slobodna Bosna entitled "The Bloody Byram in Bijeljina", 10 April 1992), p. 5; P6211 (Four video clips of interviews with Arkan and others, with transcript), p. 8. *See also* P2828 (Witness statement of Asim Džambasović dated 18 June 2011), para. 96; Vojislav Šešelj, T. 39594 (10 June 2013) (testifying that Arkan had come to Bijeljina with Plavšić's "blessing"). *But see* D3137 (Witness statement of Svetozar Mihajlović dated 17 March 2013), paras. 8–9; Svetozar Mihajlović, T. 35723–35725 (20 March 2013). *See also* Svetozar Mihajlović, T. 35727 (20 March 2013); P1106 (Intercept of conversation between Biljana Plavšić and "Rus", 23 April 1992).

finished his "business" there.[2011] At a dinner with UNPROFOR representative, Cedric Thornberry, on 20 April 1992, Plavšić described Bijeljina as a "liberated" town.[2012]

627. After the fighting ended, the local authorities including the TO Municipal Staff returned to Bijeljina.[2013] The Bijeljina SJB began operations in accordance with the instructions and guidelines of the Bosnian Serb MUP.[2014] On 28 April 1992, the Presidency of the Bijeljina Municipal Assembly issued a decision which provided that only members of the active and reserve police forces and members of the armed forces should maintain public law and order and strictly prohibited the establishment of local check-points by civilians and unauthorised persons without the approval of the Bijeljina SJB.[2015]

628. On 24 June 1992, the Bijeljina Municipal Assembly issued a decision on its composition and rules of procedure and provided that the Bijeljina Municipal Assembly would consist of members of "Serbian nationality".[2016]

629. In April and May 1992, Bosnian Muslim employees were dismissed from their jobs and Bosnian Muslim members of the local municipal government were dismissed from their positions and expelled from their apartments.[2017] Family members of Bosnian Muslim intellectuals and leaders were dismissed from their positions and harassed.[2018] Bosnian Muslim police officers were

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2011 Adjudicated Fact 2248; P6185 (Article from Slobodna Bosna entitled "The Bloody Byram in Bijeljina", 10 April 1992), p. 5. *See also* P6211 (Four video clips of interviews with Arkan and others, with transcript), p. 6.

2012 Adjudicated Fact 2236. *See also* P2849 (Intercept of conversation between Goran Sarić and Mićo Davidović, 21 April 1992), p. 4; Milorad Davidović, T. 15459 (24 June 2011) (testifying that he was informed on 21 April 1992 by Goran Sarić that Bijeljina and Zvornik had been "solved" which he understood to mean that Bosnian Serbs had taken over power and there was no longer a problem).

2013 D3140 (Witness statement of Živan Filipović dated 18 March 2013), paras. 9, 11. *See also* P2748 (SerBiH MUP daily report, 22 and 23 April 1992), p. 3; P2884 (Article from List SAO Semberije I Majevice entitled "Semberija Lost for Alija's Islamic State", 15 June 1992), p. 1.

2014 P2629 (Bijeljina's SJB report, 9 April 1992), pp. 1–2 (which also reports that the Bosnian Serb police wore berets and badges with the "tricolours from the Serbian MUP" from 4 April 1992).

2015 D1441 (Bijeljina's Municipal Assembly Presidency decision, 12 May 1992), p. 1.

2016 D3136 (Bijeljina Municipal Assembly decision, 24 June 1992), p. 1. *See also* Svetozar Mihajlović, T. 35686 (20 March 2013). The Chamber notes that Simić testified that this decision was taken in accordance with the law. Cvijetin Simić, T. 35706 (20 March 2013). The Chamber does not consider Simić's evidence in this regard to be of relevance to its assessment of the evidence on this issue given that the effect of the decision was to reduce the size of the Municipal Assembly to include only Bosnian Serb representatives.

2017 P2929 (Witness statement of KDZ531 dated 25 June 2011), pp. 2, 8 (under seal); KDZ531, T. 15842–15844 (1 July 2011) (closed session) (testifying that Bosnian Muslims were forced to leave their jobs in April or May 1992 by VRS soldiers who used slurs and threatened them). *See also* Svetozar Mihajlović, T. 35686 (20 March 2013) (testifying about the replacement of the Bosnian Muslim TO commander with a Bosnian Serb). Kićanović testified that patients at Bijeljina hospital received treatment without discrimination. D3089 (Witness statement of Milivoje Kićanović dated 3 March 2013), paras. 16–17. However, the Chamber does not consider that this evidence is of relevance to the allegations with respect to Bijeljina given that the Prosecution has not led any evidence to suggest that there was discrimination with respect to access or treatment at the hospital.

2018 P2929 (Witness statement of KDZ531 dated 25 June 2011), p. 8 (under seal). The Accused tendered evidence to suggest that Bosnian Muslims continued to be appointed to the commission for the enrolment of students in Bijeljina on 14 April 1992. D1440 (Decision of Bijeljina's Municipal Assembly Presidency, 12 April 1992), pp.

forced to pledge loyalty to the Bosnian Serb authorities and wear the Serb flag on their caps to retain their jobs.[2019]

630. On 15 June 1992, Mauzer stated that the presidency of SAO Semberija-Majevica had decided to replace Bosnian Muslims in managerial positions in Bijeljina, and should "the genocide against the Serbian people" in BiH continue, all Bosnian Muslims would be fired from their jobs and expelled from the territory.[2020] Mauzer also stated that the 2,500 Bosnian Muslims aged between 18 and 35 who had fled Bijeljina in the aftermath of the take-over would lose their jobs, and their apartments would be seized and sealed, and he advised them not to return.[2021]

631. Paramilitary formations were involved in mistreating and stealing from the population.[2022] More specifically, Arkan's men destroyed property of individuals involved with the SDA,[2023] engaged in looting, and went to the homes of wealthy Bosnian Muslims demanding money.[2024] Bosnian Muslims feared for their lives if they refused the demands of Arkan's men.[2025] Croat

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1–2. However, the Chamber finds that in light of Davidović's evidence on this document, it is not of much significance given that some Bosnian Muslims who were appointed in this period were eventually removed from office. Milorad Davidović, T. 15761–15762 (30 June 2011).

2019 P2929 (Witness statement of KDZ531 dated 25 June 2011), p. 8 (under seal) (stating that a Bosnian Muslim police officer who signed an oath of loyalty and agreed to wear the Serb insignia was fired and was put under pressure, which forced him to leave Bijeljina).

2020 Adjudicated Fact 2238; P2884 (Article from List SAO Semberije I Majevice entitled "Semberija Lost for Alija's Islamic State", 15 June 1992), p. 2. Defence witnesses disputed Adjudicated Fact 2238. D3140 (Witness statement of Živan Filipović dated 18 March 2013), para. 23; D3137 (Witness statement of Svetozar Mihajlović dated 17 March 2013), para. 20. However, the Chamber notes that the evidence of Filipović and Mihajlović simply states that they had not heard of this statement or decision but does not contradict the evidence that Mauzer did make such a statement or that the SAO did reach such a decision.

2021 Adjudicated Fact 2239.

2022 D1412 (Report of Republic of Serbia MUP, 8 August 1992), pp. 2, 6; P2899 (Report of Bijeljina CSB, 29 July 1992), p. 1; P3033 (Reynaud Theunens's expert report entitled "Radovan Karadžić and the SRBiH TO-VRS (1992-1995)"), e-court pp. 383–384; D3665 (Witness statement of Vojislav Šešelj dated 1 June 2013), para. 46. *See also* Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 21436–21437, 21563; Dragomir Andan, T. 40836 (5 July 2013); P2900 (Letter from Bijeljina CSB to Radovan Karadžić, 29 July 1992), p. 2.

2023 P2929 (Witness statement of KDZ531 dated 25 June 2011), p. 7 (under seal).

2024 P2848 (Witness statement of Milorad Davidović dated 22 June 2011), paras. 117–118; Dragomir Andan, T. 40860–40861 (5 July 2013); KDZ531, T. 15868–15869, 15879 (1 July 2011) (closed session); Čedomir Kljajić, T. 42210 (30 July 2013) (testifying that he received reports about Arkan's operations in Bijeljina and that he had been involved in looting). *See also* Dragomir Andan, T. 40837–40838, 40857–40858 (5 July 2013). Arkan himself denied claims which he attributed to media controlled by the SDA that his men had come into the town, were terrorising and mistreating people and looting homes. D1459 (Video interview of Arkan in Bijeljina, April 1992); D1612 (Video footage of Arkan in "My Guest, His Truth", July/August 1994), p. 11. The Chamber does not find this evidence reliable given that it is based on Arkan's own interview where he has a clear interest in distancing himself from these incidents.

2025 P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 117. The Accused submits that Arkan's men fought against Bosnian Muslim, Bosnian Croat, and Albanian paramilitary units, that both Bosnian Serbs and Bosnian Muslims were in a state of fear in Bijeljina and that Arkan publicly guaranteed safety to both the Bosnian Serbs and Muslims, *see* Defence Final Brief, confidential, paras. 1076–1077. In support, the Accused refers to a video which depicts a person who identified herself as a Muslim woman who refuted the allegations of looting, and destruction by Arkan's men and that they did not fear them as they had come to help. D1462 (Video interview of Arkan and Bijeljina residents, April 1992); [REDACTED]. The Chamber does not find this video evidence to be reliable, as it is unclear under what circumstances the video was made and it

companies were also looted by Arkan's men.[2026] There was also an incident in June 1992 when paramilitaries raped two Bosnian Muslim women and paraded them naked through a town before they took them away by car and raped them again.[2027]

632. After some time, when the paramilitaries ran out of Bosnian Muslim houses to steal from, they started robbing Bosnian Serb houses and committed crimes against Serbs as well.[2028] There were some difficulties in controlling the actions of paramilitaries.[2029] However, the Chamber finds that paramilitaries were allowed to operate with impunity; all the police not aligned to the Crisis Staff or the SDS had been removed[2030] and some of the crimes were carried out with the assistance of members of the SJB.[2031] In addition the paramilitaries continued to receive support from local Bosnian Serbs.[2032]

633. The Chamber concludes that it was only after paramilitaries started undermining the authority of the local institutions by forming their own parallel authorities[2033] and also attacking Bosnian Serbs that the municipal authorities sought to exercise some real control over these

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cannot verify whether or not it was made for propaganda purposes and that in addition Arkan is present and accompanied by armed men in this video. The Chamber therefore does not accept the Accused's submission that this video demonstrated that Arkan did not create fear among Bosnian Muslims. The Chamber does accept, however, that some Bosnian Serbs also feared Arkan's men. [REDACTED]. *See also* P2901 (SRT video footage of interview of Mirko Blagojević), p. 7; P2900 (Letter from Bijeljina CSB to Radovan Karadžić, 29 July 1992), p. 2.

2026 P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 118. While Davidović referred to Croatian owned companies, the Chamber finds that this related to Bosnian Croat owned companies.

2027 Dušan Spasojević, T. 35857–35860 (22 March 2013); P6218 (Excerpt from report on war crimes trials in Serbia in 2012).

2028 Dragomir Andan, T. 40829–40830 (5 July 2013). *See also* P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 78; P2855 (VRS Main Staff report on paramilitary formations, 28 July 1992), pp. 2–3; P2899 (Report of Bijeljina CSB, 29 July 1992), pp. 1–2; D1412 (Report of Republic of Serbia MUP, 8 August 1992), pp. 2–3; Milorad Davidović, T. 15644 (29 June 2011); P2900 (Letter from Bijeljina CSB to Radovan Karadžić, 29 July 1992), p. 2. As a result, some Serbs also left Bijeljina. P2899 (Report of Bijeljina CSB, 29 July 1992), p. 2; D1412 (Report of Republic of Serbia MUP, 8 August 1992), pp. 2–3.

2029 P2929 (Witness statement of KDZ531 dated 25 June 2011), p. 9 (under seal); Bogdan Subotić, T. 40002 (19 June 2013); P2853 (Report of Bijeljina CSB, 21 May 1992), p. 1; Milorad Davidović, T. 15474–15475 (28 June 2011); P2848 (Witness statement of Milorad Davidović dated 22 June 2011), paras. 76, 84; Čedomir Kljajć, T. 42219–42220 (30 July 2013). *See also* Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 21436–21437; Dragomir Andan, T. 40836, 40838–40839 (5 July 2013); Živan Filipović, T. 35814 (21 March 2013).

2030 P2848 (Witness statement of Milorad Davidović dated 22 June 2011), paras. 76, 83.

2031 P2899 (Report of Bijeljina CSB, 29 July 1992), pp. 1, 3; D1412 (Report of Republic of Serbia MUP, 8 August 1992), pp. 2–3 (reporting that members of the SJB were also involved in registering stolen vehicles and weapons, failing to file criminal reports against perpetrators and participation in the commission of crimes); P2848 (Witness statement of Milorad Davidović dated 22 June 2011), paras. 65, 91; P2881 (Report of Bijeljina CJB, July 1992), p. 2. The Chamber considered that Davidović's evidence was marked by indicators of reliability and sincerity and considered his evidence to be credible. The Accused in cross-examination of Davidović introduced a number of documents which related to a case against Davidović and his son in an attempt to attack his character and credibility (D1405, D1404, D1403, D1402, and D1401). Having considered this line of cross-examination by the Accused the Chamber finds that the cross-examination and the documents introduced by the Acccused failed to cast doubt as to the character or credibility of Davidović.

2032 P2855 (VRS Main Staff report on paramilitary formations, 28 July 1992), pp. 1–2, 5.

2033 D1412 (Report of Republic of Serbia MUP, 8 August 1992), pp. 2, 6.

units.[2034] In this regard the Chamber notes that the Presidency of the Bijeljina Assembly imposed a ban in May 1992 on armed formations which arrived in the municipality without invitation by the legal authorities.[2035] In addition on 11 June 1992, the Presidency of the Bijeljina Municipal Assembly issued an order that all armed formations in the municipality be placed under the single command of the VRS and tasked the MP with ensuring implementation of the order.[2036]

634. Davidović was tasked to lead a special unit of the Federal SUP to address problems with paramilitaries in northeastern BiH and arrived in Bijeljina on 27 June 1992.[2037] While Davidović's unit came from the Federal SUP in Belgrade it was re-subordinated to the command in Bosnian Serb MUP.[2038] Davidović's special unit, in co-ordination with Dragomir Andan from the Bosnian Serb MUP, disarmed and broke up the paramilitary formations in the area of the Bijeljina CSB and arrested those "most deeply involved in criminal activities".[2039] Davidović had the support of Ratko Mladić to take these measures.[2040] Following the arrival of Davidović and his unit, and until

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2034 *See* P2848 (Witness statement of Milorad Davidović dated 22 June 2011), paras. 78, 121. Šešelj stated that on a number of occasions the Bijeljina Municipal Board issued public statements and held press conferences which "condemned and severely criticised" the actions of Mauzer. D3665 (Witness statement of Vojislav Šešelj dated 1 June 2013), para. 46. However, the Chamber does not find this evidence to be reliable. It notes that Šešelj's testimony was marked by political commentary which limited its reliability. Furthermore, in light of other accepted evidence to the contrary and noting that it has no other evidence to suggest that the municipal authorities condemned the actions of these units other than this unsupported statement of Šešelj, the Chamber does not find Šešelj's evidence in this regard to be reliable.

2035 D1442 (Conclusion of Bijeljina's Municipal Assembly Presidency, 29 May 1992). *See also* Cvijetin Simić, T. 35681–35682, 35699 (20 March 2013); D3133 (Witness statement of Cvijetin Simić dated 16 March 2013), paras. 33, 35; D3134 (Bijeljina Municipal Assembly decision, 25 July 1992). Restrictions were also placed on paramilitaries entering the police station with long barrelled weapons. Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 21437.

2036 D1443 (Order of Bijeljina's Municipal Assembly Presidency, 11 June 1992); D1444 (Conclusion of Bijeljina's Municipal Assembly Presidency, 25 June 1992); D1445 (Order of Bijeljina's Municipal Assembly, 25 June 1992). The Chamber also finds that the local authorities prohibited the sale of alcoholic beverages to uniformed persons in the municipality. D1437 (Order of Bijeljina's Municipal Assembly Presidency, 8 April 1992). Mihajlović testified that the local authorities tried to prevent and punish crimes committed against non-Serbs. D3137 (Witness statement of Svetozar Mihajlović dated 17 March 2013), para. 14. However, the Chamber does not find this evidence to be reliable. In reaching that conclusion the Chamber found that Mihajlović's evidence was marked by contradictions and indicators that he was not straighforward in his answers to the Chamber.

2037 P2848 (Witness statement of Milorad Davidović dated 22 June 2011), paras. 73–74, 76; Milorad Davidović, T. 15554 (28 June 2011), 15645–15646 (29 June 2011), 15735, 15765 (30 June 2011); D1450 (Milorad Davidović's statement to Belgrade District Court, 26 December 2007), pp. 4, 15; P2899 (Report of Bijeljina CSB, 29 July 1992), pp. 2, 4–5; D1412 (Report of Republic of Serbia MUP, 8 August 1992), pp. 1–2, 4–5; P2900 (Letter from Bijeljina CSB to Radovan Karadžić, 29 July 1992), pp. 3–4.

2038 Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 21454, 21667. *See also* D3807 (Official note of BiH Prosecutor's Office, 12 December 2007), p. 2.

2039 D1412 (Report of Republic of Serbia MUP, 8 August 1992), p. 9; Milorad Davidović, T. 15604–15605, 15607 (29 June 2011); D1450 (Milorad Davidović's statement to Belgrade District Court, 26 December 2007), p. 72. *See also* Dragomir Andan, T. 40837–40838, 40857–40858 (5 July 2013) (testifying that some paramilitaries were arrested for crimes committed against Bosnian Muslims); Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 21425, 21434–21436, 21829–21830.

2040 Milorad Davidović, T. 15604–15605, 15607 (29 June 2011); D1450 (Milorad Davidović's statement to Belgrade District Court, 26 December 2007), p. 72.

they left on 27 July 1992, there was a significant improvement in the security situation.[2041] Pursuant to orders from the Bosnian Serb MUP approximately 40 policemen with criminal records were removed from the SJB which was reinforced by personnel from other centres including the SJB Sarajevo.[2042]

635. Davidović also arrested some military personnel; complaints were then made to Mićo Stanišić, who instructed Davidović not to take action against members of the military as this should be done by the MP.[2043] However, subsequently, Stanišić confirmed Davidović's authority[2044] and requested the command of the Eastern Bosnia Corps to extend their "full cooperation" to him and to take measures against "possible perpetrators" in their ranks.[2045] Following this, Davidović in co-operation with the Military Security Service from the Main Staff command and the MP arrested and prosecuted military personnel.[2046]

2041 P2899 (Report of Bijeljina CSB, 29 July 1992), po. 4–5; Milorad Davidović, T. 15645–15646 (29 June 2011); D1412 (Report of Republic of Serbia MUP, 8 August 1992), pp. 4–5. Measures taken by Davidović and his unit to normalise conditions in Bijeljina included (i) preventing the carrying of weapons without permits, (ii) reporting incidents to the authorities in Pale daily; (iii) imposing a curfew and (iv) seizing stolen goods, *see* Milorad Davidović, T. 15722, 15753, 15766 (30 June 2011), 15810 (1 July 2011); P2848 (Witness statement of Milorad Davidović dated 22 June 2011), paras. 87, 90–91, 121; D1438 (Order of Bijeljina's Municipal Assembly Presidency, 8 April 1992); P2899 (Report of Bijeljina CSB, 29 July 1992), pp. 3–5; Milivoje Kićanović, T. 34909 (6 March 2013); D1412 (Report of Republic of Serbia MUP, 8 August 1992), pp. 3–4. *See also* Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 21437–21438, 21440–21442, 21454–21455, 21499–21500, 21664–21666; D3782 (Report of Bijeljina SJB, 28 June 1992); P6434 (Excerpt from Dragomir Andan's interview with OTP), p. 6; P2881 (Report of Bijeljina CJB, July 1992), p. 1; D1436 (Report of SerBiH MUP, 17 June 1992), p. 6; P3033 (Reynaud Theunens's expert report entitled "Radovan Karadžić and the SRBiH TO-VRS (1992-1995)"), e-court p. 382. Andan also testified about measures taken by Davidović with respect to a detention facility used by Mauzer's unit. Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 21442–21443; P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 95; Prosecution Final Brief, Appendix A, Bijeljina, para. 12. However, given that this is not a scheduled detention facility, the Chamber will not address this evidence.

2042 Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 21437, 21454–21455, 21499–21500, 21664–21666; P2899 (Report of Bijeljina CSB, 29 July 1992), p. 4; D1412 (Report of Republic of Serbia MUP, 8 August 1992), p. 4. *See also* P6434 (Excerpt from Dragomir Andan's interview with OTP), p. 6; Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 21499–21501; Dragomir Andan, T. 40860–40861 (5 July 2013) (testifying that the police presence in the village of Janja was upgraded and a check- point was established to prevent looting and attacks against the predominantly Bosnian Muslim population); P2881 (Report of Bijeljina CJB, July 1992), p. 1.

2043 P2808 (Letter from Zdravko Tolimir to Radovan Karadžić and Mićo Stanisić, 4 July 1992), p. 1; P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 85; P2895 (Order of SerBiH MUP, 5 July 1992); Milorad Davidović, T. 15605 (29 June 2011). *See also* Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 21466–21467, 21675–21676, 21818–21819; Dragomir Andan, T. 40858 (5 July 2013); D3819 (Report of Bijeljina SJB, 7 July 1992), pp. 1–2.

2044 Milorad Davidović, T. 15609 (29 June 2011) (testifying that Stanišić confirmed that there should be no more objections or confrontation between Davidović and the organs of the VRS).

2045 D1408 (Request of SerBiH MUP, 5 July 1992), pp. 1–2. *See also* P2881 (Report of Bijeljina CJB, July 1992), pp. 1–2 (indicating that measures were taken to improve the capacity to process criminal cases committed by military personnel).

2046 Milorad Davidović, T. 15608–15609 (29 June 2011); D1450 (Milorad Davidović's statement to Belgrade District Court, 26 December 2007), p. 39.

636. During a visit to Bijeljina on 20 July 1992 by Prime Minister Đerić, Andan asked for assistance in light of continuing problems.[2047] Đerić gave his support for the efforts displayed by Andan and Davidović[2048] and a special unit led by Duško Kljajić was sent to assist them.[2049]

637. Despite these measures, there were difficulties in controlling Mauzer and his unit which opposed the attempts by Davidović and Andan to restore order in the municipality.[2050] In one incident, the Bijeljina municipal authorities intervened and secured the release of Mauzer following pressure from his unit.[2051] Davidović made requests to the military command to control Mauzer's unit and while promises were made, no action was taken and Mauzer continued to have political support in the municipality and was close to the structures of power in the municipality.[2052] Davidović and his team were also threatened by Arkan's men.[2053]

638. In August 1992, following demands by Mauzer for his expulsion and the arrest of a member of Arkan's men by Davidović's unit, Davidović's authority was obstructed by the Bijeljina Crisis Staff and his unit was ordered to leave for Belgrade.[2054] Andan and another MUP official who had

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2047 Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 21484; D3789 (Dragomir Andan's notes), p. 2.

2048 Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 21484; D3789 (Dragomir Andan's notes), p. 2.

2049 Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 21459–21460, 21464, 21485, 21462, 21671–21674, 21677–21678, 21730–21731, 21737, 21759–21760, 21762–21763. *See also* D3807 (Official note of BiH Prosecutor's Office, 12 December 2007), p. 1. This included a unit led by Duško Malović, known as Mićo Stanišić's unit or "Mićo's Specials".

2050 P2848 (Witness statement of Milorad Davidović dated 22 June 2011), paras. 94, 96; Milorad Davidović, T. 15579 (29 June 2011); Momir Nikolić, T. 24732 (15 February 2012); Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 21445, 21652, 21655–21658, 21703–21704, 21719–21722, 21817–21818; Dragomir Andan, T. 40871 (5 July 2013); P6434 (Excerpt from Dragomir Andan's interview with OTP), p. 3. In contrast to Mauzer, Blagojević issued a proclamation that Bosnian Muslims be protected from ethnic cleansing and opposed the expulsion or killing of Bosnian Muslims. Milorad Davidović, T. 15506 (24 June 2011); P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 121.

2051 Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 21657; P2848 (Witness statement of Milorad Davidović dated 22 June 2011), paras. 94, 96.

2052 Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 21656, 21703–21704, 21721–21722, 21818; Dragomir Andan, T. 40874 (5 July 2013). *See also* P6434 (Excerpt from Dragomir Andan's interview with OTP), pp. 3–4; Manojlo Milovanović, T. 25455 (28 February 2012). Davidović also testified about visiting a private detention facility run by Mauzer but since this is not a scheduled detention facility, the Chamber will not make findings in this regard. P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 95; P2896 (Report of Bijeljina CSB, 7 July 1992), pp. 3–5; P2899 (Report of Bijeljina CSB, 29 July 1992), p. 3. *See also* Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 21443–21444; D3783 (Bijeljina garrison record, 1 July 1992).

2053 P2898 (Official note of Bijeljina SJB, 8 July 1992), p. 2. *See also* P2900 (Letter from Bijeljina CSB to Radovan Karadžić, 29 July 1992), p. 5.

2054 P2848 (Witness statement of Milorad Davidović dated 22 June 2011), paras. 93, 96–97, 99–100, 147–148; P2899 (Report of Bijeljina CSB, 29 July 1992), p. 6; D1412 (Report of Republic of Serbia MUP, 8 August 1992), p. 6; D1450 (Milorad Davidović's statement to Belgrade District Court, 26 December 2007), p. 57; Milorad Davidović, T. 15579–15581 (29 June 2011); P2897 (Official note of Bijeljina CJB, 7 July 1992), p. 1. The Municipal Assembly also called for the removal and expulsion of Jovo Miskin, a Republic Commissioner who supported Davidović's actions. P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 97; Milorad Davidović, T. 15580–15581, 15648–15649 (29 June 2011).

taken action against paramilitaries were also removed from Bijeljina and dismissed from the Bosnian Serb MUP while the paramilitaries continued to operate in Bijeljina.[2055]

(E) Prosecution of crimes

639. The Chamber finds that there was some record and investigation of crimes committed against Bosnian Muslims by Bosnian Serbs;[2056] however, some of the investigations were discontinued.[2057] The Chamber finds that there was inbalance in the treatment of cases associated with the killing or mistreatment of Bosnian Muslims by Bosnian Serbs. Many incidents went unpunished or sentences were passed but not carried out.[2058] This added to the fear and uncertainty

2055 Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 21656; D1409 (Decision of SerBiH MUP, 11 September 1992); Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 21777–21781. Andan also testified about the circumstances surrounding his removal from his position in the MUP. Andan testified that he was removed from the MUP in September 1992 because he allegedly took poker machines for private use but that this was an excuse for his removal given that individuals were against his professional approach. However, Andan could not confirm that he was removed because of measures he had taken in Bijeljina. *See* Dragomir Andan, T. 40825–40826, 40867–40868, 40877, 40883, 40897–40900, 40901–40905 (5 July 2013); D3807 (Official note of BiH Prosecutor's Office, 12 December 2007), p. 1; P6434 (Excerpt from Dragomir Andan's interview with OTP), pp. 3–4.

2056 Savo Bojanović, T. 34819–34820 (5 March 2013); D3076 (Witness statement of Savo Bojanović dated 2 March 2013), paras. 9–12, 16, 18–19, 21, 23–26; Savo Bojanović, T. 34817–34819, 34829, 34850, 34857–34860, 34847–34848 (5 March 2013). For documents relating to the investigation and prosecution of crimes, *see* D1481 (Bijeljina Military Prosecutor request re Cvjetković/Jurošević case, 29 October 1992); D1482 (Bijeljina Military Court record re Cvjetković/Jurošević case, 29 October 1992); D1483 (Bijeljina Military Prosecutor request re Cvjetković/Jurošević case, 30 October 1992); D1484 (Statement of Amira Rendić to Bijeljina Military Court, 30 October 1992); D1485 (Bijeljina Military Court ruling in Cvjetković/Jurošević case, 20 November 1992); D3080 (Bijeljina Military Court's Proposition, 26 April 1993); D1486 (Bijeljina Military Court order in Cvjetković/Jurošević case, 17 December 1992); D1487 (Bijeljina Military Court order in Cvjetković/Jurošević case, 19 January 1993); D1488 (Bijeljina Military Court record re Cvjetković/Jurošević case, 23 January 1993); D1489 (Bijeljina Military Court decision in Cvjetković/Jurošević case, 1 April 1993) (under seal); D1490 (Indictment of Brčko Public Prosecutor, 28 July 1993); D1465 (Bijeljina Military Court indictment of Radovan Mićanović, 17 August 1993); D1466 (Bijeljina Military Court judgment in Radovan Mićanović case, 22 March 1995); D1467 (Bijeljina High Court judgement in Branko Đurić case, 27 October 1995), pp. 1–2, 10–11; D1468 (Correspondence between Bijeljina Lower Court and Radovan Karadžić, 9 June 2011); D1469 (Correspondence between Bijeljina District Prosecutor and Radovan Karadžić, 24 August 2009), pp. 1–5; D1470 (Bijeljina Military Court on-site investigation report, 28 September 1992); D1471 (Bijeljina Military Police criminal report in Rade Mihajlović case, 29 September 1992); D1472 (Bijeljina Military Police forensic-technical report, 30 September 1992); D1473 (Bijeljina Military Prosecutor request re Rade Mihajlović case, 30 September 1992); D1477 (Bijeljina Military Court correspondence in Rade Mihajlović case, 30 January 1993); D1476 (Bijeljina Military Court indictment of Rade Mihajlović, 5 January 1993); D3079 (Bijeljina Military Court's Ruling, 19 June 1993); D3077 (Supreme Military Court's Judgement, 16 May 1994); D3081 (Bijeljina Military Court's Verdict, 18 January 1994); D3799 (Report of Bijeljina SJB, undated). *See also* D3798 (List of criminal records submitted to Bijeljina Prosecutor's Office between 26 June and 25 July 1992); Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 21453–21454, 21537–21538, 21542–21544 (testifying about the treatment of cases when he and Davidović were in Bijeljina).

2057 P6179 (Bijeljina Military Court's Decision, 30 December 1992); P6180 (Bijeljina Military Court's Decision, 5 January 1993); D1478 (Bijeljina Military Court order in Rade Mihajlović case, 21 February 1993); D1479 (Bijeljina District Court verdict in Rade Mihajlović case, 18 June 2001); D1480 (RS Supreme Court judgement in Rade Mihajlović case, 30 September 2003); P6181 (Bijeljina Military Court's Dispatch to Military Prosecutor's Office, 28 January 1993); D3078 (Bijeljina Military Court's Ruling, 22 January 1993), p. 1. With respect to one of the cases, Bojanović maintained that there was nothing unlawful and that the appropriate procedures and law were followed. Savo Bojanović, T. 34812, 34831–34834, 34863–34864 (5 March 2013).

2058 [REDACTED]; P2930 (Bijeljina Military Court file for Slavan Lukić et al., 8 September 1992), pp. 5–7; [REDACTED]; P2931 (Bijeljina Military Court indictment of Zoran Tomić and Dragan Matović, 24 June 1993), pp. 3–5, 17–18, 34–36, 61, 86–87. *See also* Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić &*

of the Bosnian Muslim population and contributed to individuals leaving Bijeljina.[2059] In addition, while proceedings were initiated against Bosnian Serbs for general crimes, no cases for war crimes against the civilian population were ever tried before the Bijeljina Military Court.[2060]

640. Spasojević testified that all crimes against non-Serb citizens of Bijeljina were handled by members of the SJB, that if the perpetrators were found they were handed over for prosecution, and that there was no pressure from government organs to cover up crimes.[2061] However, the Chamber does not find this evidence to be reliable given that he was contradicted on cross-examination and acknowledged examples of cases involving murder of Bosnian Muslims which were still pending.[2062]

(F) Schedule Detention Facility C.2.1

641. The Indictment refers to the use of the Batković camp as a detention facility at least between 1 June 1992 and 31 December 1995.[2063]

(1) Establishment of camp and arrival of detainees

642. On 17 June 1992, the Command of the Eastern Bosnia Corps issued an order requiring the selection of "locations and facilities to accommodate prisoners of war" pursuant to an order from the Main Staff.[2064] Ratko Mladić had issued an order to set up a camp for "war prisoners" at the corps level to relieve the Birać Brigade from guarding up to 600 prisoners who were in their custody.[2065] Following this order the Batković camp was established.[2066] The civilian and military

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Župljanin), T. 21446–21449; Dragomir Andan, T. 40824–40827, 40890–40891 (5 July 2013); D3813 (Decision of Bijeljina SJB, 3 August 1992); D3787 (Report of Bijeljina SJB, July 1992), p. 2; D3786 (Bijeljina SJB criminal report, 3 August 1992), pp. 1–3; D3785 (Decision of Bijeljina SJB, 3 August 1992), p. 1; D3784 (Investigation report of Bijeljina Lower Court, 2 June 1992); P6218 (Excerpt from report on war crimes trials in Serbia in 2012); P6219 (Order of Bijeljina Prosecutor's Office, 14 July 2009); Svetozar Mihajlović, T. 35736 (20 March 2013); P6218 (Excerpt from report on war crimes trials in Serbia in 2012), p. 5, fn. 101; Dušan Spasojević, T. 35860–35862 (22 March 2013).

2059 KDZ531, T. 15854 (1 July 2011) (closed session).

2060 Savo Bojanović, T. 34849–34850 (5 March 2013); Predrag Drinić, P374 (Transcript from *Prosecutor v. Blagojević & Jokić*), T. 10864–10865.

2061 D3141 (Witness statement of Dušan Spasojević dated 18 March 2013), para. 18.

2062 Dušan Spasojević, T. 35844–35845 (21 March 2013).

2063 Indictment, Scheduled Detention Facility C.2.1. In Appendix B to the Prosecution Final Brief, however, the Prosecution only refers to the period between 25 June 1992 and 24 December 1995.

2064 D3237 (Order of Eastern Bosnia Corps, 17 June 1992), pp. 1–2; D3236 (Witness statement of Gojko Čekić dated 31 March 2013), para. 9. *See also* Ljubomir Obradović, T. 25167 (23 February 2012).

2065 P3238 (Order of the VRS Main Staff, 17 June 1992), pp. 1–2; P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 90 (under seal). *See also* Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 21529.

2066 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 90 (under seal); D3237 (Order of Eastern Bosnia Corps, 17 June 1992), p. 2.

authorities took over the hangars belonging to the agricultural company in Batković which was approximately 12 kilometres from Bijeljina towards the Sava River.[2067]

643. The order for the establishment of the camp provided that (i) Momčilo Despot be appointed commander of the camp (ii) the treatment of the prisoners of war be "in accordance with provisions of the international law of war"; (iii) the detainees be treated appropriately; (iv) unauthorised persons be prevented from entering the camp; and (v) the provision of food would be organised at the Corps Command level.[2068] Despot ordered that records be kept of detainees and of items seized from them, including valuables and money.[2069] He also ordered that detainees could be used for work, including maintenance and agricultural work, but not for work directly linked to combat operations, and that interrogations would be conducted by the Eastern Bosnia Corps.[2070] This order also provided for a list of all detainees to be communicated to the Red Cross and for detainees to be treated humanely without violence, with "exemplary hygiene" and regular medical checks.[2071] While these rules were promulgated, the evidence below as to the conditions of detention and treatment of detainees indicates that the rules were not complied with.[2072]

644. The camp was guarded by VRS soldiers who were mainly from the military reserve[2073] and the army had jurisdiction over the camp.[2074] From August 1992, the commander of the Batković camp was Velibor Stojanović.[2075]

2067 P2929 (Witness statement of KDZ531 dated 25 June 2011), p. 11 (under seal); P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 151; Milorad Davidović, T. 15782–15783 (30 June 2011); D1450 (Milorad Davidović's statement to Belgrade District Court, 26 December 2007), p. 24; P6263 (Photographs of Batković camp). *See also* Dragomir Andan, T. 40833–40835 (5 July 2013); Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 21471–21472, 21528–21529; D3796 (SerBiH MUP instructions to CSBs, 8 August 1992), p. 1; D3817 (Bijeljina SJB dispatch to Eastern Bosnia Corps, 11 August 1992).

2068 D3237 (Order of Eastern Bosnia Corps, 17 June 1992), p. 2; P2890 (Order of Eastern Bosnia Corps, 2 July 1992), p. 2; D3236 (Witness statement of Gojko Čekić dated 31 March 2013), paras. 9–10. *See also* P2890 (Order of Eastern Bosnia Corps, 2 July 1992), p. 1; Milorad Davidović, T. 15545–15546 (28 June 2011); Petar Salapura, T. 40304 (24 June 2013).

2069 D1449 (Instructions of Eastern Bosnia Corps, 2 July 1992), pp. 1–3. The Chamber notes that this order refers to "Ekonomija", but the Chamber has other evidence that this facility was located in Batković and thus considers it to be another name for Scheduled Detention Facility C.2.1. D3239 (Instruction of Batković Collection Centre, 12 July 1992).

2070 D1449 (Instructions of Eastern Bosnia Corps, 2 July 1992), p. 2.

2071 D1449 (Instructions of Eastern Bosnia Corps, 2 July 1992), p. 2.

2072 *But see* Milorad Davidović, T. 15784–15786 (30 June 2011). While Davidović testified that Despot complied with these instructions, the Chamber does not find that this is entirely consistent with the other evidence on the conditions of detention and treatment of detainees. For example, the Chamber notes that P2891 (Instructions of the Eastern Bosnia Corps, 2 July 1992), p. 2, which was signed by Despot as commander of the camp, implicitly acknowledged that detainees were subject to forced labour.

2073 P2929 (Witness statement of KDZ531 dated 25 June 2011), pp. 11–12 (under seal); P3262 (Witness statement of KDZ603 dated 30 August 2011), para. 36 (under seal); P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 160. *See also* Elvir Pašić, P59 (Transcript from *Prosecutor v. Tadić*), T. 872; P84 (Witness statement of Mirsad Kuralić dated 27 June 1996), p. 7.

2074 Savo Bojanović, T. 34850–34852 (5 March 2013). *See also* Dragomir Andan, T. 40834–40835 (5 July 2013).

645. From at least June until December 1992, Bosnian Muslims and Bosnian Croats were detained in the Batković camp.[2076] The first groups brought to Batković were Bosnian Muslims after which Bosnian Croats were also brought to the facility.[2077] The detainees held at the Batković camp originated from a large number of different municipalities, including Kalesija, Brčko, Ključ, Lopare, Rogatica, Sanski Most, Sokolac, Ugljevik, Vlasenica, Živinice, and Zvornik.[2078] Some people were taken from their homes and transported in buses to the Batković camp.[2079] Many were transferred from other detention facilities, including Šušica camp in Vlasenica and Manjača camp in Banja Luka.[2080] Some individuals were detained for over a year.[2081]

646. When KDZ603 arrived from Sušica camp he was in a hangar with approximately 1,600 Bosnian Muslims from various municipalities who were placed in groups depending on their municipality of origin.[2082] There were also some women, children, and elderly persons detained in a separate hangar.[2083]

2075 *See* Adjudicated Fact 2252. *But see* D3236 (Witness statement of Gojko Čekić dated 31 March 2013), para. 22 (stating that Stojanović was the commander of the guards).

2076 *See* Adjudicated Fact 2250. In August 1992 there were over 1,200 Bosnian Muslim men detained in a single warehouse at Batković camp. *See* Adjudicated Fact 2253.

2077 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 153. When Andan asked why a Bosnian Croat associate had been taken away from Brčko and detained at the camp he was told that "there was no reason" and it appeared that the only reason was because he was a Bosnian Croat: Dragomir Andan, T. 40870 (5 July 2013).

2078 Adjudicated Fact 2251; P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 153; P84 (Witness statement of Mirsad Kuralić dated 27 June 1996), p. 7; Mirsad Kuralić, P63 (Transcript from *Prosecutor v. Krajišnik*), T. 12568–12569; P58 (Witness statement of Sakib Husrefović dated 27 May 1995), p. 10; Elvir Pašić, P59 (Transcript from *Prosecutor v. Tadić*), T. 872; P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 153.

2079 P58 (Witness statement of Sakib Husrefović dated 27 May 1995), p. 10.

2080 Adjudicated Fact 2251; P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 153; P111 (Witness statement of KDZ044 dated 28 September 1994), p. 6 (under seal), KDZ044 was transferred in a group of detainees from Sušica camp on 30 June 1992; P3262 (Witness statement of KDZ603 dated 30 August 2011), paras. 35, 37 (under seal); KDZ044, P109 (Transcript from *Prosecutor v. Nikolić*), T. 269 (under seal); Asim Egrlić, P3570 (Transcript from *Prosecutor v. Krajišnik*), T. 4796 (under seal); Asim Egrlić, T. 19980 (5 October 2011); Svetozar Andrić, T. 41668–41669 (22 July 2013) (testifying that the commander of the Main Staff on 17 June 1992 ordered that detainees at Sušica should be transferred to the Batković camp on 17 June 1992). In late June 1992 approximately 400 detainees from Sušica camp were told they would exchanged but were transported to Batković camp on buses which were heavily guarded by guards in JNA uniforms. The detainees had not engaged in military activities. P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), paras. 45–46, 149, 156; Ibro Osmanović, T. 17999 (29 August 2011); KDZ044, P107 (Transcript from KDZ044's testimony), T. 488–489 (under seal). Over 500 detainees were brought to Batković camp in late 1992 after the Manjača camp was dismantled. P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 154; Ibro Osmanović, T. 17947–17948 (25 August 2011); KDZ163, T. 20748–20749 (1 November 2011).

2081 Elvir Pašić, P59 (Transcript from *Prosecutor v. Tadić*), T. 872; P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), paras. 145–147, 180; KDZ044, P107 (Transcript from KDZ044's testimony), T. 491 (under seal).

2082 P3262 (Witness statement of KDZ603 dated 30 August 2011), para. 37 (under seal); KDZ603, T. 18165 (1 September 2011).

2083 Mirsad Kuralić, P63 (Transcript from *Prosecutor v. Krajišnik*), T. 12568–12569; Adjudicated Fact 2253. *See also* P3213 (List of persons detained at Batković camp); P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 155 (testifying that there were only two women at the camp, and some children who did

647. On arrival in Batković, the detainees were ordered by Serb soldiers to empty their pockets of money and valuables and were forced to pass a cordon of soldiers who beat them with chains and batons before being taken to a hangar.[2084] The detainees were informed by a platoon leader that they were "war prisoners" on Serb territory and had no rights.[2085]

648. Between 2,000 and 3,000 non-Serbs went through the camp after its establishment with new groups arriving when other groups left.[2086] The exchange of detainees in groups of 50 to 100 began in August 1992.[2087] In 1995, Bosnian Muslims from Karakaj[2088] and Bosnian Muslims from Srebrenica, including elderly and children who were captured were brought to Batković.[2089]

(2) Conditions of detention and treatment of detainees

649. The detainees in Batković were forced to sleep on their sides on the concrete floor where they "were packed into the hangar like sardines".[2090] Initially two detainees would share a single military mattress but subsequently these mattresses were taken away and the detainees had to sleep on straw and hay.[2091]

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not want to be separated from their fathers). *But see* D3236 (Witness statement of Gojko Čekić dated 31 March 2013), para. 19; Gojko Čekić, T. 36508–36509 (3 April 2013) (testifying that there were no women, children, or elderly at the camp).

2084 P58 (Witness statement of Sakib Husrefović dated 27 May 1995), p. 10; P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 160.

2085 P58 (Witness statement of Sakib Husrefović dated 27 May 1995), p. 10. *See also* Mirsad Kuralić, P63 (Transcript from *Prosecutor v. Krajišnik*), T. 12575–12577 (testifying that he was charged before a court but was not afforded proper procedure).

2086 P2929 (Witness statement of KDZ531 dated 25 June 2011), p. 11 (under seal); P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 153; Ibro Osmanović, T. 17948 (25 August 2011). In a list of detainees recorded as having arrived at Batkvović detention facility between 27 June 1992 and 22 December 1995, a total of 2,468 detainees were listed. Of these detainees, 28 were listed as having died, 2,002 were listed as having been exchanged, 406 were listed as having been released, 7 were listed as deported, 20 escaped or went missing, and 5 were remanded to another prison. P3213 (List of persons detained at Batković camp).

2087 P58 (Witness statement of Sakib Husrefović dated 27 May 1995), p. 12–13. These exchanges continued, and for example in July 1993, 400 men from Batković were taken by bus to Lopare municipality and exchanged for Bosnian Serb civilians. P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 180; P111 (Witness statement of KDZ044 dated 28 September 1994), p. 7 (under seal); P107 (Transcript from KDZ044's testimony), T. 492 (under seal). Following his appointment as commander of the camp in August 1994, Čekić with the agreement of the Corps Command released 50 older detainees. D3236 (Witness statement of Gojko Čekić dated 31 March 2013), para. 19; Gojko Čekić, T. 36508–36509 (3 April 2013); Gojko Čekić, T. 36528–36529 (4 April 2013). For evidence on exchange of detainees in 1995, *see* P5440 (RS Ministry of Defence list of persons exchanged from the Batković Collection Centre, 13 March 2002), pp. 1–9; D2052 (Statement of KDZ333 to State Commission on Gathering Facts on War Crimes, 20 July 1996), p. 6 (under seal).

2088 D2052 (Statement of KDZ333 to State Commission on Gathering Facts on War Crimes, 20 July 1996), p. 5 (under seal); KDZ333, T. 24162–24163 (2 February 2012).

2089 D3236 (Witness statement of Gojko Čekić dated 31 March 2013), paras. 13, 21; Gojko Čekić, T. 36504–36505, 36508–36509 (3 April 2013); D3244 (Drina Corps combat report, 26 July 1995), p. 2; P3213 (List of persons detained at Batković Camp), e-court pp. 9, 11, 25, 40, 47, 52, 78, 84, 92, 106, 131, 133, 149, 157, 168, 170, 175, 184, 188, 191, 193. *See also* para. 5131.

2090 P58 (Witness statement of Sakib Husrefović dated 27 May 1995), p. 11.

2091 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 159. *See also* D3238 (Report of Batković Collection Centre, 11 January 1996). The Chamber does not place weight on this report which reflects

650. The detainees were forbidden from sitting with their legs crossed, and were required to seek permission before using the toilet or getting water.[2092] They had a makeshift toilet which was a 10 metre long dug-up hole which they could use during the day but not at night.[2093] They were also required to seek permission before addressing the guards by making the three fingered Serb sign, bowing their heads to the ground, and saying "Sir Serb soldier let me address you".[2094] When detainees walked they had to have their hands behind their back and keep their heads bowed.[2095]

651. Sanitary conditions at Batković camp were poor and detainees were given little food.[2096] The detainees received a slice of bread for breakfast, had some cooked food at lunch and boiled corn flour for dinner.[2097] Given the lack of food, detainees sold valuables to soldiers "for just a few loaves of bread".[2098] Some detainees experienced extreme weight loss during their detention while four or five older prisoners died of starvation or exhaustion.[2099]

652. Bosnian Serb soldiers who came to the area were given access to the camp and allowed to enter the hangar whenever they wanted to beat the detainees.[2100] If a Bosnian Serb soldier was killed on the frontline, the soldiers would take revenge on the detainees.[2101] The soldiers forced some of the detainees to hit each other, beat all of them randomly with different objects, and

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the number of blankets in the camp when the facility was closed in 1996, thus falling outside the time frame of the allegations in the Indictment with respect to the Batković camp.

2092 P58 (Witness statement of Sakib Husrefović dated 27 May 1995), p. 11.

2093 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 159.

2094 P58 (Witness statement of Sakib Husrefović dated 27 May 1995), p. 11.

2095 P58 (Witness statement of Sakib Husrefović dated 27 May 1995), p. 11.

2096 *See* Adjudicated Fact 2254. The conditions in Batković while similar to Manjača, were "somewhat better" with less beatings, fewer people called out at night and better access to water. Asim Egrlić, P3570 (Transcript from *Prosecutor v. Krajišnik*), T. 4797 (under seal). *See also* D2052 (Statement of KDZ333 to State Commission on Gathering Facts on War Crimes, 20 July 1996), p. 5 (under seal). Čekić disputed this adjudicated fact and testified that the food received by the detainees was the same as the VRS soldiers and they all had three meals a day and that the detainees had several showers and toilets. D3236 (Witness statement of Gojko Čekić dated 31 March 2013), para. 23. The Chamber does not consider that this evidence is of much weight given that Čekić was commander of the camp only from August 1994. The Chamber also found that Čekić's evidence was marked by indicators of evasiveness and did not consider his evidence to be reliable in this regard.

2097 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 159. While Adjudicated Fact 2254 suggests that detainees were given little water, the Chamber accepts that in light of the evidence of Osmanović and that of Egrlić, detainees did have access to water. P3570 (Transcript from *Prosecutor v. Krajišnik*), T. 4797 (under seal).

2098 P58 (Witness statement of Sakib Husrefović dated 27 May 1995), p. 12.

2099 P58 (Witness statement of Sakib Husrefović dated 27 May 1995), p. 12; P84 (Witness statement of Mirsad Kuralić dated 27 June 1996), p. 8; P74 (Supplemental information sheet for Mirsad Kuralić), pp. 2–3.

2100 Elvir Pašić, P59 (Transcript from *Prosecutor v. Tadić*), T. 874; P58 (Witness statement of Sakib Husrefović dated 27 May 1995), pp. 11–12. These soldiers wore grey, olive green camouflage uniforms and some had the insignia of the SerBiH. The Chamber notes that KDZ333 who only arrived at Batković in July 1995 testified he was not maltreated when interrogated during his detention. D2052 (Statement of KDZ333 to State Commission on Gathering Facts on War Crimes, 20 July 1996), p. 5 (under seal).

2101 P58 (Witness statement of Sakib Husrefović dated 27 May 1995), pp. 11–12.

ordered them to kneel with their heads bowed and hands behind their backs.[2102] After 30 June 1992, there were daily beatings until the first visit of the ICRC in August 1992.[2103] The beatings of the detainees increased to five or six times a day after two detainees escaped[2104] and when a detainee who escaped was returned he was beaten.[2105]

653. There were approximately ten detainees accused by the guards of being "extremists" or "Alija's specialists" who were subjected to daily beatings and additional mistreatment and some of these detainees died from these beatings.[2106] The detainees in this group were beaten at least three times a day, forced to beat each other, knocked over by fire hoses, and forced to have sexual intercourse with each other, often in front of other detainees.[2107] The guards were aware of these

2102 P58 (Witness statement of Sakib Husrefović dated 27 May 1995), pp. 11–12 (testifying that a soldier from around Gorazde known as "Gligor" was responsible for most of the beatings). Guards at Batković camp who carried out beatings at Batković included Veselin Nikolić, Zoran Zarić, a person identified as "Major" from the Semberija company, Panić from Sarajevo and Gligor from Goražde. P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), paras. 163–164. Osmanović also identified four individuals who were singled out for beating, including one person who was accused of making knives used to kill Serbs. Ibro Osmanović, T. 17942 (25 August 2011). Other individuals who beat detainees in the hangar included Daco, Fikret Piklić from Brezovo Polje, and Džemal called "Pajzer" from Zenica. P58 (Witness statement of Sakib Husrefović dated 27 May 1995), pp. 11–12.

2103 P111 (Witness statement of KDZ044 dated 28 September 1994), p. 6 (under seal); KDZ044, P107 (Transcript from KDZ044's testimony), T. 491–492 (under seal). [REDACTED]. *See also* Elvir Pašić, P59 (Transcript from *Prosecutor v. Tadić*), T. 874–875 (testifying that treatment of the detainees improved slightly and the beatings occurred less frequently after the commander of the camp was replaced).

2104 P58 (Witness statement of Sakib Husrefović dated 27 May 1995), p. 11.

2105 KDZ010, P416 (Transcript from *Prosecutor v. Jelisić*), T. 86, 119.

2106 P58 (Witness statement of Sakib Husrefović dated 27 May 1995), p. 12; Elvir Pašić, P59 (Transcript from *Prosecutor v. Tadić*), T. 873; P84 (Witness statement of Mirsad Kuralić dated 27 June 1996), p. 8; Mirsad Kuralić, P74 (Supplemental information sheet), p. 2; Mirsad Kuralić, P63 (Transcript from *Prosecutor v. Krajišnik*), T. 12569, 12571–12572 (under seal); P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 171. *See also* Adjudicated Fact 2256.

2107 P84 (Witness statement of Mirsad Kuralić dated 27 June 1996), p. 8. *See also* Adjudicated Fact 2256. Čekić disputed Adjudicated Fact 2256 and suggested that nobody beat the detainees or forced them to engage in degrading sexual acts and that the guards at the facility were "family men" or older people who would never do such things. Čekić also testified about the conditions in the camp and the absence of mistreatment of detainees in 1994. D3236 (Witness statement of Gojko Čekić dated 31 March 2013), paras. 4–5, 8–9, 11–12, 15–16, 20, 25. The Chamber does not find this evidence to be credible. In reaching that conclusion, the Chamber noted that Čekić was commander of the camp only from August 1994 and that when confronted with evidence of abuse and poor conditions in 1992, Čekić stated that he was not at the centre at the time and was not aware of it. The Chamber also noted that Čekić had an interest in minimising his involvement in any mistreatment of detainees. *See* Gojko Čekić, T. 36490–36491, 36493–36495, 36503, 36511–36512 (3 April 2013). The Chamber also found that Čekić's evidence was marked by indicators of evasiveness and did not consider his evidence to be reliable in this regard. The Chamber also does not find Čekić's evidence that many detainees "discretely asked not to be exchanged" as they were safer in the camp than in their own territory where they would be mobilised and sent to the frontline to be credible. *See* D3236 (Witness statement of Gojko Čekić dated 31 March 2013), para. 20.

actions but did nothing but laugh.[2108] Some detainees suffered lasting harm which was both physical and psychological including post traumatic stress disorder.[2109]

654. Even though there was a doctor at the camp, the detainees in the Batković camp, including those who had heart attacks, were not provided with medical treatment or were refused medication and, as a result, a number of detainees died.[2110] When a detainee complained of toothache, the doctor threatened to call the soldiers to pull out the tooth.[2111]

655. The police would take away detainees for work at factories while VRS soldiers took the detainees away for labour on the frontlines.[2112] Detainees at Batković were forced to perform manual labour daily, including digging trenches, clearing mines and carrying munitions at the frontline, and burying bodies.[2113] While compelled to dig trenches on the frontline the detainees were forced to sing Serb national songs and bury the dead.[2114] On two occasions, the detainees worked on the frontlines when combat was ongoing. In one incident, a man named Ahmed Pašić was killed and, in December 1992, two detainees were wounded and two others were killed.[2115] The detainees were forced to work in all weather conditions, including in extreme heat, which affected their health.[2116] They were not allowed to refuse to work at Batković.[2117] An order of the

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2108 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 173.

2109 P84 (Witness statement of Mirsad Kuralić dated 27 June 1996), pp. 9–10; Mirsad Kuralić, P63 (Transcript from *Prosecutor v. Krajišnik*), T. 12578–12579 (under seal). *See also* P58 (Witness statement of Sakib Husrefović dated 27 May 1995), p. 13. Referred to in Prosecution Final Brief, Appendix B, p. 4.

2110 P58 (Witness statement of Sakib Husrefović dated 27 May 1995), pp. 11–12; Mirsad Kuralić, P63 (Transcript from *Prosecutor v. Krajišnik*), T. 12578 (testifying that he received no treatment for his wounds and had to use salt or his own clothes as bandages).

2111 P58 (Witness statement of Sakib Husrefović dated 27 May 1995), pp. 11–12.

2112 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 178.

2113 *See* Adjudicated Fact 2257; P58 (Witness statement of Sakib Husrefović dated 27 May 1995), p. 12; Elvir Pašić, P59 (Transcript from *Prosecutor v. Tadić*), T. 875–876, 889; P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 175; P111 (Witness statement of KDZ044 dated 28 September 1994), p. 6 (under seal); P107 (Transcript from KDZ044's testimony), T. 491–492 (under seal); P5421 (Letter from humanitarian organisation to Radovan Karadžić, 16 September 1993), p. 2 (under seal); D2052 (Statement of KDZ333 to State Commission on Gathering Facts on War Crimes, 20 July 1996), p. 5 (under seal); Mirsad Kuralić, P74 (Supplemental information sheet), p. 3; P5483 (ICRC press release, 30 August 1994). Čekić testified that detainees were not forced to dig trenches, carry munitions to the frontlines or bury dead bodies and that detainees only buried three other prisoners of war in a Muslim graveyard. In addition Čekić testified that detainees were selected for work according to their skills and "their wishes were also respected" and that the detainees had a "huge interest" in going to work as they were freer, had more food, tobacco and drinks. D3236 (Witness statement of Gojko Čekić dated 31 March 2013), paras. 20, 24; Gojko Čekić, T. 36495, 36499 (3 April 2013). The Chamber does not find this evidence to be reliable. In reaching that conclusion, the Chamber refers to its credibility assessment in fn. 2096 in assessing Čekić's evidence.

2114 Elvir Pašić, P59 (Transcript from *Prosecutor v. Tadić*), T. 875–876, 889; P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 175.

2115 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 175.

2116 P58 (Witness statement of Sakib Husrefović dated 27 May 1995), pp. 11–12; Mirsad Kuralić, P63 (Transcript from *Prosecutor v. Krajišnik*), T. 12578.

2117 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 176. *But see* KDZ603, T. 18166–18167 (1 September 2011) who testified that men were asked, not ordered, to work and that these men usually returned well-fed and bringing food for the others in the camp. The Chamber does not consider that it can rely

commander of the Batković camp implicitly acknowledged the practice of forced labour by outlining the procedure for guarding detainees who were "performing forced labour".[2118]

656. The ICRC received information about the detainees at the facility from the POW exchange commission of the Eastern Bosnia Corps and this information was also relayed on a daily basis to the Main Staff level.[2119]

(3) Conclusion on conditions of detention and treatment of detainees

657. Based on the above, the Chamber finds that Bosnian Muslims and Bosnian Croats from multiple locations were brought to and detained at Batković camp from June 1992 until 1995 by Serb Forces. The detainees were held in poor conditions which included lack of space, inadequate bedding, poor sanitary conditions, lack of food, and inadequate medical care. Detainees were subjected to regular beatings, sexual mistreatment and were forced to work at a number of locations in extreme conditions including on the frontlines digging trenches and clearing mines. The Chamber finds that some detainees died as a result of starvation, exhaustion or while working on the frontlines.[2120]

(4) Scheduled Incident B.2.1

658. The Prosecution alleges that at least six men were killed in the Batković camp between June 1992 and June 1995.

659. A detainee known as "professor" was taken out one night by 10 guards, beaten through the night, and found dead the next day.[2121] Executions were also carried out at the camp, with intellectuals and SDA leaders specifically targeted[2122] and the bodies of detainees were removed from the hangar wrapped in blankets.[2123] Pašić saw two elderly men killed at the camp following

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on KDZ603's evidence in this regard given that he never left the facility himself for the purposes of work in contrast to other witnesses, including Osmanović, who were personally forced to work.

2118 P2891 (Instructions of the Eastern Bosnia Corps, 2 July 1992), p. 2.

2119 Milenko Todorović, D4124 (Transcript from *Prosecutor v. Tolimir*), T. 12959–12961.

2120 This finding does not include the persons alleged to have been killed in Scheduled Incident B.2.1 which is discussed below.

2121 Elvir Pašić, P59 (Transcript from *Prosecutor v. Tadić*), T. 873; P58 (Witness statement of Sakib Husrefović dated 27 May 1995), p. 12.

2122 P2929 (Witness statement of KDZ531 dated 25 June 2011), pp. 11–12 (under seal) (testifying that he heard that Ferid Zečević and Muhamed Ćurtić were killed at Batković and that a guard named Ljubiša Mišić was rumoured to have been one of the worst killers in the camp but was still rewarded by the SDS). *See also* P4850 (Witness statement of Amor Mašović dated 23 March 2012), para. 54.

2123 P58 (Witness statement of Sakib Husrefović dated 27 May 1995), p. 12; Elvir Pašić, P59 (Transcript from *Prosecutor v. Tadić*), T. 873; *see* Adjudicated Fact 2260. *See also* P4853 (Updated Table 2 to the Report of Amor Mašović), p. 73. KDZ044 also saw detainees who died two or three days after being beaten. P111 (Witness statement of KDZ044 dated 28 September 1994), p. 7 (under seal). Čekić testified that when he was commander of the camp from August 1994, he heard about the death of only two detainees at the camp and this

beatings.[2124] Of the two elderly men, one was Zulfo Hadžiomerović,[2125] a 70 year old man accused of having a "U" tattooed under his arm; he was beaten on many occasions and in early July 1992 died as a result of a beating.[2126] Gligor and "Major" had started the beating and Veselin Nikolić and some police from Zenica joined and once Hadžiomerović died, other detainees were ordered to take the body out and load it onto a military truck.[2127] His body was covered with bruises, but men wearing doctors' insignia in JNA uniforms arrived about an hour later and pronounced that he had died of natural causes.[2128] Two other men, including a jeweller named "Husein" and Ferid Zečević also died on or about the same day.[2129] While Osmanović did not see the beatings, Husein and Zečević had been beaten at the army barracks before their arrival at Batković and he saw both bodies placed outside and put onto a truck.[2130]

660. Pašić also testified about the shooting of one detainee.[2131] With respect to this shooting, in the late summer 1992, there was an investigation into the death of Muhamed Čudić but no one was charged.[2132]

661. The Chamber therefore finds that at least six Bosnian Muslim men were killed by Serb Forces at the Batković camp between June 1992 and June 1995.

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involved two detainees who returned from work drunk and attacked a guard who shot them in "self-defence" and that there was an investigation into this incident. D3236 (Witness statement of Gojko Čekić dated 31 March 2013), para. 18; Gojko Čekić, T. 36524–36525 (4 April 2013). The Chamber does not find this evidence to be reliable. In reaching that conclusion, the Chamber recalls its credibility assessment in fn. 2096 in assessing Čekić's evidence. In addition it was not clear whether Čekić was able to speak about killings which occurred before he was commander of the camp.

2124 Elvir Pašić, P59 (Transcript from *Prosecutor v. Tadić*), T. 873; P58 (Witness statement of Sakib Husrefović dated 27 May 1995), p. 12.

2125 *See* Prosecution Final Brief, Appendix G.

2126 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), paras. 165–166. On one occasion one of the detainees was forced to beat Hadžiomerović.

2127 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), paras. 166–167.

2128 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 167.

2129 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 168; P2929 (Witness statement of KDZ531 dated 25 June 2011), pp. 11–12 (under seal). The body of Ferid Zečević was exhumed from a grave in 2005. P4853 (Updated Table 2 to the Report of Amor Mašović), p. 73. Davidović knew that Zečević and Husein Apaka were taken to the Batković camp and never returned and thought they were killed there. P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 153. KDZ531 was also told about the killing of Muhamed Ćurtić who was nicknamed Hapaka at Batković. P2929 (Witness statement of KDZ531 dated 25 June 2011) (under seal), p. 11. The Prosecution notes that the man identified as Muhamed Curtić by KDZ531 and as Husein by Osmanović to be the same individual. Prosecution Final Brief, Appendix G.

2130 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 168.

2131 Elvir Pašić, P59 (Transcript from *Prosecutor v. Tadić*), T. 873.

2132 P2929 (Witness statement of KDZ531 dated 25 June 2011) (under seal), p. 11. KDZ531 also testified about killings not linked to the Batković camp and the failure to charge anyone for these incidents: P2929 (Witness statement of KDZ531 dated 25 June 2011), p. 12 (under seal). However, given that these incidents relate to unscheduled detention facilities the Chamber will not make any findings in that regard.

(5) ICRC Visits

662. The ICRC first visited the Batković camp in August or September 1992, registered the detainees, and issued them with identity cards.[2133] Before the ICRC visits, all children, the elderly and those that had been beaten badly, including the group of ten men who had been targeted for additional beating and mistreatment, were taken away and hidden in other locations.[2134] These detainees were similarly hidden during the visits of journalists.[2135] In order to cover for the absence of detainees who had been hidden and the detainees who had been killed, other people including guards or police were substituted in their place.[2136]

663. The detainees were also instructed to lie and tell the ICRC representatives that conditions were fine, that food was good, that they were provided with cigarettes, and had not been beaten.[2137] Anyone who did not say what they were instructed to say was beaten severely.[2138] While the ICRC provided the detainees with supplies, such as blankets, soap, shoes, gloves and cigarettes, the soldiers would take anything they wanted once the ICRC left the camp.[2139] However, the conditions at Batković did improve after the ICRC began to visit the facility.[2140] The ICRC was given access to and visited Batković camp until late 1995.[2141]

664. The Batković facility was disbanded in early 1996.[2142]

2133 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 179; P81 (ICRC identification document of Sakib Husrefović). *See also* Bogdan Subotić, T. 40178 (21 June 2013); D3242 (VRS Main Staff instructions, 1 December 1995); Gojko Čekić, T. 36519–36520 (4 April 2013); Adjudicated Fact 2258.

2134 Elvir Pašić, P59 (Transcript from *Prosecutor v. Tadić*), T. 877; P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 179; P84 (Witness statement of Mirsad Kuralić dated 27 June 1996), p. 8; Mirsad Kuralić, P74 (Supplemental information sheet), p. 2 (Mirsad Kuralić was not a civilian as he had been drafted into the AbiH in April 1992 and was on the frontlines when captured); Mirsad Kuralić, P63 (Transcript from *Prosecutor v. Krajišnik*), T. 12572–12573; KDZ010, P416 (Transcript from *Prosecutor v. Jelisić*), T. 86–87, 120, 157–158. *See also* Adjudicated Fact 2258.

2135 Mirsad Kuralić, P63 (Transcript from *Prosecutor v. Krajišnik*), T. 12572–12573.

2136 Mirsad Kuralić, P63 (Transcript from *Prosecutor v. Krajišnik*), T. 12572–12573; P2929 (Witness statement of KDZ531 dated 25 June 2011), p. 12 (under seal) [REDACTED]; P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 179.

2137 Elvir Pašić, P59 (Transcript from *Prosecutor v. Tadić*), T. 878, 890. Čekić testified that the ICRC maintained lists of detainees who only complained about the lack of showers and toilets after which the ICRC provided the material for extra showers and toilets were built at Batković. D3236 (Witness statement of Gojko Čekić dated 31 March 2013), para. 11; Gojko Čekić, T. 36491–36492, 36497–36498, 36503 (3 April 2013); P6258 (Report of facilities handed over by Batković Collection Centre, 5 January 1996). The Chamber does not find this evidence to be conclusive as to the actual conditions at Batković, given the credible evidence about the hiding of detainees and detainees being instructed to not complain about conditions.

2138 Elvir Pašić, P59 (Transcript from *Prosecutor v. Tadić*), T. 878, 890.

2139 P58 (Witness statement of Sakib Husrefović dated 27 May 1995), p. 12.

2140 *See* Adjudicated Fact 2259.

2141 Bogdan Subotić, T. 40178 (21 June 2013); D3242 (VRS Main Staff instructions, 1 December 1995); Gojko Čekić, T. 36519–36520 (4 April 2013).

2142 *See* para. 5502.

(G) Scheduled Incident D.2

665. The Indictment refers to the destruction of three mosques in Bijeljina in the summer of 1992.[2143]

666. Riedlmayer reported that the Atmačići mosque was almost destroyed.[2144] The Janjari mosque was lightly damaged and vandalised with graffiti with the initials of the SRS written on the walls in Cyrillic.[2145] The Srendja Tnova mosque was completely destroyed.[2146] There was evidence of blast damage to two of the mosques and the adjacent buildings to all three mosques were in good condition.[2147] While the Chamber relies on Riedlmayer for the purposes of finding that the mosques were destroyed, and the nature and extent of the damage to the mosques and surrounding buildings, it does not rely on his evidence as to when and who was responsible for the destruction of the mosques which fall outside his expertise and are based on informant statements which he received.[2148] Riedlmayer also reported on damage to other cultural monuments and sacred sites in Bijeljina,[2149] but given that these sites are not alleged in Schedule D of the Indictment, the Chamber will not make findings in this regard.

667. While KDZ531 testified that the destruction of the mosques was a "clear signal to non-Serbs" that they should leave Bijeljina, the Chamber considers this to be the witness's speculation and will not rely on his opinion in this regard.[2150] KDZ531 also stated that in the summer of 1992, the Department of Urbanism and Construction supervised the destruction of religious and cultural

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2143 Specifically, the mosques are the Atmačići mosque, the Janjari mosque, and the Srednja Trnova mosque.

2144 P4069 (Cultural destruction database), record 39; P4070 (Attachment to the expert report of András J. Riedlmayer, entitled "Destruction of Cultural Heritage in BiH" prepared for the Karadžić case, formatted records), pp. 11–17. *See also* KDZ531, T. 15857 (1 July 2011) (closed session) (testifying that he heard that the three mosques listed in Schedule D.2 were also destroyed).

2145 P4070 (Attachment to the expert report of András J. Riedlmayer, entitled "Destruction of Cultural Heritage in BiH" prepared for the Karadžić case, formatted records), pp. 11–17; P4069 (Cultural destruction database), record 40.

2146 P4069 (Cultural destruction database), record 42.

2147 P4069 (Cultural destruction database), records 39, 41–42.

2148 P4070 (Attachment to the expert report of András J. Riedlmayer, entitled "Destruction of Cultural Heritage in BiH" prepared for the Karadžić case, formatted records), pp. 11–17. Riedlmayer's report, which is based on his visits to the sites in 2002 and on information he received from the Islamic Community of BiH and other sources, identifies the following mosques and the level of damage: Atmačići mosque (almost destroyed), Janjari mosque (lightly damaged), and Srednja Trnova mosque (completely destroyed). P4069 (Cultural destruction database), records 39, 41–42.

2149 P4069 (Cultural destruction database), records 28–40; P4068 (András Riedlmayer's expert report on Destruction of Cultural Heritage in Bosnia and Herzegovina during 1992-1995, 7 May 2009), para. 55. KDZ531 also testified about the destruction of other religious and cultural sites. P2929 (Witness statement of KDZ531 dated 25 June 2011), p. 12 (under seal); KDZ531, T. 15857 (1 July 2011) (closed session). However, the Chamber will not make findings with respect to these unscheduled sites.

2150 *See* P2929 (Witness statement of KDZ531 dated 25 June 2011), p. 12 (under seal); KDZ531, T. 15857 (1 July 2011) (closed session).

monuments in Bijeljina which was carried out by the engineering group of the 1st Krajina Corps.[2151] He also stated that the rubble from destroyed religious and cultural monuments was removed with the assistance of Bosnian Muslims on work detail who were required to perform this work.[2152] During his testimony, KDZ531 confirmed that he heard that the Atmačići mosque, the Janjari mosque, and the Srednja Trnova mosque had been destroyed.[2153] However, when questioned about how he knew that the mosques were destroyed by the engineering group of the 1st Krajina Corps, he qualified his statement and testified that his knowledge about who destroyed the mosques was based on unattributed hearsay and what he heard people and soldiers talking about as he had no direct knowledge about this issue.[2154] Having regard to the way in which KDZ531 qualified his evidence, the Chamber is not satisfied that it can rely on his evidence to establish who destroyed the mosques charged in the Indictment.

668. Therefore, based on its review of the evidence, while the Chamber finds that the Atmačići, Janjari, and Srednja Trnova mosques were destroyed, it does not have sufficient evidence to identify, beyond reasonable doubt, who destroyed those mosques. The Chamber is not satisfied that the evidence presented by the Prosecution with respect to Bijeljina is sufficient to allow for an inference to be drawn that Serb Forces destroyed these three mosques.

(H) Movement of the population from Bijeljina

669. As found above,[2155] in 1992 many Bosnian Muslims left Bijeljina out of fear[2156] while others were expelled.[2157] The media coverage and Bosnian Serb propaganda at the time also

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2151 P2929 (Witness statement of KDZ531 dated 25 June 2011), p. 12 (under seal); KDZ531, T. 15858 (1 July 2011) (closed session). *See also* Milorad Davidović, T. 15486 (28 June 2011) (testifying that the mosque in Bijeljina was destroyed in the second half of 1993). The Chamber notes that Davidović does not identify who destroyed the mosque and his evidence does not appear to be linked to the specific mosques charged in the Indictment. In the Accused's submission in light of the presence of paramilitaries and the chaos in the municipality there is no evidence that the mosques in Schedule D.2 were destroyed by either the local authorities or the VRS. Defence Final Brief, para. 1393.

2152 P2929 (Witness statement of KDZ531 dated 25 June 2011), p. 12 (under seal). KDZ531 also stated that the Catholic church was "spared, apparently at the intervention of the orthodox Bishop from Tuzla". KDZ531, T. 15857 (1 July 2011) (closed session).

2153 KDZ531, T. 15857–15858 (1 July 2011) (closed session).

2154 KDZ531, T. 15858 (1 July 2011) (closed session).

2155 *See* para. 630.

2156 P2929 (Witness statement of KDZ531 dated 25 June 2011), pp. 4, 8–9 (under seal).

2157 Milorad Davidović, T. 15528–15529 (28 June 2011); P2884 (Article from List SAO Semberije I Majevice entitled "Semberija Lost for Alija's Islamic State", 15 June 1992), p. 1; Živan Filipović, T. 35811 (21 March 2013). The Chamber finds that some Bosnian Serbs also left the municipality at the beginning of April 1992 out of fear but returned when Bosnian Serb authorities took measures to stabilise the security situation. D3089 (Witness statement of Milivoje Kićanović dated 3 March 2013), para. 13; Milivoje Kićanović, T. 34882 (6 March 2013); D3137 (Witness statement of Svetozar Mihajlović dated 17 March 2013), paras. 5, 7. *See also* KDZ240, T. 16057, 16080, 16081–16082 (5 July 2011) (closed session); KDZ240, P2935 (Transcript from *Prosecutor v. Krajišnik*), T. 6754 (under seal); Colm Doyle, T. 2932 (28 May 2010); P1029 (Witness statement of John Wilson dated 4 November 2008), paras. 94–95; John Wilson, T. 3968–3969 (21 June 2010) (who

contributed to the fear among the Bosnian Muslim population.[2158] Mauzer in an interview stated that the Bosnian Muslims who had fled Bijeljina "will not come back and I would advise them not to".[2159]

670. By August 1992, there were approximately 17,000 Bosnian Muslims who remained in Bijeljina and 12,000 in Janja.[2160] Davidović testified that he was present when five days after his arrival in Bijeljina a plan was discussed "for the ethnic cleansing" of Bosnian Muslims who remained in municipalities, including Bijeljina and Zvornik.[2161] Davidović testified that this plan was discussed by Mauzer, other members of the SDS, and the Bijeljina Crisis Staff and he informed Mićo Stanišić about the plan.[2162] According to Davidović, the plan consisted of three phases. In the first phase, scheduled to start in September or October 1992, there would be a division of the city and the creation of an atmosphere of fear to convince the Bosnian Muslims to leave.[2163] In the second phase, Bosnian Muslims who refused to respond to the call for mobilisation would be fired from their positions, and would have their services cut and would be required to report for work obligation including on the frontlines.[2164] In the third phase, wealthy and intellectual Bosnian Muslims were to be targeted for humiliation by assigning them to menial tasks such as sweeping the streets.[2165]

671. Having reviewed the evidence, the Chamber finds that this three phase plan existed and was discussed by Bosnian Serb authorities in Bijeljina and in accordance with this plan, Duško Malović's special police unit, following the lead of Drago Vuković who was a member of the

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received reports of "ethnic cleansing" in Eastern Bosnia from late March through April 1992 which mentioned the involvement of the JNA in providing perimeter security while paramilitaries would enter settlements "commit demonstration killings and rapes as examples to villages that they would meet the same fate unless they left the area").

2158 P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 161; Milorad Davidović, T. 15527–15528 (28 June 2011).

2159 P2884 (Article from List SAO Semberije I Majevice entitled "Semberija Lost for Alija's Islamic State", 15 June 1992), p. 3.

2160 P2848 (Witness statement of Milorad Davidović dated 22 June 2011), paras. 149–150.

2161 P2848 (Witness statement of Milorad Davidović dated 22 June 2011), paras. 149–150, 156; Milorad Davidović, T. 15582 (29 June 2011); Adjudicated Fact 2261.

2162 P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 150; Milorad Davidović, T. 15582–15584 (29 June 2011). The Chamber observes that Davidović in a prior interview did deny specific knowledge about the killing of Bosnian Muslim families, but contrary to the Accused's submission this does not undermine his evidence with respect to informing Mićo Stanišić about the plan to remove the Bosnian Muslim population from Bijeljina. *See* Defence Final Brief, para. 1116; Milorad Davidović, T. 15589 (29 June 2011); D1407 (Official note of BiH's Prosecutor's Office in Sarajevo, 14 January 2008), p. 2.

2163 P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 151. Davidović identified Drago Vuković who was a member of the Crisis Staff and Predrag Ješurić as being in charge of this phase of the plan.

2164 P2848 (Witness statement of Milorad Davidović dated 22 June 2011), paras. 98, 153; D1450 (Milorad Davidović's statement to Belgrade District Court, 26 December 2007), p. 21. *See also* Adjudicated Fact 2264.

2165 P2848 (Witness statement of Milorad Davidović dated 22 June 2011), paras. 98, 153–154. *See also* Adjudicated Fact 2264.

Bijeljina Crisis Staff, instilled fear in the Bosnian Muslims who remained in Bijeljina by September 1992.[2166] The Chamber also finds that in accordance with the second and third phase of the plan Bosnian Muslims, including prominent Muslims who did not comply with demands for mobilisation or work obligation, were sent to Batković camp or expelled from the municipality.[2167] The police knew about this and condoned it and did nothing to prevent people from being taken to Batković camp or to prevent expulsions.[2168] The simultaneous execution of the three phases of this SDS operation caused large numbers of Bosnian Muslims to flee Bijeljina out of fear.[2169]

672. The Bijeljina SDS also compiled a list of names of Bosnian Muslims to be expelled, including the wealthy, which was done with the help of Mauzer.[2170] Dragomir Ljubojević, the President of the Municipal Assembly and SDS leader, was responsible for drawing up the lists and co-ordinating the expulsions.[2171] Aided by Mauzer's unit, Vojkan Đurković who was an SDS field

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2166 P2848 (Witness statement of Milorad Davidović dated 22 June 2011), paras. 151–152. *See also* Adjudicated Fact 2264. The Chamber does not see any merit in the Accused's submission that because Vuković had to go through a very thorough clearance process before being appointed an adviser to the joint BiH presidency that this somehow undermines the evidence that he carried out expulsions of Bosnian Muslims. *See* Defence Final Brief, para. 1117; Milorad Davidović, T. 15591–15594 (29 June 2011). Fear was created by the killing of Bosnian Muslim families and looting of their homes. P2848 (Witness statement of Milorad Davidović dated 22 June 2011), paras. 151–152; Milorad Davidović, T. 15506–15507 (28 June 2011). While the Chamber received specific evidence about killings carried out by Malović's group, given that these are not scheduled killing incidents the Chamber will not make a finding with respect to these killings, but accepts this evidence for the purposes of concluding that an environment of fear was being created.

2167 P2848 (Witness statement of Milorad Davidović dated 22 June 2011), paras. 98, 153; Milorad Davidović, T. 15517 (28 June 2011); D1450 (Milorad Davidović's statement to Belgrade District Court, 26 December 2007), p. 21. *See also* Adjudicated Fact 2264.

2168 P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 153.

2169 P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 160. *See also* Adjudicated Fact 2264. Defence witnesses disputed Adjudicated Fact 2264 and suggested that the SDS did not have such a plan nor had they heard of these things occurring in the municipality and that any problems Bosnian Muslims faced did not come from the authorities in Bijeljina which treated all citizens equally: D3133 (Witness statement of Cvijetin Simić dated 16 March 2013), para. 42; D3089 (Witness statement of Milivoje Kićanović dated 3 March 2013), para. 27; D3137 (Witness statement of Svetozar Mihajlović dated 17 March 2013), para. 21; D3141 (Witness statement of Dušan Spasojević dated 18 March 2013), para. 25. The Chamber does not find this evidence to be reliable. In reaching this conclusion the Chamber concluded that the evidence of the relevant witnesses was marked by insincerity, evasiveness, the withholding of information, contradictions, and bias.

2170 P2848 (Witness statement of Milorad Davidović dated 22 June 2011), paras. 70, 92, 150, 162, 206; Milorad Davidović, T. 15593–15594 (29 June 2011) (testifying that (i) he saw Bosnian Serb officials compile a list of Bosnian Muslim names for "cleansing"; (ii) that a list of wealthy Bosnian Muslims that were to be robbed and killed was found with Arkan's and Mauzer's men; and (iii) he intervened on a number of occasions to have people removed from the list, and while the Bosnian Serb leadership complied in most cases, sometimes they refused); P2929 (Witness statement of KDZ531 dated 25 June 2011), pp. 3, 6 (under seal); KDZ531, T. 15844–15845 (1 July 2011) (closed session). *See also* Adjudicated Facts 2261; 2262.

2171 P2929 (Witness statement of KDZ531 dated 25 June 2011), p. 6 (under seal); KDZ531, T. 15845 (1 July 2011) (closed session). Ljubojević disputed his involvement and denied that he ever planned or expelled Bosnian Muslims. Ljubojević also testified that he never received orders from the SDS leadership to expel non-Serbs from the municipality. He also testified that it was not in his zone of responsibility and that he was not present in the municipality because he was on sick leave. D3144 (Witness statement of Dragomir Ljubojević dated 18 March 2013), para. 11. However, the Chamber is not convinced that this evidence is reliable and finds that Ljubojević had a clear interest in distancing himself from the events in question. The Chamber noted that the witness was evasive in his testimony in this regard, which was marked by insincerity. His testimony is also contradicted by direct evidence that he was seen twice advocating the expulsion of Bosnian Muslims from Bijeljina. [REDACTED].

operative in Bijeljina as well as one of Arkan's men,[2172] paid visits to those on the list in order to extort property from them.[2173] Đurković promised to take some Bosnian Muslims across the Drina for a fee while others who remained were "subjected to threats and intimidation."[2174] In some cases the residents were given ten-minutes to leave after which they were loaded onto trucks.[2175]

673. Some Bosnian Muslims initially paid to be able to stay in Bijeljina.[2176] From the beginning of April 1992 until the end of the war, Ješurić, along with his counterpart in the Serbian MUP Puzović, arranged for the daily transport of Bosnian Muslims through Serbia to a third country, and those Bosnian Muslims who wanted to leave had to pay "exorbitant fees" to obtain the necessary travel documentation.[2177] Others were detained immediately, stripped of their valuables, and transferred to "no-man's land" between the warring factions, where they remained, sometimes for days, before being able to cross into Muslim-controlled territory.[2178]

674. According to Defence witnesses, (i) there was no organised campaign for the expulsion of Bosnian Muslims from Bijeljina by the local authorities; (ii) Bosnian Muslims were not expelled and they voluntarily left combat areas and areas where Bosnian Muslims were no longer a majority;

2172 Dragomir Andan, T. 40869 (5 July 2013); Milorad Davidović, T. 15714–15716 (30 June 2011); Dragomir Ljubojević, T. 35897–35898 (22 March 2013). *See also* P2858 (Video footage of Radovan Karadžić and Arkan at award ceremony in Bijeljina with transcript) (Davidović identified Đurković in this video footage); Živan Filipović, T. 35799 (21 March 2013); D1136 (UNPROFOR report, 9 September 1994), para. 6.

2173 P2848 (Witness statement of Milorad Davidović dated 22 June 2011), paras. 70, 159. *See also* Adjudicated Fact 2262. Davidović testified that a portion of the extorted proceeds from Bijeljina was sent to the Accused and Krajišnik in Pale and Vojkan Đurković boasted about going to see the Accused and Krajišnik and giving them money. P2848 (Witness statement of Milorad Davidović dated 22 June 2011), paras. 70, 165; Milorad Davidović, T. 15725, 15730 (30 June 2011). However, the Chamber does not find that it can rely on this evidence in the absence of further corroboration given that Davidović in cross-examination acknowledged that Đurković was a person who liked to boast and he could not say how much truth there was in what he was saying and whether it was bragging or a lie. Milorad Davidović, T. 15728–15730 (30 June 2011). Đurković was also known as Puškar. Živan Filipović, T. 35799 (21 March 2013); Milivoje Kićanović, T. 34900 (6 March 2013).

2174 P2848 (Witness statement of Milorad Davidović dated 22 June 2011), paras. 70, 159–160, 165; Milorad Davidović, T. 15532–15533 (28 June 2011), 15724–15725 (30 June 2011); P2929 (Witness statement of KDZ531 dated 25 June 2011), p. 5 (under seal); KDZ531, T. 15855 (1 July 2011) (closed session); P5421 (Letter from humanitarian organisation to Radovan Karadžić, 16 September 1993), p. 2 (under seal). *See also* Jeremy Bowen, T. 10100–10101 (13 January 2011); P2073 (BBC news report re Bijeljina, with transcript), pp. 1–2; Svetozar Mihajlović, T. 35738–35739 (20 March 2013); D3137 (Witness statement of Svetozar Mihajlović dated 17 March 2013), para. 14.

2175 Milorad Davidović, T. 15532–15533 (28 June 2011), T. 15594–15595 (29 June 2011), T. 15728 (30 June 2011); P2848 (Witness statement of Milorad Davidović dated 22 June 2011), paras. 70, 160; P2929 (Witness statement of KDZ531 dated 25 June 2011), p. 5 (under seal); P5421 (Letter from humanitarian organisation to Radovan Karadžić, 16 September 1993), p. 1 (under seal).

2176 Adjudicated Fact 2262.

2177 P2848 (Witness statement of Milorad Davidović dated 22 June 2011), paras. 162–163; P2885 (Excerpt from video from TV BiH Studio Tuzla re expelled people from Semberija); D1450 (Milorad Davidović's statement to Belgrade District Court, 26 December 2007), p. 26; Milorad Davidović, T. 15533 (28 June 2011); P2929 (Witness statement of KDZ531 dated 25 June 2011), pp. 4–5 (under seal).

2178 P2848 (Witness statement of Milorad Davidović dated 22 June 2011), paras. 70, 160; Milorad Davidović, T. 15532–15533 (28 June 2011), 15724–15725 (30 June 2011); P2929 (Witness statement of KDZ531 dated 25 June 2011), p. 5 (under seal); KDZ531, T. 15855 (1 July 2011) (closed session); P5421 (Letter from

(iii) Bosnian Muslims who wanted to stay, could do so and worked normally throughout the war; (iv) Bosnian Muslims requested to leave the municipality because of a number of factors, including the increasing number of Bosnian Serb refugees in the municipality and the increasing ethnic polarisation; (v) there was no list of Bosnian Muslim names identified for expulsion; (vi) Đurković was never a member of the SDS and while he took Bosnian Muslims to the demarcation line, he simply helped them to leave the territory upon their request; (vii) Đurković did not have a large unit of armed men that would be able to forcibly expel such a large group of Bosnian Muslims; and (viii) the authorities facilitated the voluntary departure of Bosnian Muslims, calling for measures to be taken against groups that were trying to disturb relations and pressure Bosnian Muslims to leave the municipality.[2179] However, the Chamber does not find this evidence to be reliable. In reaching this conclusion the Chamber noted that this evidence was based to a large extent on the witnesses' own assumptions and speculation and that the evidence of the relevant witnesses was marked by substantial contradictions and evasiveness. The Chamber also noted that this is contrary to the credible evidence which the Chamber received with respect to the involvement of Bosnian Serb authorities in the expulsion of the Bosnian Muslim population.[2180]

675. A private agency staffed by the MUP but not formally part of the MUP was established to "expel non-Serbs and to confiscate their property".[2181] Many Bosnian Muslims were required to sign a statement which left all their property to the agency which subsequently put Serb refugees into these houses.[2182] Abandoned Bosnian Muslim houses were looted at night by village guards who were under the control of the SDS Main Board in Bijeljina after which the property was taken to Serbia and the houses allocated to Serbs.[2183]

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humanitarian organisation to Radovan Karadžić, 16 September 1993), p. 2 (under seal). *See also* Adjudicated Facts 2261, 2262.

2179 D3089 (Witness statement of Milivoje Kićanović dated 3 March 2013), para. 25; Milivoje Kićanović, T. 34897–34898, 34900–34901, 34908, 34910–34913 (6 March 2013); D3141 (Witness statement of Dušan Spasojević dated 18 March 2013), para. 24; D3137 (Witness statement of Svetozar Mihajlović dated 17 March 2013), paras. 15, 21; Svetozar Mihajlović, T. 35738–35739 (20 March 2013); D3144 (Witness statement of Dragomir Ljubojević dated 18 March 2013), para. 18; Dragomir Ljubojević, T. 35910, 35920 (22 March 2013).

2180 *See* paras. 669–671.

2181 P2929 (Witness statement of KDZ531 dated 25 June 2011), p. 4 (under seal).

2182 P2929 (Witness statement of KDZ531 dated 25 June 2011), pp. 4–5 (under seal); Milorad Davidović, T. 15789 (30 June 2011). *See also* P2451 (Witness statement of Anthony Banbury dated 19 May 2009), paras. 62–63. Ljubojević testified that refugees were not only accommodated in houses of Bosnian Muslims but also in the houses of Bosnian Serbs and that a commission existed which made lists of property which was assigned for the use of displaced persons but after the war this property was returned to its previous owners. Dragomir Ljubojević, T. 35906, 35917–35918 (22 March 2013). The Chamber does not find evidence that abandoned Bosnian Serb homes were also used for the accommodation of refugees undermines the evidence about the way in which Bosnian Muslims were forced to sign over their property. The Chamber also noted that Ljubojević showed signs of insincerity and evasiveness when questioned about the expulsion of Bosnian Muslims from Bijeljina.

2183 P2848 (Witness statement of Milorad Davidović dated 22 June 2011), paras. 70, 89; P2929 (Witness statement of KDZ531 dated 25 June 2011), p. 5 (under seal). *See also* Adjudicated Fact 2263.

676. Đurković was arrested after he expelled a Bosnian Muslim who was on good terms with senior SDS members who had established a military unit of Bosnian Muslims in the VRS.[2184] However, these proceedings were stopped and Đurković was released when he provided documents which suggested that he was authorised and had orders to expel Bosnian Muslim residents from Bijeljina.[2185] In July 1995, there was a request by the Bijeljina SJB to commence proceedings against Đurković for having expelled Bosnian Muslims without the knowledge of municipal authorities.[2186] However, the Chamber notes that this request relates to one specific incident in July 1995, and the evidence is equivocal as to whether or not these proceedings were concluded or whether Đurković was released.[2187] Filipović testified that Đurković was acquitted in BiH for forcibly expelling Bosnian Muslims.[2188] The evidence led, however, does not provide any detail about when these proceedings were concluded; further, the evidence does not reveal whether the proceedings related to a specific incident or time frame. The Chamber finds the evidence led on this issue to be inconclusive and lacking detail and does not consider that it establishes, as the Accused submits, that the accusations against Đurković were false.[2189]

677. On 9 September 1992, the Bosnian Serb Assembly in Bijeljina issued a declaration inviting all citizens who had left their homes to return and assured citizens of "other nationalities" that their rights would be recognised and that all who were members of the "enemy forces" but who had not committed crimes against the Serb people would not be criminally prosecuted.[2190] While some Bosnian Muslims did return to Bijeljina,[2191] even by May 1993 the number of Bosnian Muslims who were present in Bijeljina was limited[2192] and by September 1993, the expulsion of the

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2184 P2929 (Witness statement of KDZ531 dated 25 June 2011), p. 5 (under seal); KDZ531, T. 15856 (1 July 2011) (closed session); Dragomir Ljubojević, T. 35914–35915 (22 March 2013).

2185 P2929 (Witness statement of KDZ531 dated 25 June 2011), p. 5 (under seal); KDZ531, T. 15856 (1 July 2011) (closed session); Svetozar Mihajlović, T. 35738–35739 (20 March 2013).

2186 D1429 (Request of Bijeljina's Municipal Assembly, 24 July 1995), pp. 1–2; D3137 (Witness statement of Svetozar Mihajlović dated 17 March 2013), para. 14.

2187 D3137 (Witness statement of Svetozar Mihajlović dated 17 March 2013), para. 14; Svetozar Mihajlović, T. 35738–35739 (20 March 2013).

2188 Živan Filipović, T. 35811–35812 (21 March 2013)

2189 Defence Final Brief, para. 1387.

2190 D114 (Declaration of RS Assembly, 9 September 1992), p. 1.

2191 Momčilo Mandić, T. 5278 (15 July 2010); Milorad Davidović, T. 15732 (30 June 2011); D473 (SerBiH MUP, Summary from the MUP management meeting held on 20 August 1992), p. 10 (which suggests that some Bosnian Muslims returned to their homes in Bijeljina influenced by statements made by the Accused and Panić); Milivoje Kićanović, T. 34912 (6 March 2013).

2192 P820 (Witness statement of David Harland dated 4 September 2009), para.273; David Harland, T. 2116-2117 (7 May 2010).

remaining Bosnian Muslims by Đurković and men under his command intensified.[2193] The same process of expulsions of Bosnian Muslims continued into August and September 1994.[2194]

678. The systematic expulsion of Bosnian Muslims continued until the signing of the Dayton Accords with only 500 to 1,000 Bosnian Muslims remaining in Bijeljina by the time the Dayton Accords were signed.[2195] This resulted in Bijeljina effectively being turned into an "ethnically Serb town".[2196]

679. Having considered the totality of the evidence and assessed the circumstances in which departures occurred, the Chamber finds that Bosnian Muslims were forced to leave Bijeljina.

ii. Bratunac

(A) Charges

680. Under Count 3, the Prosecution alleges that persecution, a crime against humanity, was committed in Bratunac as part of the objective to permanently remove Bosnian Muslims and/or

2193 P5421 (Letter from humanitarian organisation to Radovan Karadžić, 16 September 1993), pp. 1–2 (under seal); P2471 (UNPROFOR Weekly BiH Political Assessment, 3 September 1994), p. 4; P5423 (UNPROFOR report, 20 September 1994), p. 2. *But see* P2073 (BBC news report re Bijeljina, with transcript), p. 1 (in which Đurković denies the reports about his actions). The Chamber sees this as an attempt by Đurković to distance himself from mistreatment of Bosnian Muslims and will therefore not rely on this part of the evidence.

2194 P2457 (UNPROFOR Weekly BiH Political Assessment, 28 August 1994), pp. 2, 4; P2471 (UNPROFOR Weekly BiH Political Assessment, 3 September 1994), p. 4; P5483 (ICRC Press Release re Forced Population Transfers, 30 August 1994); P2087 (UNHCR protest letter to Radovan Karadžić, 5 September 1994); P2458 (UNPROFOR Weekly BiH Political Assessment, 11 September 1994), pp. 2–3; P2885 (Excerpt from video from TV BiH Studio Tuzla re expelled people from Semberija); P5423 (UNPROFOR report, 20 September 1994), p. 2; P2929 (Witness statement of KDZ531 dated 25 June 2011), p. 7 (under seal); P2932 (ICRC report re Bijeljina, 19 September 1994). Ljubojević disputed the accuracy of this ICRC document. Dragomir Ljubojević, T. 35912 (22 March 2013). The Chamber does not find Ljubojević's evidence to be reliable in this regard. The witness failed to explain why he considered the document to be inaccurate and simply stated that he was not aware of these incidents or the pattern of expulsions. The Chamber also noted that the witness's evidence was marked by evasiveness and a lack of forthrightness in this regard.

2195 P2848 (Witness statement of Milorad Davidović dated 22 June 2011), paras. 162, 164. *See also* P1473 (Ratko Mladić's notebook, 27 January–5 September 1995), pp. 87–88.

2196 Jeremy Bowen, T. 10100–10101 (13 January 2011); P2073 (BBC news report re Bijeljina, with transcript), pp. 1–2; P2932 (ICRC report re Bijeljina, 19 September 1994); Milorad Davidović, T. 15531–15532 (28 June 2011); Milorad Davidović, T. 15717 (30 June 2011). *See also* P2929 (Witness statement of KDZ531 dated 25 June 2011), p. 7 (under seal); D4002 (Letter from BiH MUP to Vasvija Vidović, 4 July 1995), p. 30. Mihajlović testified that the Bosnian Serb leadership in Bijeljina never received instructions from the republican organs for the movement of non-Serbs from Bijeljina and that no such orders were issued to staff at the municipality level: D3137 (Witness statement of Svetozar Mihajlović dated 17 March 2013), para. 13. The Chamber does not consider this evidence to be reliable. In reaching that conclusion the Chamber observed that the witness had an interest in distancing himself from alleged crimes in Bijeljina and that his evidence was marked by contradictions. Ljubojević also testified that by 1995 there were approximately 10,000 Bosnian Muslims who remained in the municipality and that he was not aware of the pattern of expulsions. D3144 (Witness statement of Dragomir Ljubojević dated 18 March 2013), para. 14. *See also* Dragomir Ljubojević, T. 35915 (22 March 2013). The Chamber does not find Ljubojević's evidence to be reliable in this regard. The witness's evidence was marked by evasiveness and insincerity with respect to this issue.

Bosnian Croats from the Municipalities.[2197] Under Count 1, the Prosecution further alleges that in certain municipalities, including Bratunac, this persecutory campaign included or escalated to include conduct that manifested an intent to destroy in part the national, ethnical and/or religious groups of Bosnian Muslims and/or Bosnian Croats as such.[2198]

681. Acts alleged to have been committed in Bratunac by Serb Forces and Bosnian Serb Political and Governmental Organs include killings during and after the take-over;[2199] killings related to detention facilities;[2200] and killings committed during, and deaths resulting from, cruel and inhumane treatment at scheduled detention facilities.[2201] The Prosecution characterises these acts as killing, an underlying act of genocide, under Count 1; persecution, a crime against humanity, under Count 3; extermination, a crime against humanity, under Count 4; murder, a crime against humanity, under Count 5; and murder, a violation of the laws or customs of war, under Count 6.[2202]

682. Other acts alleged to have been committed in Bratunac by Serb Forces and Bosnian Serb Political and Governmental Organs include torture, beatings, and physical and psychological abuse, during and after the take-over and in scheduled detention facilities, as well as the establishment and perpetuation of inhumane living conditions in detention facilities, as cruel or inhumane treatment, an act of persecution under Count 3.[2203] In relation to Count 1, the Prosecution alleges that in scheduled detention facilities in Bratunac, thousands of Bosnian Muslims and Bosnian Croats were subjected to cruel or inhumane treatment, including torture, physical and psychological abuse, and beatings by Serb Forces and Bosnian Serb Political and Governmental Organs; the Prosecution characterises this inhumane treatment as causing serious bodily or mental harm to Bosnian Muslims and Bosnian Croats, an underlying act of genocide.[2204] In addition, under Count 1, the Prosecution alleges that thousands of Bosnian Muslims and Bosnian Croats were detained under conditions of life calculated to bring about physical destruction, namely through cruel and inhumane treatment, including torture, physical and psychological abuse, inhumane living conditions, and the failure to

2197 Indictment, paras. 48–49.

2198 Indictment, paras. 37–38.

2199 Indictment, para. 60(a)(i). *See* Scheduled Incidents A.3.1, A3.2.

2200 Indictment, para. 60(a)(ii). *See* Scheduled Incident B.4.1.

2201 Indictment, para. 60(a)(ii). *See* Scheduled Detention Facilities C.6.1, C.6.2.

2202 Indictment, paras. 40(a), 60(a), 63(a), 63(b).

2203 Indictment, para. 60(b), 60(c), 60(d) (specifying that the conditions included the failure to provide adequate accommodation, shelter, food, water, medical care, or hygienic sanitation facilities) . *See* Scheduled Detention Facilities C.6.1, C.6.2. The Chamber notes that the Prosecution does not allege criminal responsibility for rape and other acts of sexual violence or for forced labour at the frontlines in Bratunac. Indictment, fns. 5, 7.

2204 Indictment, para. 40(b).

provide adequate accommodation, shelter, food, water, medical care or hygienic sanitation facilities.[2205]

683. Under Count 3, other acts of persecution alleged to have been committed in Bratunac by Serb Forces and Bosnian Serb Political and Governmental Organs, include (i) forcible transfer or deportation of Bosnian Muslims and Bosnian Croats from their homes;[2206] (ii) unlawful detention in scheduled detention facilities;[2207] (iii) the appropriation or plunder of property, during and after the take-over of Bratunac, during arrests and detention and in the course of or following acts of deportation or forcible transfer;[2208] (iv) the wanton destruction of private property, including homes and business premises, and public property, including cultural monuments and sacred sites;[2209] and (v) the imposition and maintenance of restrictive and discriminatory measures.[2210]

684. Under Counts 7 and 8, the Prosecution alleges deportation and inhumane acts (forcible transfer), respectively, as crimes against humanity.[2211] In this regard, the Prosecution alleges that, by the end of 1992, Serb Forces and Bosnian Serb Political and Governmental Organs had forcibly displaced Bosnian Muslims and Bosnian Croats from areas in Bratunac in which they were lawfully present.[2212] It is alleged that from March 1992, restrictive and discriminatory measures, arbitrary arrest and detention, harassment, torture, killing, destruction of houses, cultural monuments and sacred sites, as well as the threat of further such acts caused Bosnian Muslims and Bosnian Croats to flee in fear while others were physically driven out.[2213] It is further alleged that acts of forcible displacement continued between January and March 1993 when Serb Forces attacked the Konjević Polje area in Bratunac.[2214]

(B) Lead-up

685. Bratunac is a municipality in eastern BiH located to the south of Zvornik, the east of Vlasenica, and the north of Srebrenica.[2215] The Drina River forms a border between Bratunac and

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2205 Indictment, para. 40(c). *See* Scheduled Detention Facilities C.6.1, C.6.2.

2206 Indictment, paras. 56, 60(f).

2207 Indictment, para. 60(g). *See* Scheduled Detention Facilities C.6.1, C.6.2.

2208 Indictment, para. 60(i).

2209 Indictment, para. 60(j). *See* Scheduled Incident D.6.

2210 Indictment, para. 60(k). The restrictive and discriminatory measures alleged include the denial of freedom of movement; the removal from positions of authority; the invasion of privacy through arbitrary searches of homes; unlawful arrest and/or the denial of the right to judicial process; and/or the denial of equal access to public services.

2211 Indictment, paras. 68–75.

2212 Indictment, paras. 69, 72.

2213 Indictment, para. 71.

2214 Indictment, para. 72.

2215 D484 (Map of BiH).

Serbia to the east.[2216] Prior to the war, the population of Bratunac was approximately 33,000 and consisted of about 62% Bosnian Muslims, 36% Bosnian Serbs, and 2% from other groups.[2217] The town of Bratunac itself had a population of between 7,000 and 8,000.[2218]

686. The SDS was formed in Bratunac following a meeting on 8 August 1990 and Miroslav Deronjić was elected president of the SDS Municipal Board and subsequently chairman of the municipal board.[2219] Deronjić was the most influential Bosnian Serb official in Bratunac.[2220] The constituent assembly of the SDA was held in Bratunac in September 1990.[2221] Following the formation of the national parties, and as relations between ethnic groups deteriorated, fear in the municipality increased.[2222]

687. The SDA won the majority of seats in Bratunac after the multi-party elections. A coalition government was formed and leadership positions were divided between representatives of the SDA and SDS.[2223] Nijaz Dubišić, a Bosnian Muslim, was the President of the Municipality, the

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2216 P3196 (Witness statement of Dževad Gušić undated), para. 26(a).

2217 P4994 (Addendum to Ewa Tabeau's expert report entitled "Ethnic Composition in Internally Displaced Persons and Refugees from 27 Municipalities of BiH 1991 to 1997", 3 February 2009), e-court pp. 30, 33, 36, 39; P3196 (Witness statement of Dževad Gušić undated), para. 3; Dževad Gušić, T. 17813 (24 August 2011); D3398 (Witness statement of Ljubisav Simić dated 7 April 2013), para. 4; P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 4 (under seal); KDZ605, T. 17882 (25 August 2011); P4374 (Witness statement of Milenko Katanić dated 11 October 2011), para. 10; D3126 (Witness statement of Jovan Nikolić dated 10 March 2013), para. 28; D225 (Ethnic map of BiH based on 1991 census).

2218 D3398 (Witness statement of Ljubisav Simić dated 7 April 2013), para. 4.

2219 P4376 (Minutes from first meeting of the Initial Board for the formation of the SDS in Bratunac, 8 August 1990), pp. 1–2. *See also* P4374 (Witness statement of Milenko Katanić dated 11 October 2011), paras. 6–7, 12; P3188 (Witness statement of Mušan Talović dated 14 July 2011), para. 8; Mušan Talović, T. 17638 (22 August 2011); P3196 (Witness statement of Dževad Gušić undated), para. 6; P3204 (List of Bratunac leadership prepared by Dževad Gušić, 2 May 2003); P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 9 (under seal).

2220 Srbislav Davidović, P4100 (Transcript from *Prosecutor v. Popović*), T. 9260; Srbislav Davidović, T. 24384 (9 February 2012). Ljubisav Simić and Rodoljub Đukanović were both members of the SDS leadership in Bratunac. D3118 (Witness statement of Aleksandar Tešić dated 10 March 2013), para. 19; P3204 (List of Bratunac leadership prepared by Dževad Gušić, 2 May 2003).

2221 D3194 (Witness statement of Rodoljub Đukanović dated 24 March 2013), para. 10. On or around 20 March 1992 Dževad Gušić was appointed president of the SDA in Bratunac. Dževad Gušić, T. 17778 (24 August 2011); P3196 (Witness statement of Dževad Gušić undated), paras. 5, 71; P3204 (List of Bratunac leadership prepared by Dževad Gušić, 2 May 2003); P3203 (Summary of Dževad Gušić's personal background, 2 May 2003); P3205 (Witness statement of KDZ605 dated 22 August 2011), paras. 9, 17 (under seal).

2222 P4374 (Witness statement of Milenko Katanić dated 11 October 2011), para. 10; D3115 (Witness statement of Branimir Tešić dated 9 March 2013), paras. 3–4; D3398 (Witness statement of Ljubisav Simić dated 7 April 2013), paras. 7, 10. *See also* D3194 (Witness statement of Rodoljub Đukanović dated 24 March 2013), paras. 8–9; D3126 (Witness statement of Jovan Nikolić dated 10 March 2013), para. 21; D3852 (Witness statement of Mirko Perić dated 1 July 2013), para. 6; D3115 (Witness statement of Branimir Tešić dated 9 March 2013), para. 8.

2223 P3188 (Witness statement of Mušan Talović dated 14 July 2011), para. 7; P3204 (List of Bratunac leadership prepared by Dževad Gušić, 2 May 2003); P3196 (Witness statement of Dževad Gušić undated), paras. 4, 10a; Dževad Gušić, T. 17813, 17843, 17846 (24 August 2011); D1658 (Report of Bratunac Municipal Assembly, 5 March 1991); P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 12 (under seal); D3126 (Witness statement of Jovan Nikolić dated 10 March 2013), para. 30; D3194 (Witness statement of Rodoljub Đukanović dated 24 March 2013), para. 12; Milenko Katanić, T. 24513–24514 (10 February 2012). *See also* P3197 (Minutes of sessions of Bratunac SDS Crisis Staff and Municipal Board), p. 6.

President of the Executive Board was a Bosnian Serb and there was equal representation between Bosnian Serbs and Bosnian Muslims on the Executive Board.[2224] Senad Hodžić was appointed as head of the police in late 1991 and Džemo Hodžić was the Bosnian Muslim commander of the TO staff.[2225] Over time, there were disagreements between the SDS and SDA regarding those who were recommended for certain posts.[2226]

688. From 1991, there was growing Bosnian Serb nationalist sentiment with increasing intimidation of Bosnian Muslims.[2227] SDS members wrote slogans on street and traffic signs as well as on public and private property, which were derogatory towards Bosnian Muslims, including messages to the effect: "Muslims, Balijas, Turks move out, you're going to be slaughtered", "there is no Bosnia any more".[2228] Other slogans included the names of Slobodan Milošević, the Accused, "Chetnik" commanders from the Second World War and phrases such as:"This is Serbia, Greater Serbia".[2229] These developments coincided with SDS representatives stating that co-existence was not possible and that Bratunac was a "Serb municipality".[2230]

689. There was also an increase in Bosnian Muslim rhetoric that Serbs should go to Serbia and that BiH belonged to the Muslims, which led to many Bosnian Serbs moving from Bratunac to Serbia.[2231] Tensions increased further when (i) there were attacks against Bosnian Serb leaders[2232] and SDS members; (ii) Bosnian Muslims boycotted the JNA mobilisation but started going to

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2224 Dževad Gušić, T. 17815–17819 (24 August 2011); P3196 (Witness statement of Dževad Gušić undated), paras. 5–6, 10, 71; P3204 (List of Bratunac leadership prepared by Dževad Gušić, 2 May 2003); Rodoljub Đukanović, T. 36163 (27 March 2013); D3194 (Witness statement of Rodoljub Đukanović dated 24 March 2013), paras. 2, 12. *See also* Milenko Katanić, T. 24515 (10 February 2012).

2225 P3204 (List of Bratunac leadership prepared by Dževad Gušić, 2 May 2003); P3196 (Witness statement of Dževad Gušić undated), paras. 10b, 71; Dževad Gušić, T. 17818–17819 (24 August 2011). *See also* Milenko Katanić, T. 24515 (10 February 2012).

2226 D3126 (Witness statement of Jovan Nikolić dated 10 March 2013), para. 30; D3194 (Witness statement of Rodoljub Đukanović dated 24 March 2013), para. 12. *See also* Dževad Gušić, T. 17843 (24 August 2011).

2227 P3196 (Witness statement of Dževad Gušić undated), paras. 13–14, 16.

2228 Dževad Gušić, T. 17789 (24 August 2011).

2229 Dževad Gušić, T. 17779–17780, 17789 (24 August 2011); P3196 (Witness statement of Dževad Gušić undated), para. 42.

2230 P3196 (Witness statement of Dževad Gušić undated), paras. 14, 17.

2231 D3194 (Witness statement of Rodoljub Đukanović dated 24 March 2013), paras. 7–11; D3398 (Witness statement of Ljubisav Simić dated 7 April 2013), para. 13; Milenko Katanić, T. 24516, 24530 (10 February 2012). *See also* D3174 (Witness statement of Vujadin Stević dated 23 March 2013), paras. 8, 12; D3115 (Witness statement of Branimir Tešić dated 9 March 2013), para. 6. *But see* P3196 (Witness statement of Dževad Gušić undated), para. 17.

2232 D3398 (Witness statement of Ljubisav Simić dated 7 April 2013), para. 20; D3194 (Witness statement of Rodoljub Đukanović dated 24 March 2013), paras. 14, 23; Rodoljub Đukanović, T. 36148 (27 March 2013); D3126 (Witness statement of Jovan Nikolić dated 10 March 2013), para. 24.

Croatia for training;[2233] and (iii) in the autumn of 1991 there was a mobilisation of the reserve police force, which in Bratunac consisted of over 60% Bosnian Muslims.[2234]

690. At a meeting of the SDS Municipal Board of Bratunac in February 1991, Deronjić and others were chosen to conduct negotiations with the SDA.[2235] At another meeting of the SDS Municipal Board on 12 April 1991, it was agreed that instructions would be requested from the SDS headquarters "regarding the referendum, our behaviour and functioning" and that the regional redrawing of municipal borders which was occurring in Banja Luka was "fully supported, and those questions should be posed in our areas as well".[2236] It was also noted that the Presidency of Bratunac should meet with the Accused urgently with respect to the questions raised.[2237]

691. In that period, there was increasing intimidation of Bosnian Muslim professionals and incidents where prominent Bosnian Muslim men were beaten.[2238] Road-blocks were erected by Bosnian Serbs.[2239] In the SJB there was greater distrust between Bosnian Muslim and Bosnian Serb police officers.[2240] Dževad Gušić, the President of the SDA in Bratunac, was subjected to intimidation and was shot at on a number of occasions while leaving his home.[2241] There was also shooting at night from Bosnian Serb villages at Bosnian Muslim villages and some Bosnian Muslims were taken from their homes and killed.[2242] There were also increasing confrontations and division between ethnic groups in the work place.[2243]

2233 D3398 (Witness statement of Ljubisav Simić dated 7 April 2013), paras. 15, 19–20; D3399 (Letter from Bratunac SJB to Tuzla CSB, 17 March 1992); D3194 (Witness statement of Rodoljub Đukanović dated 24 March 2013), paras. 8–11, 13, 15; D260 (SDA letter re MUP training in Croatia, 11 July 1991); P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 20 (under seal); KDZ605, T. 17895 (25 August 2011). *See also* D3126 (Witness statement of Jovan Nikolić dated 10 March 2013), paras. 20, 22; D3118 (Witness statement of Aleksandar Tešić dated 10 March 2013), paras. 5–6; D3174 (Witness statement of Vujadin Stević dated 23 March 2013), para. 3.

2234 This mobilisation was ordered by Alija Delimustafić of the MUP. D3194 (Witness statement of Rodoljub Đukanović dated 24 March 2013), para. 18; Rodoljub Đukanović, T. 36149–36150 (27 March 2013). *See also* D3174 (Witness statement of Vujadin Stević dated 23 March 2013), para. 6.

2235 P3197 (Minutes of sessions of Bratunac SDS Crisis Staff and Municipal Board), p. 10.

2236 P3197 (Minutes of sessions of Bratunac SDS Crisis Staff and Municipal Board), p. 13. The Chamber rejects Đukanović's evidence that, except for one order in relation to a humanitarian convoy from the Accused, there was practically no communication between Bratunac and Pale (D3194 (Witness statement of Rodoljub Đukanović dated 24 March 2013), para. 51; Rodoljub Đukanović, T. 36147, 36169–36170, 36172–36173, 36178, 36179, 36191–36192, 36202, 36209–36210 (27 March 2013). The Chamber finds that Đukanović's testimony was marked by contradictions, extreme evasiveness and indicators of insincerity and does not find his evidence to be reliable in this regard.

2237 P3197 (Minutes of sessions of Bratunac SDS Crisis Staff and Municipal Board), p. 13.

2238 P3196 (Witness statement of Dževad Gušić undated), para. 15; Dževad Gušić, T. 17795 (24 August 2011).

2239 Mušan Talović, T. 17647–17649 (22 August 2011). *See also* P3196 (Witness statement of Dževad Gušić undated), paras. 77–78; Dževad Gušić, T. 17849 (24 August 2011).

2240 D3115 (Witness statement of Branimir Tešić dated 9 March 2013), paras. 3–5.

2241 P3196 (Witness statement of Dževad Gušić undated), paras. 44–47.

2242 P3205 (Witness statement of KDZ605 dated 22 August 2011), paras. 31–33 (under seal); P3196 (Witness statement of Dževad Gušić undated), paras. 45a, 74. *See also* P3263 (Witness statement of Suad Džafić dated

692. Inter-ethnic relations deteriorated further in late August 1991, following failed attempts by SDS supporters, with the help of a JNA unit and members of the Bosnian Serb police, to demand military documentation from the Municipal Secretariat to identify the names of men who could be mobilised.[2244] Their attempts to secure these military records were blocked by a large crowd of SDA supporters and Bosnian Muslim members of the police.[2245] Following this incident there were increased inter-ethnic clashes in Bratunac,[2246] which disrupted the coalition government.[2247]

693. Tensions and mistrust increased even further in September 1991 following an incident in Kravica in which Bosnian Muslims were ambushed, wounded, and some killed.[2248] A large crowd of Bosnian Muslims demanded that the incident be investigated and called for the perpetrators to be brought to justice.[2249] The situation was only calmed down when political leaders, including Nikola Koljević, arrived in Bratunac and made public assurances to Bosnian Muslims that there

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31 August 2011), paras. 6–8; Suad Džafić, T. 18193 (1 September 2011). The Chamber has only had regard to these killings for the purpose of setting the general background in Bratunac given these killings are not charged pursuant to Schedules A or B of the Indictment. *See* fn. 13.

2243 P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 30 (under seal).

2244 P3196 (Witness statement of Dževad Gušić undated), paras. 20, 25; Dževad Gušić, T. 17822 (24 August 2011). *See also* D1657 (Excerpt from book entitled "The Truth about Bratunac"), p. 1; D3118 (Witness statement of Aleksandar Tešić dated 10 March 2013), para. 10; D3115 (Witness statement of Branimir Tešić dated 9 March 2013), para. 11.

2245 P3188 (Witness statement of Mušan Talović dated 14 July 2011), para. 12; P3196 (Witness statement of Dževad Gušić undated), paras. 20–25; P3205 (Witness statement of KDZ605 dated 22 August 2011), paras. 19–20 (under seal); D3126 (Witness statement of Jovan Nikolić dated 10 March 2013), para. 23; D3115 (Witness statement of Branimir Tešić dated 9 March 2013), para. 11; D3398 (Witness statement of Ljubisav Simić dated 7 April 2013), paras. 20–23; KDZ605, T. 17894–17895 (25 August 2011); Momir Nikolić, T. 24713 (14 February 2012). *See also* D3194 (Witness statement of Rodoljub Đukanović dated 24 March 2013), paras. 15–16; D3195 (Official note of Tuzla CSB, 4 September 1991), p. 2; D3118 (Witness statement of Aleksandar Tešić dated 10 March 2013), paras. 7, 10–12; D3115 (Witness statement of Branimir Tešić dated 9 March 2013), paras. 11–13.

2246 D3398 (Witness statement of Ljubisav Simić dated 7 April 2013), para. 24; D3194 (Witness statement of Rodoljub Đukanović dated 24 March 2013), para. 17; D3126 (Witness statement of Jovan Nikolić dated 10 March 2013), para. 24; D3118 (Witness statement of Aleksandar Tešić dated 10 March 2013), para. 14.

2247 Milenko Katanić, T. 24517 (10 February 2012).

2248 P3196 (Witness statement of Dževad Gušić undated), paras. 33, 79; Dževad Gušić, T. 17824 (24 August 2011); D3115 (Witness statement of Branimir Tešić dated 9 March 2013), para. 14; D3398 (Witness statement of Ljubisav Simić dated 7 April 2013), paras. 25–26, 28; D3194 (Witness statement of Rodoljub Đukanović dated 24 March 2013), paras. 19–20, 22–24; D3126 (Witness statement of Jovan Nikolić dated 10 March 2013), paras. 23, 25–26. *See also* P3205 (Witness statement of KDZ605 dated 22 August 2011), paras. 13–14 (under seal); D3194 (Witness statement of Rodoljub Đukanović dated 24 March 2013), para. 21; D3195 (Official note of Tuzla CSB, 4 September 1991), p. 2. Đukanović testified that this incident was used by Bosnian Muslims to their advantage to be "even more brutal in their behaviour" and as justification to arm themselves on a large scale. D3194 (Witness statement of Rodoljub Đukanović dated 24 March 2013), paras. 21, 24. *See also* D3195 (Official note of Tuzla CSB, 4 September 1991), p. 2. The Chamber notes that Đukanović's testimony was marked by extreme evasiveneses, contradictions, speculation, and indicators of insincerity which undermined the reliability of his evidence in this regard.

2249 P3196 (Witness statement of Dževad Gušić undated), paras. 33–34. *See also* P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 14 (under seal).

would be an investigation.[2250] However, Koljević subsequently went to the site and reassured Bosnian Serbs who had gathered there that the investigation would not take place; the Accused himself in a radio broadcast guaranteed that there would be no investigation.[2251] The increased tension contributed to a feeling of insecurity, which prompted both ethnic groups to start performing night guard duty around their homes.[2252]

694. The SDS issued an ultimatum before the Municipal Assembly was due to be convened; this insisted on a 50:50 power sharing arrangement even though they were in the minority.[2253] The SDA accepted this ultimatum.[2254]

(1) Militarisation of Bratunac

695. Before the multi-party elections, the JNA had withdrawn the local TO weapons and placed them under their control.[2255] In late August 1991, SDS officials, including Deronjić, and the JNA were involved in training and arming local Bosnian Serbs with these weapons.[2256] At the end of 1991 and early into 1992, JNA military formations moved closer to Bratunac, and there was an increasing movement of military vehicles and personnel in the surrounding villages and hills.[2257]

2250 D3398 (Witness statement of Ljubisav Simić dated 7 April 2013), paras. 27–28; P3196 (Witness statement of Dževad Gušić undated), para. 35. *See also* D3194 (Witness statement of Rodoljub Đukanović dated 24 March 2013), para. 22.

2251 P3196 (Witness statement of Dževad Gušić undated), para. 35.

2252 D3398 (Witness statement of Ljubisav Simić dated 7 April 2013), paras. 29–30, 32; D3194 (Witness statement of Rodoljub Đukanović dated 24 March 2013), para. 25. *See also* D3174 (Witness statement of Vujadin Stević dated 23 March 2013), paras. 7, 9; D3115 (Witness statement of Branimir Tešić dated 9 March 2013), para. 8; P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 14 (under seal).

2253 P3196 (Witness statement of Dževad Gušić undated), paras. 10-10a; Dževad Gušić, T. 17813–17814 (24 August 2011). *See also* D3398 (Witness statement of Ljubisav Simić dated 7 April 2013), para. 17.

2254 P3196 (Witness statement of Dževad Gušić undated), para. 10. Prior the multi-party elections, the SDS was able to lobby the deputies of the Municipal Assembly to change the statute of the Assembly to require a two-third majority for decisions which effectively prevented the SDA, after the elections, from passing any decisions without support from the SDS. P3196 (Witness statement of Dževad Gušić undated), paras. 7–8; Dževad Gušić, T. 17813–17814 (24 August 2011).

2255 P3196 (Witness statement of Dževad Gušić undated), paras. 18, 74. The JNA took over the stock of TO weapons and ammunition pursuant to an order of Federal Secretariat for National Defence of the SFRY on 14 May 1990. P3201 (Order of SFRY Federal Secretariat for National Defence, 14 May 1990), pp. 1–2.

2256 P4374 (Witness statement of Milenko Katanić dated 11 October 2011), para. 25; P3196 (Witness statement of Dževad Gušić undated), paras. 19, 27–27a, 30b, 62; Dževad Gušić, T. 17794–17795 (24 August 2011). *See also* D3195 (Official note of Tuzla CSB, 4 September 1991), p. 2; P3205 (Witness statement of KDZ605 dated 22 August 2011), paras. 21, 23 (under seal). Defence witnesses testified that Bosnian Serbs only began to buy weapons in response to the massive scale arming of the Bosnian Muslim population and also denied their own involvement in the distribution of weapons. D3126 (Witness statement of Jovan Nikolić dated 10 March 2013), para. 32; D3194 (Witness statement of Rodoljub Đukanović dated 24 March 2013), paras. 24, 54; Rodoljub Đukanović, T. 36148–36149 (27 March 2013). The Chamber does not find this evidence to be reliable. In reaching that conclusion, the Chamber notes that the evidence of the relevant witnesses was marked by extreme evasiveneses, contradictions, and indicators of insincerity.

2257 P3196 (Witness statement of Dževad Gušić undated), paras. 26–26a; P3205 (Witness statement of KDZ605 dated 22 August 2011), paras. 10, 21 (under seal).

696. The SDA was also involved in the distribution of weapons to Bosnian Muslims[2258] and a Bosnian Muslim crisis staff was established.[2259] Bosnian Muslim villagers organised local guards.[2260]

(2) Division of municipal structures

697. In October 1991, following the Accused's declaration of a state of emergency of the SDS, an emergency meeting of the SDS Municipal Board of Bratunac was held.[2261] There, Deronjić informed those present about the SDS Main Board instructions.[2262] At this meeting, the SDS Crisis Staff of Bratunac was formed with Deronjić as its chief.[2263] In addition, the President of the Executive Board of the Bratunac Municipal Assembly briefed the participants about preparations for regionalisation.[2264] On 25 October 1991, the SDS Municipal Board gave authorisation to expand the SDS Crisis Staff.[2265] The SDS Crisis Staff met on 26 October 1991 and discussed the formation of regions.[2266]

698. On 23 December 1991, the SDS Municipal Board held a meeting where the Variant A/B Instructions were presented.[2267] Deronjić informed the members about the session of the SDS

2258 D3195 (Official note of Tuzla CSB, 4 September 1991); D3398 (Witness statement of Ljubisav Simić dated 7 April 2013), para. 30; Momir Nikolić, T. 24712 (14 February 2012). *See also* D3174 (Witness statement of Vujadin Stević dated 23 March 2013), para. 8; D3115 (Witness statement of Branimir Tešić dated 9 March 2013), paras. 6–7; P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 10 (under seal).

2259 P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 17 (under seal). *See also* D3398 (Witness statement of Ljubisav Simić dated 7 April 2013), para. 50. Dževad Gušić, T. 17818, 17826–17827, 17831, 17836–17837 (24 August 2011); P3196 (Witness statement of Dževad Gušić undated), paras. 71, 73–74. The Chamber finds that there were armed Bosnian Muslim formations in Bratunac. KDZ480, T. 24236 (7 February 2012); D1657 (Excerpt from book entitled "The Truth about Bratunac"), pp. 1–3.

2260 P3196 (Witness statement of Dževad Gušić undated), para. 73. *See also* D1657 (Excerpt from book entitled "The Truth about Bratunac"), p. 2.

2261 P3197 (Minutes of sessions of Bratunac SDS Crisis Staff and Municipal Board), p. 1; Dževad Gušić, T. 17797–17798 (24 August 2011). P5831 (Intercept of conversation between Radovan Karadžić and Miljana LNU, 17 October 1991). *See also* P6238 (Radovan Karadžić's Decision, 18 October 1991); Dorothea Hanson, T. 14857–14859 (17 June 2011).

2262 P3197 (Minutes of sessions of Bratunac SDS Crisis Staff and Municipal Board), p. 1. *See also* P2589 (Dorothea Hanson's expert report entitled "Bosnian Serb Crisis Staffs, War Presidencies and War Commissions 1991–1995", 10 September 2009), fn. 13.

2263 P3197 (Minutes of sessions of Bratunac SDS Crisis Staff and Municipal Board), pp. 1–2; P3196 (Witness statement of Dževad Gušić undated), paras. 6, 11; Dževad Gušić, T. 17794 (24 August 2011); P3188 (Witness statement of Mušan Talović dated 14 July 2011), para. 8; Mušan Talović, T. 17638 (22 August 2011); P3204 (List of Bratunac leadership prepared by Dževad Gušić, 2 May 2003); P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 9 (under seal). *See also* P4374 (Witness statement of Milenko Katanić dated 11 October 2011), paras. 6–7, 13; D3126 (Witness statement of Jovan Nikolić dated 10 March 2013), para. 29; D3118 (Witness statement of Aleksandar Tešić dated 10 March 2013), para. 19.

2264 P3197 (Minutes of sessions of Bratunac SDS Crisis Staff and Municipal Board), p. 2.

2265 P3198 (Minutes of 2nd session of Bratunac SDS Municipal Board, 25 October 1991), p. 2.

2266 P3197 (Minutes of sessions of Bratunac SDS Crisis Staff and Municipal Board), p. 3.

2267 P2598 (Minutes of meeting of Bratunac SDS Municipal Board, 23 December 1991), p. 1; P4374 (Witness statement of Milenko Katanić dated 11 October 2011), para. 15; P5 (SDS Instructions for Organisation of Organs of the Serbian People in BiH, 19 December 1991).

Presidency and said that a decision had been reached to establish the SerBiH and that Variant B was envisaged for Bratunac since Bosnian Serbs were a minority in the municipality.[2268] In accordance with these instructions, a decision was made to form the Bratunac Crisis Staff which would start working immediately.[2269] The Bratunac Crisis Staff included the Commander of Police, representatives of the military, Ministry of Defence and "distinguished civilians".[2270] In addition to the Bratunac Crisis Staff, crisis staffs were also formed at the local commune level and they informed the Bratunac Crisis Staff about issues at the local level.[2271]

699. On 30 December 1991, the first session of the Serbian Municipal Assembly of Bratunac was held, Ljubisav Simić was appointed as President of the Assembly, and Radoljub Đukanović was appointed as Chairman of the Executive Board.[2272] At this session a proposal to join the region of Birač was adopted and there was discussion about "regionalisation".[2273] Bratunac became part of the SAO Birač and Rodoljub Đukanović was elected to the Executive Council of the SAO.[2274]

700. At a meeting of the SDS Municipal Board on 22 January 1992, Deronjić stated that the policies pursued and advocated by Milošević, the Accused and Babić had "met with failure after failure" and that the objective of the SDS of preserving the SFRY was history.[2275] At this same

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2268 P2598 (Minutes of meeting of Bratunac SDS Municipal Board, 23 December 1991), p. 1; Milenko Katanić, T. 24525–24526 (10 February 2012). Defence witnesses testified that they were not aware of any meeting in Bratunac where the Variant A/B Instructions were discussed and the Bosnian Serb authorities resolved all problems on their own. D3194 (Witness statement of Rodoljub Đukanović dated 24 March 2013), para. 27; Rodoljub Đukanović, T. 36181–36183 (27 March 2013); D3398 (Witness statement of Ljubisav Simić dated 7 April 2013), para. 53. The Chamber refers to its credibility assessment in fn. 2248 above as to why it does not consider Đukanović's evidence to be reliable in this regard. Further, with respect to Simić, the Chamber notes that his evidence is qualified, given that he simply states that he did not know about such a meeting. In addition, Simić's evidence was marked by contradictions and inconsistencies.

2269 P2598 (Minutes of meeting of Bratunac SDS Municipal Board, 23 December 1991), pp. 1–2; P4374 (Witness statement of Milenko Katanić dated 11 October 2011), paras. 15–16. *But see* Rodoljub Đukanović, T. 36202, 36206 (27 March 2013); D3126 (Witness statement of Jovan Nikolić dated 10 March 2013), para. 33; Jovan Nikolić, T. 35487 (14 March 2013); D3398 (Witness statement of Ljubisav Simić dated 7 April 2013), para. 50. The Chamber refers to its credibility assessment in fns. 2248, 2256, and 2268 as to why it does not consider that the evidence of these witnesses is reliable with respect to the issue of when and why the Bratunac Crisis Staff was formed.

2270 P4374 (Witness statement of Milenko Katanić dated 11 October 2011), paras. 15–16; Milenko Katanić, T. 24526–24527 (10 February 2012).

2271 D3398 (Witness statement of Ljubisav Simić dated 7 April 2013), para. 51.

2272 P3199 (Minutes of 1st meeting of Bratunac Municipal Assembly, 30 December 1991), pp. 2–3; D3398 (Witness statement of Ljubisav Simić dated 7 April 2013), para. 3; P3196 (Witness statement of Dževad Gušić undated), para. 11; Dževad Gušić, T. 17794 (24 August 2011); P3204 (List of Bratunac leadership prepared by Dževad Gušić, 2 May 2003). The decision proclaiming the establishment of a Serbian Municipality of Bratunac was subsequently verified and approved at the 12th session of the Bosnian Serb Assembly. P961 (Shorthand Record of 12th session of SerBiH Assembly, 24 March 1992), pp. 23–24.

2273 P3199 (Minutes of 1st meeting of Bratunac Municipal Assembly, 30 December 1991), pp. 3, 5.

2274 D3194 (Witness statement of Rodoljub Đukanović dated 24 March 2013), para. 26; Rodoljub Đukanović, T. 36163–36164 (27 March 2013).

2275 D3127 (Excerpt from minutes of meeting of Bratunac SDS Municipal Board, 8 July 1991), p. 1.

meeting, Deronjić demanded to meet with the Accused and Koljević in Bratunac and Simić alerted that if necessary the Bratunac leadership "will refuse obedience even to Sarajevo".[2276]

701. On 24 February 1992, the SDS Municipal Board discussed the implementation in Bratunac of the second level of the Variant A/B Instructions.[2277] At this meeting, it was noted that since the first phase of the instructions had been implemented, the second phase, which was a state of emergency, would be activated.[2278] Deronjić read the instructions at the meeting and said that they imposed a duty to "act accordingly". These instructions included creating a municipal Executive Board and forming a reserve structure of the Bosnian Serb police.[2279] In addition local boards were tasked with reporting on measures taken with respect to safety and with the collection and storage of food in Bosnian Serb areas.[2280] Deronjić also instructed that guard duties should be set-up and citizens should co-operate with the Bratunac Crisis Staff.[2281]

702. At the 24 February 1992 meeting of the SDS Municipal Board, Branko Obrenović commented that he feared that the war would find them unprepared and that they needed to "activate the Crisis staffs that would take care of everything" and a war plan was needed.[2282] Deronjić agreed with this proposal.[2283] It was also reported that contact with the army had been established and there was discussion about the formation of military units and training of individuals.[2284]

703. On 28 February 1992, the Serbian Municipal Assembly of Bratunac adopted the proposal to appoint one person to take on the role of national defence secretary and chief of the SJB.[2285] At this meeting, Deronjić stressed the importance of setting up a Bosnian Serb police.[2286]

2276 D3127 (Excerpt from minutes of meeting of Bratunac SDS Municipal Board, 8 July 1991), p. 1.

2277 P4374 (Witness statement of Milenko Katanić dated 11 October 2011), para. 18.

2278 P2597 (Minutes of meeting of Bratunac's SDS Municipal Board, 24 February 1992), p. 1; Milenko Katanić, T. 24527–24528 (10 February 2012).

2279 P2597 (Minutes of meeting of Bratunac SDS Municipal Board, 24 February 1992), p. 1; P4374 (Witness statement of Milenko Katanić dated 11 October 2011), para. 18.

2280 P2597 (Minutes of meeting of Bratunac SDS Municipal Board, 24 February 1992), p. 1; Milenko Katanić, T. 24527 (10 February 2012).

2281 P2597 (Minutes of meeting of Bratunac SDS Municipal Board, 24 February 1992), p. 1.

2282 P2597 (Minutes of meeting of Bratunac SDS Municipal Board, 24 February 1992), p. 1. The Chamber refers to para. 698, where it found that the Bratunac Crisis Staff had already been established in December 1991. The Chamber finds that this reference in February 1992 relates to the activation of that crisis staff for the purposes of war. In accordance with the second phase of the Variant A/B Iinstructions, the Crisis Staff was given the responsibility for "organisation of defence". P5 (SDS Instructions for Organisation of Organs of the Serbian People in BiH, 19 December 1991), p. 9.

2283 P2597 (Minutes of meeting of Bratunac SDS Municipal Board, 24 February 1992), p. 1,

2284 P2597 (Minutes of meeting of Bratunac's SDS Municipal Board, 24 February 1992), p. 2.

2285 P3199 (Minutes of 1st meeting of Bratunac Municipal Assembly, 30 December 1991), p. 6.

2286 P3199 (Minutes of 1st meeting of Bratunac Municipal Assembly, 30 December 1991), p. 7.

704. At a meeting with SDA representatives, Deronjić stated that "Serbs need to keep their own Serbdom, their own history, their own tradition, their own culture" and in order to do that they should live separately from the Bosnian Muslim people.[2287] Deronjić explained "[w]e in the SDS have plans that were prepared. I even have certain instructions how to act with regard to these questions".[2288] After this, a meeting was held which was attended by directors of major companies, and Deronjić informed them that the Bosnian Serbs should live separately, that there were plans, and that Bratunac and BiH should be divided.[2289]

705. At the beginning of April 1992, in a meeting between SDS and SDA representatives, Deronjić reiterated that the police should be divided and that separate Bosnian Muslim and Bosnian Serb police units should be formed.[2290] When the SDA representatives opposed the idea as it would lead to greater tensions, Deronjić threatened that if they did not comply "Muslims would disappear".[2291]

706. Deronjić said that if the Bosnian Muslim representatives agreed to the division, it "would be the best way for the Muslims to prevent violence from breaking out".[2292] The SDS representatives also promised that if the police was split, the JNA would remove weapons from the surrounding hills and the town and non-Serbs would be protected.[2293]

2287 Dževad Gušić, T. 17790–17792 (24 August 2011).

2288 Dževad Gušić, T. 17791 (24 August 2011).

2289 Dževad Gušić, T. 17791 (24 August 2011). Gušić stated that when he spoke to an SDA official about the division of BiH, the SDA official said that the Accused had told him "we'll have to split up. There's no other way out" and the Accused insisted on this division even when he was told that Bosnian Serbs, Bosnian Muslims, and Bosnian Croats lived together in the same buildings. P3196 (Witness statement of Dževad Gušić undated), paras. 11–12. However, Gušić clarified that the SDA official later spoke to him and was not sure whether he had spoken to the Accused or to another official. Dževad Gušić, T. 17778–17779, 17783–17785, 17810 (24 August 2011). Given this qualification, and the hearsay nature of the evidence, the Chamber does not consider that it can rely on it solely, in the absence of further corroboration, to determine whether or not it was the Accused who made such a statement. Simić stated that the proposed division of the municipality contributed to easing tensions and improved security. D3398 (Witness statement of Ljubisav Simić dated 7 April 2013), paras. 32–33. The Chamber refers to its credibility assessment in fn. 2268 as to why it does not consider Simić's evidence as to the effect of the proposed division of the municipality to be reliable.

2290 P3196 (Witness statement of Dževad Gušić undated), para. 31; Dževad Gušić, T. 17793–17794 (24 August 2011); P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 26 (under seal).

2291 P3196 (Witness statement of Dževad Gušić undated), para. 32; Dževad Gušić, T. 17793 (24 August 2011).

2292 P3196 (Witness statement of Dževad Gušić undated), paras. 31a–32, 36, 39; Dževad Gušić, T. 17793–17794 (24 August 2011). Gušić further testified that Deronjić said that the Accused himself had strongly pressured him to have the police in Bratunac divided and would be pleased if the division was agreed. However, the Chamber in the absence of further corroboration does not rely on this evidence with respect to the involvement of the Accused. In reaching that conclusion the Chamber had regard to evidence that while Deronjić was very close to the Accused, he often used the Accused's name in negotiations "as a lever" to get agreement for his demands. P3196 (Witness statement of Dževad Gušić undated), paras. 40–41; Dževad Gušić, T. 17793 (24 August 2011); D3194 (Witness statement of Rodoljub Đukanović dated 24 March 2013), para. 28; Rodoljub Đukanović, T. 36173 (27 March 2013); D3126 (Witness statement of Jovan Nikolić dated 10 March 2013), para. 29; Jovan Nikolić, T. 35485–35486, 35490–35491 (14 March 2013).

2293 P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 26 (under seal). *See also* Dževad Gušić, T. 17794 (24 August 2011).

707. The SDA representatives initially refused to divide the police, following which the situation in Bratunac deteriorated even further.[2294] However, on 8 April 1992, after Deronjić had guaranteed that there would be peace and security in Bratunac, the SDA agreed to the split.[2295] This agreement also provided for equal numbers of Bosnian Serb and Bosnian Muslim policemen and that both SJBs should guarantee the peace and safety of all citizens.[2296] The decision on the separation of the police was adopted at a meeting of the Municipal Assembly.[2297]

708. The Bosnian Serb police left the police building and moved into the primary school next to the municipality building while the Bosnian Muslim police remained in the police station.[2298] Following this separation, Milutin Milošević who had been working in Serbia was appointed as head of the Bosnian Serb police[2299] and it was agreed that joint patrols would operate in Bratunac town while separate patrols would be carried out in Bosnian Serb and Bosnian Muslim villages.[2300]

709. After the Bosnian Serbs established their own police force, they also set up additional barricades and check-points, and carried out attacks with firearms and explosives; two coffee bars, one owned by a Bosnian Muslim and another by a Bosnian Croat were blown up.[2301] Bosnian Muslims also established check-points around their villages.[2302]

2294 P3188 (Witness statement of Mušan Talović dated 14 July 2011), para. 11; P3196 (Witness statement of Dževad Gušić undated), para. 36.

2295 P3196 (Witness statement of Dževad Gušić undated), para. 36; Dževad Gušić, T. 17793 (24 August 2011). *See also* D3174 (Witness statement of Vujadin Stević dated 23 March 2013), para. 13; D297 (Agreement between SDA and SDS on division of Bratunac Municipality, 8 April 1992), p. 1.

2296 D297 (Agreement between SDA and SDS on division of Bratunac Municipality, 8 April 1992), p. 2. *See also* Milenko Katanić, T. 24520 (10 February 2012).

2297 P3196 (Witness statement of Dževad Gušić undated), para. 39.

2298 D3398 (Witness statement of Ljubisav Simić dated 7 April 2013), para. 34; Suad Džafić, T. 18178–17179 (1 September 2011); D3852 (Witness statement of Mirko Perić dated 1 July 2013), para. 5; Vujadin Stević, T. 36059 (26 March 2013); D3115 (Witness statement of Branimir Tešić dated 9 March 2013), paras. 15–16; Srbislav Davidović, T. 24377 (9 February 2012).

2299 P3196 (Witness statement of Dževad Gušić undated), paras. 37–38; D3194 (Witness statement of Rodoljub Đukanović dated 24 March 2013), para. 33; D3852 (Witness statement of Mirko Perić dated 1 July 2013), para. 7; D3115 (Witness statement of Branimir Tešić dated 9 March 2013), paras. 9, 16. Luka Bogdanović was the commander of the police, Branimir Tešić was deputy commander. D3115 (Witness statement of Branimir Tešić dated 9 March 2013), para. 15.

2300 D3194 (Witness statement of Rodoljub Đukanović dated 24 March 2013), para. 34. *See also* D3126 (Witness statement of Jovan Nikolić dated 10 March 2013), para. 31; D3852 (Witness statement of Mirko Perić dated 1 July 2013), paras. 4–5.

2301 *See* Adjudicated Fact 2308. *See also* P3196 (Witness statement of Dževad Gušić undated), para. 64. Defence witnesses testified that they had no knowledge about the existence of barricades or of any attacks against coffee bars. D3194 (Witness statement of Rodoljub Đukanović dated 24 March 2013), para. 59; D3398 (Witness statement of Ljubisav Simić dated 7 April 2013), para. 87; D3115 (Witness statement of Branimir Tešić dated 9 March 2013), para. 42. The Chamber refers to its credibility assessment in fns. 2248, 2268, and 2336 as to why it does not find the evidence of these witnesses to be reliable with respect to these attacks and the establishment of barricades.

2302 Momir Nikolić, T. 24711–24712 (14 February 2012).

710. Bosnian Serbs also asked for the division of Bratunac into two municipalities but the SDA representatives did not agree to this proposal.[2303] It was practically impossible to divide the territory of the municipality given the distribution of Bosnian Serb and Bosnian Muslim villages and of mixed villages, which were neighbouring each other.[2304] The division of the police and of businesses, as well as the attempt to divide the municipality in general increased tensions between the communities.[2305]

(C) Take-over of Bratunac

711. There was increasing fear that Bratunac would be taken over by Serb Forces after news was received about what had happened in Bijeljina and Zvornik.[2306] Given the increasing tensions in Bratunac, in April 1992 a joint meeting was organised by the SDA and SDS leadership with prominent citizens of Bratunac to discuss the political and security situation in the municipality.[2307] Deronjić addressed those who attended this meeting and told them: "[i]f it has to be that conflicts break out all over Bosnia then we will do our best to ensure that Bratunac is the last place where this will happen".[2308] During this meeting the Bosnian Serb representatives were asked about why they "were rushing into war", why the JNA was training "Serbian civilians" in the handling of weapons and why heavy artillery had been deployed and pointed at Bratunac.[2309] The Bosnian Serb representatives gave vague responses and assured them that there was no need to worry.[2310] After this meeting it was decided that a joint-declaration would be issued by SDS and SDA representatives on the "peaceful co-existence" of all citizens in Bratunac in order to reassure the population.[2311]

712. The Bratunac Crisis Staff adopted a decision which proclaimed a state of emergency and provided that it would temporarily take over the competencies of the organs of the Assembly and

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2303 D3174 (Witness statement of Vujadin Stević dated 23 March 2013), para. 10; Vujadin Stević, T. 36059 (26 March 2013); KDZ605, T. 17888–17889 (25 August 2011). *See also* Momir Nikolić, T. 24710–24711 (14 February 2012); Milenko Katanić, T. 24521 (10 February 2012); D3690 (Witness statement of Neđo Nikolić dated 8 June 2013), para. 5. The Chamber noted inconsistencies in Defence evidence as to whether or not there was an agreement on the division of the municipality. D3194 (Witness statement of Rodoljub Đukanović dated 24 March 2013), para. 33; D3126 (Witness statement of Jovan Nikolić dated 10 March 2013), para. 30; D297 (Agreement between SDA and SDS on division of Bratunac Municipality, 8 April 1992).

2304 Momir Nikolić, T. 24711 (14 February 2012). *See also* Milenko Katanić, T. 24517–24518 (10 February 2012).

2305 Momir Nikolić, T. 24710–24711 (14 February 2012).

2306 P3196 (Witness statement of Dževad Gušić undated), para. 43a.

2307 P3196 (Witness statement of Dževad Gušić undated), paras. 28, 29c; P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 16 (under seal).

2308 P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 16 (under seal).

2309 P3196 (Witness statement of Dževad Gušić undated), para. 28.

2310 P3196 (Witness statement of Dževad Gušić undated), paras. 28–29a.

2311 P3196 (Witness statement of Dževad Gušić undated), para. 29–29c.

the Executive Board, which would cease to operate.[2312] On 13 April 1992, on the basis of the state of emergency,[2313] the Bratunac Crisis Staff decided that the Bratunac TO and the SJB would take over the defence of the Serb municipality of Bratunac.[2314]

713. On 16 April 1992, following an order by the Presidency of the SerBiH, the Bratunac Crisis Staff issued an order for general mobilisation and also required military conscripts assigned to Bratunac TO units to immediately respond to the mobilisation.[2315] Only the Bosnian Serb population was mobilised and the Bosnian Muslim population did not receive the call-up papers.[2316]

714. On or about 17 April 1992, Serb Forces entered the town of Bratunac without facing any resistance from Bosnian Muslims and formed a guard around the Hotel Fontana.[2317] The Serb Forces consisted of JNA troops from the Novi Sad and Užice Corps, TO members, and local reservists and were joined later by heavily armed paramilitary units from Serbia, including the White Eagles, Šešelj's men, and Arkan's men.[2318] Members of the SJB also provided support.[2319]

2312 P3202 (Decision of Bratunac Crisis Staff, 1992), p. 1; D2061 (List of decisions and orders issued by the Crisis Staff, War Staff, and Wartime Presidency of Bratunac Municipality, 29 August 1992), p. 1. *See also* P3196 (Witness statement of Dževad Gušić undated), para. 60.

2313 D3123 (Order of Bratunac Crisis Staff, 13 April 1992), p. 1; Aleksandar Tešić, T. 35341 (13 March 2013).

2314 D2061 (List of decisions and orders issued by the Crisis Staff, War Staff, and Wartime Presidency of Bratunac Municipality, 29 August 1992), p. 4; P3202 (Decision of Bratunac Crisis Staff, 1992), pp. 1–2. [REDACTED].

2315 P4383 (Order of Bratunac Crisis Staff, 16 April 1992), p. 1; D2061 (List of decisions and orders issued by the Crisis Staff, War Staff, and Wartime Presidency of Bratunac Municipality, 29 August 1992), p. 4. *See also* Adjudicated Fact 2309; D3118 (Witness statement of Aleksandar Tešić dated 10 March 2013), para. 16. The SAO Birač Crisis Staff also proclaimed a state of war and, on 29 April 1992, ordered mobilisation in the entire SAO of Birač following mobilisation orders issued by the Ministry of Defence on 16 April 1992. P2615 (Decision of Birač Crisis Staff, 29 April 1992); P2412 (Decision of SerBiH Ministry of Defence, 16 April 1992).

2316 P4374 (Witness statement of Milenko Katanić dated 11 October 2011), para. 23. *See also* Suad Džafić, T. 18185–18187 (1 September 2011).

2317 P3196 (Witness statement of Dževad Gušić undated), paras. 50, 53b, 61, 73; Dževad Gušić, T. 17782, 17831 (24 August 2011); KDZ605, T. 17903 (25 August 2011). *See also* D3194 (Witness statement of Rodoljub Đukanović dated 24 March 2013), para. 29; D3126 (Witness statement of Jovan Nikolić dated 10 March 2013), para. 35; Aleksandar Tešić, T. 35334 (13 March 2013).

2318 P3263 (Witness statement of Suad Džafić dated 31 August 2011), para. 5; P3205 (Witness statement of KDZ605 dated 22 August 2011), paras. 22, 24, 31 (under seal); KDZ605, T. 17896–17897 (25 August 2011). *See also* Adjudicated Fact 2309; Srbislav Davidović, T. 24371–24372 (9 February 2012); Milenko Katanić, T. 24531–24532 (10 February 2012); D3118 (Witness statement of Aleksandar Tešić dated 10 March 2013), para. 48. Jovan Nikolić stated that the JNA arrived in Bratunac to calm down the situation in agreement with the municipal organs. D3126 (Witness statement of Jovan Nikolić dated 10 March 2013), para. 37. The Chamber does not consider the evidence of Nikolić to be reliable in this regard. In reaching that conclusion the Chamber refers to its credibility assessment in fn. 2256 and notes that his evidence is equivocal as to who tasked the JNA with calming down the situation in the municipality. The Chamber does not find the evidence of Simić and Nikolić that the municipal authorities were not aware of, and were even shocked by the arrival of the paramilitaries to be reliable. D3398 (Witness statement of Ljubisav Simić dated 7 April 2013), paras. 35–37. *See also* D3126 (Witness statement of Jovan Nikolić dated 10 March 2013), paras. 35–36. In reaching that conclusion the Chamber refers to its credibility assessment in fns. 2256, 2268.

2319 Dževad Gušić, T. 17782 (24 August 2011). *See also* P2761 (RS MUP report on work for period April to December 1992), p. 7.

Local Bosnian Serbs also joined the paramilitary units, including Arkan's men and the White Eagles, while others joined JNA reserve units[2320]

715. The Bosnian Muslim leadership in the municipality met to discuss the developments which were contrary to the assurances they had received from the SDS that no external unit would enter the municipality.[2321] Deronjić later informed the Bosnian Muslim leadership that some military formations had entered Bratunac and directed them to a meeting at the Hotel Fontana with the officers of the "Serbian army units".[2322]

716. At this meeting, the Bosnian Muslim representatives were told by officers, who wore JNA and camouflage uniforms, that Bratunac was a "Serbian municipality and that they had taken power, that Serbian laws would be introduced", that Bosnian Muslims could remain, and there would be no killings.[2323] These officers warned however, that if a Bosnian Muslim "fired so much as a single bullet they would eliminate the whole of his family".[2324] They told the Bosnian Muslim representatives to draw up a list of Bosnian Muslims in the municipality and that they would "settle accounts with them".[2325] As the Bosnian Muslims left this meeting, they saw 40 to 50 uniformed local Bosnian Serbs being issued with weapons.[2326] A deadline was also given for the surrender of weapons,[2327] and non-Serbs then handed over hunting rifles and some private weapons.[2328]

717. On 19 April 1992, the Bratunac Crisis Staff issued a decision authorising the Bratunac SJB and Bratunac TO to disarm citizens.[2329] While the decision did not specify which citizens were to be disarmed,[2330] in practice only Bosnian Muslims were disarmed.[2331] On 25 April 1992, Mićo Stanišić reported that weapons were handed over in the area of Bratunac.[2332]

2320 P3263 (Witness statement of Suad Džafić dated 31 August 2011), para. 9; Suad Džafić, T. 18186–18187 (1 September 2011).

2321 P3196 (Witness statement of Dževad Gušić undated), paras. 50, 61.

2322 P3196 (Witness statement of Dževad Gušić undated), paras. 52–53a, 61.

2323 P3196 (Witness statement of Dževad Gušić undated), para. 53.

2324 P3196 (Witness statement of Dževad Gušić undated), para. 53.

2325 P3196 (Witness statement of Dževad Gušić undated), para. 54. *See also* D3194 (Witness statement of Rodoljub Đukanović dated 24 March 2013), para. 30; Rodoljub Đukanović, T. 36186 (27 March 2013); D3126 (Witness statement of Jovan Nikolić dated 10 March 2013), para. 35.

2326 P3196 (Witness statement of Dževad Gušić undated), para. 56.

2327 P3196 (Witness statement of Dževad Gušić undated), para. 54.

2328 P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 26 (under seal).

2329 P4377 (Order of Bratunac Crisis Staff, 19 April 1992), p. 1; D2061 (List of decisions and orders issued by the Crisis Staff, War Staff, and Wartime Presidency of Bratunac Municipality, 29 August 1992), p. 1.

2330 P4377 (Order of Bratunac Crisis Staff, 19 April 1992), p. 1.

2331 P4374 (Witness statement of Milenko Katanić dated 11 October 2011), para. 24. *See also* P3188 (Witness statement of Mušan Talović dated 14 July 2011), para. 14; Mušan Talović, T. 17659 (22 August 2011).

2332 P2749 (SerBiH MUP daily report, 25 April 1992), p. 3.

718. The Bosnian Muslim representatives met again with Deronjić who tried to convince them that "everything would be all right".[2333] However, on the same day, Deronjić arrived with some officers at the police station, kicked the doors open and searched for weapons.[2334] One soldier threatened to throw a grenade if the Bosnian Muslim representatives did not obey and Gušić was ordered to compile a list of Bosnian Muslim extremists and nationalists by the next morning.[2335] The police station was taken over, the members of the Bosnian Muslim police were disarmed and sent home, and the Bosnian Serb police and new civilian recruits started wearing their own uniforms with Serb insignia.[2336]

(D) Developments in Bratunac after take-over

719. On 17 April 1992, threatened by Serb paramilitaries and aware of the situation in other municipalities, the Bosnian Muslim leadership left Bratunac.[2337] Serb soldiers looted abandoned Bosnian Muslim properties.[2338]

2333 P3196 (Witness statement of Dževad Gušić undated), para. 57.

2334 P3196 (Witness statement of Dževad Gušić undated), para. 58.

2335 P3196 (Witness statement of Dževad Gušić undated), para. 58.

2336 P3205 (Witness statement of KDZ605 dated 22 August 2011), paras. 27–28 (under seal); *see* Adjudicated Fact 2308. Defence witnesses testified *inter alia* that (i) the Bosnian Muslim police wanted to set up a new police station; (ii) the Bosnian Serb police only took over the police station after the Bosnian Muslim police had abandoned it. Rodoljub Đukanović, T. 36142 (27 March 2013); D3194 (Witness statement of Rodoljub Đukanović dated 24 March 2013), paras. 36–37; D3126 (Witness statement of Jovan Nikolić dated 10 March 2013), para. 40; D3852 (Witness statement of Mirko Perić dated 1 July 2013), para. 7; D3115 (Witness statement of Branimir Tešić dated 9 March 2013), paras. 17–19, 43; D3398 (Witness statement of Ljubisav Simić dated 7 April 2013), para. 38. Having reviewed their testimony, the Chamber does not find that their evidence with respect to the circumstances surrounding the take-over of weapons and the police building to be reliable. In reaching that conclusion the Chamber refers to its credibility assessment in fn. 2248 and 2256 with respect to Đukanović and Nikolić. The Chamber further notes that the testimony of Branimir Tešić and Perić were also marked by extreme evasiveness, contradictions and indicators of bias and attempts to mislead the Chamber.

2337 *See* Adjudicated Fact 2310; KDZ605, T. 17910 (25 August 2011). *See also* D3398 (Witness statement of Ljubisav Simić dated 7 April 2013), para. 38; D3194 (Witness statement of Rodoljub Đukanović dated 24 March 2013), para. 37; P3196 (Witness statement of Dževad Gušić undated), paras. 63, 65–66, 70. The Bosnian Muslim leaders while stopped at a check-point were provided an escort out of Bratunac. *But see* D3398 (Witness statement of Ljubisav Simić dated 7 April 2013), para. 88. While Simić stated that he was not aware of any threats, this is not determinative of whether such threats were made. He did acknowledge that prominent Bosnian Muslims left after Bosnian Serb refugees from Srebrenica started arriving in the municipality. The Chamber finds however, that by July 1992, the Bosnian Muslim authorities had re-established some structures for Bratunac such as a TO, a War Presidency, and a military police and that measures were taken to establish Bosnian Muslim forces in the municipality. D4707 (Decisions of Bratunac TO Municipal Staff, 16 July 1992); D1596 (Order of ABiH General Staff, 10 July 1992), p. 1.

2338 Adjudicated Fact 2313. *See also* P3205 (Witness statement of KDZ605 dated 22 August 2011), paras. 33–34 (under seal). Defence witnesses testified that only paramilitaries were involved in looting and both Bosnian Serb and Bosnian Muslim properties were looted and that the police prevented looting as much as they could. D3194 (Witness statement of Rodoljub Đukanović dated 24 March 2013), para. 60; D3115 (Witness statement of Branimir Tešić dated 9 March 2013), para. 44; D3118 (Witness statement of Aleksandar Tešić dated 10 March 2013), para. 44. The Chamber does not find the evidence of these witnesses as to who was involved in looting, and whether the police tried to prevent looting to be reliable. In reaching that conclusion the Chamber refers to its credibility assessment in fns. 2248 and 2336 with respect to Đukanović and Branimir Tešić. Further

720. The situation in Bratunac was relatively calm between 18 and 29 April 1992. At that time, people were called back to work and allowed to move freely in the town but most of the Bosnian Muslim population had already left in that period and many did not return to work as they were too afraid.[2339] The Bosnian Serb authorities also announced that Bosnian Muslims who left the area could come back, sign loyalty pledges to the new Bosnian Serb authorities in Bratunac, and be protected; however, if they did not return, "the safety of their personal property could not be guaranteed".[2340]

721. The deadline for Bosnian Muslims to sign documents pledging their loyalty to the Serb Municipality of Bratunac was 29 April 1992.[2341] Most Bosnian Muslims had left Bratunac by this date.[2342] Most of those who remained signed these documents because they were afraid and felt they had no choice.[2343] After this deadline had passed, Bosnian Muslim homes continued to be searched, their property stolen and more Bosnian Muslims were killed.[2344]

722. One or two days after the remaining Bosnian Muslim population had signed these loyalty oaths, announcements were made with the use of loudspeakers on military vehicles that all men were to assemble in town.[2345] A JNA officer accompanied by a dozen soldiers told the Bosnian Muslims that all weapons had to be surrendered in order for their freedom and safety to be guaranteed.[2346]

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the Chamber notes that the evidence of Aleksandar Tešić was marked by indicators of evasiveness and contradictions which undermined his evidence in this regard.

2339 P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 36 (under seal); KDZ605, T. 17911 (25 August 2011).

2340 P3205 (Witness statement of KDZ605 dated 22 August 2011), paras. 35, 37–39 (under seal); KDZ605, T. 17911–17912 (25 August 2011).

2341 P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 35 (under seal). *See also* Adjudicated Fact 2311.

2342 *See* Adjudicated Fact 2312; P3196 (Witness statement of Dževad Gušić undated), paras. 61, 80 (stating that in the first month of military occupation 21,000 Bosnian Muslims were "expelled"). *But see* D3174 (Witness statement of Vujadin Stević dated 23 March 2013), para. 37 (stating that Bosnian Muslims did not start leaving in large numbers before May 1992). The Chamber notes that Stević's evidence was marked by contradictions, evasiveness, and indicators of bias which undermine the reliability of his evidence in this regard. The Chamber also notes that the evidence that both Bosnian Muslims and Bosnian Serbs left Bratunac is not inconsistent with Adjudicated Fact 2312. D3398 (Witness statement of Ljubisav Simić dated 7 April 2013), para. 89; D3690 (Witness statement of Nedo Nikolić dated 8 June 2013), para. 6.

2343 P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 35 (under seal); KDZ605, T. 17909, 17912 (25 August 2011).

2344 P3205 (Witness statement of KDZ605 dated 22 August 2011), paras. 40, 42 (under seal). The Chamber also received evidence that approximately 1,000 Bosnian Muslims were killed in Bratunac in the first month of military occupation. P3196 (Witness statement of Dževad Gušić undated), paras. 61, 80; Dževad Gušić, T. 17781 (24 August 2011). The Chamber notes that with the exception of the scheduled killings in specific villages, these killings are not charged pursuant to Schedules A or B of the Indictment. *See* fn. 13.

2345 P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 41 (under seal).

2346 P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 41 (under seal); KDZ605, T. 17913 (25 August 2011).

723. After the Serb Forces arrived in Bratunac, Bosnian Muslims in factories and municipal bodies were fired from their jobs and all key positions in the local government were taken over by Bosnian Serbs.[2347] At the 17th session of the Bosnian Serb Assembly on 26 July 1992, Rajko Dukić stated that he hoped they would not be judged for having expelled all Muslim judges from the municipalities of Vlasenica, Bratunac, and Zvornik.[2348] Serb Forces began patrolling Bratunac and took away the most prominent Bosnian Muslims, some of whom were detained at the Vuk Karadžić School.[2349]

724. On or around the night of 9 May 1992, there was shooting mostly from the direction of Bratunac towards Srebrenica and the village of Mihaljevići, which was above the Drina on the border with Serbia, was burnt.[2350] Following this incident, a number of Bosnian Serb families moved to Serbia.[2351] Soldiers and paramilitaries were everywhere in Bratunac and Arkan's men were stationed at the Jasen hotel.[2352]

725. A large number of Bosnian Serb refugees from Srebrenica arrived in Bratunac in May 1992 and entered abandoned Bosnian Muslim homes.[2353]

726. On 17 June 1992, the appointment of members of the War Commission of Bratunac was confirmed by the Accused.[2354] At the 43rd Session of the Bosnian Serb Government on 29 July 1992 it was reported that the security and political situation in Bratunac and Foča was "extremely complex" and that "all necessary steps should be taken to prevent conflict and protect the population".[2355]

2347 P3263 (Witness statement of Suad Džafić dated 31 August 2011), para. 6; Suad Džafić, T. 18184 (1 September 2011).

2348 D92 (Transcript of 17th session of SerBiH Assembly, 24-26 July 1992), p. 72.

2349 P3263 (Witness statement of Suad Džafić dated 31 August 2011), paras. 6–8. *See also* Suad Džafić, T. 18193 (1 September 2011).

2350 P3205 (Witness statement of KDZ605 dated 22 August 2011), paras. 43, 45 (under seal); KDZ605, T. 17913 (25 August 2011); Mirsada Malagić, T. 23505 (24 January 2012).

2351 KDZ480, T. 24242 (7 February 2012). *See also* D3194 (Witness statement of Rodoljub Đukanović dated 24 March 2013), para. 41; D3126 (Witness statement of Jovan Nikolić dated 10 March 2013), paras. 28, 43.

2352 P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 44 (under seal); KDZ605, T. 17903 (25 August 2011).

2353 Srbislav Davidović, T. 24389, 24392 (9 February 2012). *See also* P4394 (Article from The Independent entitled "Bosnian Serbs Flee Muslim Vengeance", 29 December 1992), p. 2. Simić stated that the arrival of a large number of Bosnian Serb refugees created an environment of "total chaos, because the civilian organs of authority were not functional". D3398 (Witness statement of Ljubisav Simić dated 7 April 2013), para. 47. While the Chamber finds that the arrival of these refugees created difficulties in the municipality, it does not consider that Simić's evidence that the civilian authorities were not functional to be reliable. In reaching that conclusion the Chamber refers to its credibility assessment in fn. 2268.

2354 P5491 (RS Presidency Confirmation of Appointment of Members of the War Commission in Bratunac, 17 June 1992).

2355 D452 (Minutes of 43rd session of Government of SerBiH, 29 July 1992), p. 7.

727. However, by November 1992, at a meeting attended by Bosnian Serb leaders, including Branko Đerić and Bogdan Subotić, it was reported that the entire territory of Bratunac was under the control of Bosnian Muslim forces.[2356]

(E) Attacks on surrounding villages

728. In the days following the take-over of Bratunac town, Bosnian Serb paramilitary units went to the Bosnian Muslim villages surrounding Bratunac starting from the villages closest to the town and moving outwards.[2357] The JNA and Bratunac TO were involved in disarming Bosnian Muslim villagers throughout Bratunac municipality.[2358] During these disarming operations paramilitaries "harassed locals and pillaged abandoned Muslim homes".[2359] They entered the villages and asked for weapons to be handed over. The villages were then attacked and set on fire while the villagers were sent to the Bratunac Football Stadium.[2360] Many villagers were killed during these attacks.[2361]

729. In the village of Voljevci, barricades were set up.[2362] Prominent and educated people from the village were taken away and people were killed.[2363] The population surrendered weapons in compliance with the ultimatum issued.[2364] In May 1992, individuals who introduced themselves as the representatives of the "Serb people" came to Voljevci and told the population that they could no longer live in the village; they had to leave, go to the local commune in Pobrdje; and sign a statement to the effect that they were leaving their homes and property voluntarily and would never

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2356 D3696 (Minutes of RS Government session, 7 November 1992), p. 5. *See also* D2231 (Report of Tuzla District Defence Staff, 1 October 1992), p. 2 (relating to operations by Bosnian Muslim forces and their control of some territory in Bratunac, Vlasenica and Zvornik); P4394 (Article from The Independent entitled "Bosnian Serbs Flee Muslim Vengeance", 29 December 1992), p. 2; [REDACTED]. *See* Section IV.C.1: Srebrenica component (Facts), which addresses who was in control of areas of Bratunac in 1995.

2357 P3263 (Witness statement of Suad Džafić dated 31 August 2011), para. 10.

2358 *See* Adjudicated Fact 2310; P4374 (Witness statement of Milenko Katanić dated 11 October 2011), para. 24. Defence witnesses testified that the decision was taken to disarm people who had obtained weapons illegally and did not distinguish based on nationality. D3115 (Witness statement of Branimir Tešić dated 9 March 2013), paras. 20–21, 43; D3126 (Witness statement of Jovan Nikolić dated 10 March 2013), para. 38. However, the Chamber does not find their evidence to be reliable in this regard. In reaching that conclusion it refers to its credibility assessment in fns. 2236 and 2256.

2359 *See* Adjudicated Fact 2310.

2360 P3263 (Witness statement of Suad Džafić dated 31 August 2011), para. 10. *See also* D3194 (Witness statement of Rodoljub Đukanović dated 24 March 2013), para. 43; P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 107 (under seal); *see* Adjudicated Fact 2329. *But see* D3194 (Witness statement of Rodoljub Đukanović dated 24 March 2013), para. 63; Rodoljub Đukanović, T. 36154–36155 (27 March 2013). Đukanović testified that he had no knowledge about the burning of specific Bosnian Muslim villages. The Chamber does not consider this qualified evidence to be of significance.

2361 P3263 (Witness statement of Suad Džafić dated 31 August 2011), para. 10. *See also* P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 107 (under seal). The Chamber notes that these killings are not charged pursuant to Schedules A or B of the Indictment. *See* fn. 13.

2362 Mirsada Malagić, T. 23461–23462, 23503–23504 (24 January 2012).

2363 Mirsada Malagić, T. 23462 (24 January 2012). The Chamber notes that these killings are not charged pursuant to Schedules A or B of the Indictment. *See* fn. 13.

2364 Mirsada Malagić, T. 23498 (24 January 2012).

return there again.[2365] The population was told they would be evacuated by bus towards Kladanj for their safety and security.[2366] Some Bosnian Muslims decided not to sign the papers, and left the village for Srebrenica.[2367]

730. On 10 May 1992, Serb Forces attacked the Bosnian Muslim villages of Suha and Mihaljevići, near the town of Bratunac.[2368] The village of Mihaljevići was set ablaze.[2369]

731. The village of Krasanpolje was also attacked on 10 May 1992.[2370] Houses were burnt, there was shooting, and a number of people were killed.[2371] After the attack on Krasanpolje, Bosnian Muslims in the village of Vitkovići were told that it would be safer for them to flee to the woods, which they did.[2372] The villagers returned to Vitkovići after they were told the situation had calmed down.[2373] The next day, the Bosnian Serb police patrolled Vitkovići to ensure the population remained in the village.[2374] Armed local Bosnian Serbs dressed in camouflage uniforms surrounded the village.[2375] The Novi Sad Corps entered Vitkovići in search of weapons.[2376] On 17 May 1992, Serb Forces shelled the Muslim settlement of Konjević Polje, near Hrnčići, and attacked it on 27 May.[2377]

732. On 17 May 1992, the police chief came to Vitkovići and gave an ultimatum that all Bosnian Muslims in the village had to hand over their weapons, and if they did not do so, their safety could

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2365 Mirsada Malagić, T. 23458, 23495 (24 January 2012); Mirsada Malagić, P356 (Transcript from *Prosecutor v. Krstić*), T. 1940–1941.

2366 Mirsada Malagić, T. 23458 (24 January 2012).

2367 Mirsada Malagić, T. 23458 (24 January 2012).

2368 *See* Adjudicated Fact 2321.

2369 P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 45 (under seal). Defence witnesses testified that this was part of a disarming operation and that the village was not torched. D3174 (Witness statement of Vujadin Stević dated 23 March 2013), paras. 23–25; Vujadin Stević, T. 36042–36043 (26 March 2013); D3118 (Witness statement of Aleksandar Tešić dated 10 March 2013), para. 24; D3115 (Witness statement of Branimir Tešić dated 9 March 2013), para. 26. The Chamber refers to its credibility assessment in fns. 2336, 2338, and 2342 in concluding that the evidence of these witnesses is unreliable with respect to the attack on these villages.

2370 P3263 (Witness statement of Suad Džafić dated 31 August 2011), para. 12. *See also* Adjudicated Fact 2325. Đukanović stated Krasanpolje was a majority Bosnian Serb village and that to his knowledge it was not burnt. D3194 (Witness statement of Rodoljub Đukanović dated 24 March 2013), para. 64. The Chamber notes that even if the village had a majority Bosnian Serb population, Đukanović's qualified evidence does not undermine the accepted evidence that Bosnian Muslim homes in that village were attacked.

2371 P3263 (Witness statement of Suad Džafić dated 31 August 2011), para. 12; Suad Džafić, T. 18192 (1 September 2011). The Chamber notes however, that there is no scheduled killing incident with respect to this village.

2372 P3263 (Witness statement of Suad Džafić dated 31 August 2011), para. 13; Suad Džafić, T. 18191 (1 September 2011).

2373 P3263 (Witness statement of Suad Džafić dated 31 August 2011), para. 13.

2374 P3263 (Witness statement of Suad Džafić dated 31 August 2011), para. 14.

2375 *See* Adjudicated Fact 2322.

2376 Suad Džafić, T. 18189 (1 September 2011).

2377 *See* Adjudicated Fact 2315. The Chamber finds that there was Bosnian Muslim resistance to the attack on Konjević Polje. Dževad Gušić, T. 17839–17840 (24 August 2011). *See also* Momir Nikolić, T. 24709 (14 February 2012).

not be guaranteed.[2378] Soldiers from the Novi Sad Corps entered and told the villagers they had to leave with whatever they could carry and gather by noon as they would be taken towards Tuzla.[2379] Villagers from Vitkovići were loaded onto two buses by the Bosnian Serb police. Soldiers then started looting the houses and cattle.[2380]

(1) Scheduled Incident A.3.1

733. The Prosecution alleges that at least 12 people were killed in the village of Hranča between 3 and 9 May 1992.

734. Hranča is a village located to the west of Bratunac.[2381] The Chamber took judicial notice that on 3 May 1992, members of the Bratunac TO surrounded the Muslim village of Hranča and torched 43 houses.[2382] Over the following week, they attacked and arrested residents of Hranča. They captured nine villagers, and killed four of them, including a six year old girl.[2383]

735. The Chamber also took judicial notice that on 9 May 1992, members of the Bratunac TO shot eight Muslims.[2384] However, with respect to the killing of these eight victims, the Chamber is not satisfied that it has sufficient evidence pertaining to their status and the circumstances in which they were shot and killed to make a finding with respect to this incident.

2378 P3263 (Witness statement of Suad Džafić dated 31 August 2011), para. 15; *see* Adjudicated Fact 2322; Suad Džafić, T. 18181 (1 September 2011) (testifying that the legally held weapons in the village had already been surrendered).

2379 P3263 (Witness statement of Suad Džafić dated 31 August 2011), para. 17; Suad Džafić, T. 18195–18196 (1 September 2011) (testifying that the Bosnian Muslims were not mistreated during this process); *see* Adjudicated Fact 2322.

2380 P3263 (Witness statement of Suad Džafić dated 31 August 2011), para. 19; Suad Džafić, T. 18195 (1 September 2011); *see* Adjudicated Fact 2322.

2381 P268 (Map of BiH marked by Mevludin Orić).

2382 Adjudicated Fact 2316. *See also* Mirsada Malagić, T. 23504 (24 January 2012); P3188 (Witness statement of Mušan Talović dated 14 July 2011), para. 16; Mušan Talović, T. 17659–17660 (22 August 2011).

2383 *See* Adjudicated Fact 2317. *See also* P3188 (Witness statement of Mušan Talović dated 14 July 2011), para. 16; Mušan Talović, T. 17659–17660 (22 August 2011).

2384 Adjudicated Fact 2318. The Chamber notes that this figure corresponds to the number of individuals identified by Mašović who were reported to have gone missing on 9 May 1992 from Hranča and exhumed from a mass grave. P4853 (Updated Table 2 to the Report of Amor Mašović), pp. 2–5. Defence witnesses testified that there was a "firefight" following a Bosnian Muslim attack on a JNA column and also testified about those involved in this incident. D3194 (Witness statement of Rodoljub Đukanović dated 24 March 2013), para. 39; Rodoljub Đukanović, T. 36142 (27 March 2013); D3126 (Witness statement of Jovan Nikolić dated 10 March 2013), para. 43; D3852 (Witness statement of Mirko Perić dated 1 July 2013), para. 10; D3174 (Witness statement of Vujadin Stević dated 23 March 2013), para. 13; D3118 (Witness statement of Aleksandar Tešić dated 10 March 2013), paras. 20, 23, 46; D3115 (Witness statement of Branimir Tešić dated 9 March 2013), paras. 22–23; D3398 (Witness statement of Ljubisav Simić dated 7 April 2013), para. 56. *See also* D3690 (Witness statement of Nedo Nikolić dated 8 June 2013), paras. 8, 11; D1644 (Video footage of attack on JNA troops). Having reviewed this evidence, the Chamber does not consider the evidence of these witnesses in this regard to be reliable. In reaching that conclusion the Chamber refers to its credibility assessment in fns. 2248, 2256, 2268, 2336, 2338, and 2342 and also notes that their evidence is to a great extent based on hearsay information. *See also* Mušan Talović, T. 17660–17661 (22 August 2011) (denying any knowledge of an attack on a JNA

736. A total of 14 individuals from Hranča were exhumed from mass graves.[2385] Six of them are reported to have gone missing after 9 May 1992 and as such cannot be linked to this scheduled incident.[2386]

737. The Chamber therefore finds that at least four people were killed by Serb Forces in the village of Hranča between 3 and 9 May 1992.

(2) Scheduled Incident A.3.2

738. The Prosecution alleges that at least 65 men were killed in the village of Glogova on or about 9 May 1992.

739. The village of Glogova, which had a majority Bosnian Muslim population prior to the conflict, is located approximately 10 kilometres from Bratunac.[2387] From 1 April 1992, members of the Bosnian Serb police walked around Glogova with loudspeakers and called on people to surrender weapons and promised their safety if they did so.[2388] Villagers were invited to surrender their weapons to the local SDS authorities.[2389] As Bosnian Muslim villagers surrendered their weapons, JNA soldiers from the Novi Sad Corps shot in the air with automatic weapons.[2390] The villagers were instructed to continue their daily activities without fear but Mušan Talović was told by his employer that he would receive a phone call if he was required at work.[2391]

740. On 8 May 1992, following the killing of Goran Zekić, a prominent SDS member and Judge,[2392] in an ambush by Bosnian Muslims, the Bratunac Crisis Staff met and planned an attack

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column). In any event, the Chamber does not consider that the occurrence of an attack against a JNA column is of much significance.

2385 P4853 (Updated Table 2 to the Report of Amor Mašović), pp. 2–5.

2386 The Chamber notes that two other individuals referred to by the Prosecution as victims of Scheduled Incident A.3.1 were reported as having gone missing on 9 May 1992 from locations other than Hranča and therefore cannot be linked to the scheduled incident. *See* Prosecution Final Brief, Appendix G.

2387 P3188 (Witness statement of Mušan Talović dated 14 July 2011), paras. 6–7; KDZ605, T. 17886 (25 August 2011).

2388 P3188 (Witness statement of Mušan Talović dated 14 July 2011), para. 13.

2389 P3188 (Witness statement of Mušan Talović dated 14 July 2011), para. 13.

2390 P3188 (Witness statement of Mušan Talović dated 14 July 2011), para. 13; Mušan Talović, T. 17654–17655 (22 August 2011).

2391 P3188 (Witness statement of Mušan Talović dated 14 July 2011), para. 15; Mušan Talović, T. 17656, 17659 (22 August 2011).

2392 P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 44 (under seal); KDZ605, T. 17908 (25 August 2011) (private session); P4374 (Witness statement of Milenko Katanić dated 11 October 2011), para. 27; Milenko Katanić, T. 24536 (10 February 2012); KDZ480, T. 24241 (7 February 2012).

on the village of Glogova the following morning.[2393] Deronjić told the Bratunac Crisis Staff that the village of Glogova would be encircled and the Bosnian Muslims would be disarmed.[2394]

741. Milenko Katanić received call-up papers before the attack on Glogova and proceeded to the municipal building.[2395] Deronjić informed Katanić that Goran Zekić had been "murdered" and that an operation was being prepared and that it would be launched against Glogova.[2396] Deronjić also said that the purpose of the operation was to defend the line "so if Muslims started retreating towards Srebrenica" they would be arrested and prevented from retreating.[2397]

742. On 9 May 1992, Serb Forces, including the JNA and Bratunac TO units, surrounded Glogova; there was no armed resistance to the Serb advance because the village had already been disarmed.[2398] Apart from the JNA and Bratunac TO units, volunteers[2399] and armed members of the SJB were also part of this operation.[2400] The stated plan was for the Novi Sad Corps to enter Glogova in APCs and disarm the population, with the TO units stationed around the village to

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2393 *See* Adjudicated Fact 2319. *See also* Srbislav Davidović, T. 24384–24385. (9 February 2012). *But see* D3398 (Witness statement of Ljubisav Simić dated 7 April 2013), para. 90. Witnesses testified that the attack on Glogova was not carried out because of the killing of Zekić. D3194 (Witness statement of Rodoljub Đukanović dated 24 March 2013), para. 62; D3118 (Witness statement of Aleksandar Tešić dated 10 March 2013), para. 47. Katanić for example testified that the decision to attack Glogova had been made before the killing of Zekić, but his death accelerated the operation. P4374 (Witness statement of Milenko Katanić dated 11 October 2011), para. 26; Milenko Katanić, T. 24455–24456 (9 February 2012). The Chamber does not consider the issue of what prompted the attack on Glogova and whether or not the killing of Zekić played a role in that decision to be of significance.

2394 D3194 (Witness statement of Rodoljub Đukanović dated 24 March 2013), paras. 41; D3398 (Witness statement of Ljubisav Simić dated 7 April 2013), para. 57. *See also* Ljubisav Simić, T. 37317 (16 April 2013); D3690 (Witness statement of Nedo Nikolić dated 8 June 2013), paras. 9–10; D3126 (Witness statement of Jovan Nikolić dated 10 March 2013), para. 44; D3174 (Witness statement of Vujadin Stević dated 23 March 2013), paras. 14–15; D3118 (Witness statement of Aleksandar Tešić dated 10 March 2013), paras. 20–21; Branimir Tešić, T. 35260 (12 March 2013).

2395 P4374 (Witness statement of Milenko Katanić dated 11 October 2011), para. 28.

2396 P4374 (Witness statement of Milenko Katanić dated 11 October 2011), paras. 27–29. Katanić stated that he did not think that Deronjić ordered or was aware that such a large number of people would be killed in Glogova or that Deronjić considered it to be a legitimate military target. The Chamber finds this to be speculative opinion and of limited weight. *See also* D3118 (Witness statement of Aleksandar Tešić dated 10 March 2013), para. 22

2397 P4374 (Witness statement of Milenko Katanić dated 11 October 2011), para. 31; Milenko Katanić, T. 24537 (10 February 2012).

2398 *See* Adjudicated Fact 2320; P3188 (Witness statement of Mušan Talović dated 14 July 2011), para. 19. While the village had been disarmed the stated purpose of the operation in Glogova was to disarm the population and prevent anyone escaping with weapons. P4374 (Witness statement of Milenko Katanić dated 11 October 2011), para. 33; Milenko Katanić, T. 24537 (10 February 2012); D3118 (Witness statement of Aleksandar Tešić dated 10 March 2013), para. 21; D3126 (Witness statement of Jovan Nikolić dated 10 March 2013), para. 46 (stating that the military police was also involved in ensuring that nobody withdrew from the village with weapons). *See also* D3174 (Witness statement of Vujadin Stević dated 23 March 2013), para. 15.

2399 D3118 (Witness statement of Aleksandar Tešić dated 10 March 2013), para. 21.

2400 P4374 (Witness statement of Milenko Katanić dated 11 October 2011), paras. 32–33, 35.

prevent anyone from trying to escape with weapons.[2401] At sunrise, Serb Forces entered the village. There was then shooting and houses were set on fire.[2402]

743. Mušan Talović's cousin came to his house and told him that the hamlet of Tarat had also been attacked.[2403] Talović's neighbours gathered at his house and 23 men decided to hide in the underbrush at a nearby creek.[2404] When Meho Delić joined this group, the Bosnian Serb soldiers who were chasing him, found the hidden Bosnian Muslims and ordered them out at gun-point.[2405] The Bosnian Muslim men were ordered to put their hands on their heads and were searched for weapons. Talović's pistol was confiscated and they were then ordered to walk to a field and line up.[2406] One of the Bosnian Serb soldiers contacted their "Vojvoda", Najdan Mlađenović, by radio and asked what they should do with the captured "Balijas".[2407] The soldiers were instructed to take the Bosnian Muslim men to the centre of Glogova in front of the supermarket. Mlađenović would then decide what to do with them.[2408]

744. En route, the soldiers provoked the Bosnian Muslims by saying that "this is a Serb country" and that they "should be expelled".[2409] The men were lined up against the wall of the supermarket and ordered to put their hands up and stand in that position for half-an-hour.[2410] Many Bosnian Serb soldiers were gathered in the area near the supermarket.[2411] These soldiers were not regular

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2401 P4374 (Witness statement of Milenko Katanić dated 11 October 2011), para. 33; Milenko Katanić, T. 24537 (10 February 2012); D3118 (Witness statement of Aleksandar Tešić dated 10 March 2013), para. 21; D3126 (Witness statement of Jovan Nikolić dated 10 March 2013), para. 46. *See also* D3174 (Witness statement of Vujadin Stević dated 23 March 2013), para. 15.

2402 P3188 (Witness statement of Mušan Talović dated 14 July 2011), paras. 19, 37. *See also* Mirsada Malagić, T. 23504 (24 January 2012); P4374 (Witness statement of Milenko Katanić dated 11 October 2011), para. 34. The Chamber does not consider that Katanić's observation that he did not know whether this was part of the assignment or whether individuals set fire to homes on their own accord to be of much weight. Similarly, the Chamber places no weight on Stević's assumption that the shooting and fire indicated that Serb Forces met with resistance. D3174 (Witness statement of Vujadin Stević dated 23 March 2013), para. 16.

2403 P3188 (Witness statement of Mušan Talović dated 14 July 2011), para. 20.

2404 P3188 (Witness statement of Mušan Talović dated 14 July 2011), para. 20; Mušan Talović, T. 17666 (22 August 2011).

2405 P3188 (Witness statement of Mušan Talović dated 14 July 2011), paras. 21–22. *See also* D3174 (Witness statement of Vujadin Stević dated 23 March 2013), para. 18.

2406 P3188 (Witness statement of Mušan Talović dated 14 July 2011), paras. 23–24.

2407 P3188 (Witness statement of Mušan Talović dated 14 July 2011), para. 24. *But see* D3174 (Witness statement of Vujadin Stević dated 23 March 2013), paras. 19–22; Vujadin Stević, T. 36037–36039 (26 March 2013). The Chamber does not find Stević's evidence that he did not know anyone named Mlađenović and that the Bosnian Muslims were ordered to stand against a wall for their own protection to be reliable. In reaching that conclusion the Chamber refers to its credibility assessment in fn. 2342. It more specifically notes that Stević was contradicted by evidence that both he and Mlađenović were members of the SDS Municipal Board. Vujadin Stević, T. 36040–36041 (26 March 2013); P6233 (Minutes of meeting of Bratunac SDS Municipal Board, 22 September 1993), p. 2.

2408 P3188 (Witness statement of Mušan Talović dated 14 July 2011), para. 24.

2409 P3188 (Witness statement of Mušan Talović dated 14 July 2011), para. 24.

2410 P3188 (Witness statement of Mušan Talović dated 14 July 2011), paras. 25–26.

2411 P3188 (Witness statement of Mušan Talović dated 14 July 2011), para. 33; Mušan Talović, T. 17668 (22 August 2011).

JNA soldiers but included local Bosnian Serbs.[2412] There was also a tank with JNA markings and an APC in the centre of Glogova.[2413]

745. Talović saw Momir Nikolić arrive from the direction of Bratunac with a group of four or five armed Bosnian Serbs in uniform.[2414] At that time, Momir Nikolić was a member of the Bratunac Crisis Staff and a high ranking officer of the Bratunac TO.[2415] When Najdan Mlađenović arrived from the direction of Kravica with his driver, he said that he did not need to hide because the men were "going to be killed and no one can tell that he was there".[2416]

746. Three of the Bosnian men from the group were taken away in Mlađenović's car.[2417] After this, Mlađenović told Dragan Stević to "[e]xecute the punishment and kill them all".[2418] The remaining 20 Bosnian Muslims were taken by four Bosnian Serb soldiers armed with rifles and automatic weapons and ordered to line up on the riverbank with their faces towards the river.[2419] This group included two boys who were 11 and 13 years old; the rest were young men.[2420] The soldiers then started to shoot at the men.[2421] Talović and a man named Šećo Delić, though injured, were the only two men who survived this shooting.[2422] When the shooting started, Talović was hit,

2412 P3188 (Witness statement of Mušan Talović dated 14 July 2011), para. 33.

2413 Mušan Talović, T. 17638–17639 (22 August 2011).

2414 P3188 (Witness statement of Mušan Talović dated 14 July 2011), para. 27; Mušan Talović, T. 17667 (22 August 2011).

2415 P3188 (Witness statement of Mušan Talović dated 14 July 2011), para. 32; Mušan Talović, T. 17638 (22 August 2011).

2416 P3188 (Witness statement of Mušan Talović dated 14 July 2011), paras. 28–29.

2417 P3188 (Witness statement of Mušan Talović dated 14 July 2011), paras. 31, 34; Mušan Talović, T. 17639–17640, 17667–17668 (22 August 2011). Talović testified that two of those who were taken away by car were killed on the same night However, the Chamber does not consider that Talović's evidence is sufficient to make a finding with respect to the killing of these two individuals.

2418 P3188 (Witness statement of Mušan Talović dated 14 July 2011), paras. 31, 34. The men who were sent to Mlađenović's car were Mustafa Golić, Sejid Ibišević, and Almaz Talović. The men who were returned to the main group were Mušan Talović and Dževad Ibišević.

2419 P3188 (Witness statement of Mušan Talović dated 14 July 2011), para. 35; Mušan Talović, T. 17640 (22 August 2011). The men who were taken to the river were identified as Mušan Talović, Hušo Junuzović, Abid Junuzović, the son of Abid Junuzović, Redo Delić, Meho Delić, Bego Delić, Dževad Ibišević, Kemal Ibišević, Ilijaz Ibišević, Ramo Ibišević, Sabrija Ibišević, Mustafa Ibišević, Mujo Ibišević, Muharem Ibišević, Selmo Omerović, Mirzet Omerović, Šećo Delić, a man with the surname Gušić, and a man with the surname Hasibović. Mušan Talović, T. 17668 (22 August 2011). Of these names identified by Talović, 10 bodies were identified by Mašović as having been exhumed from a mass grave. P4853 (Updated Table 2 to the Report of Amor Mašović), pp. 3–6.

2420 Mušan Talović, T. 17640–17641 (22 August 2011).

2421 P3188 (Witness statement of Mušan Talović dated 14 July 2011), para. 36.

2422 Mušan Talović, T. 17640 (22 August 2011); P3188 (Witness statement of Mušan Talović dated 14 July 2011), para. 37. Šećo Delić jumped into the river when the shooting started and was shot at when he got out of the river.

he fell into the river unconscious, and was washed down the stream; when he awoke there were bodies on and around him.[2423]

747. As Talović and Delić returned to the village, they found 68 bodies in three piles.[2424] In one of the piles were the bodies of the men who had been shot along with Talović and Delić. The bodies were all of people from Glogova, 24 of whom Talović could identify by name, and included two women.[2425] Having regard to the circumstances surrounding the attack on Glogova and the evidence about the capture and execution of villagers, the Chamber is satisfied that the bodies that Talović and Delić saw in the village were killed by Serb Forces in a similar manner. When Talović returned to his home, he saw that his house had been burnt down and found approximately 100 women and children gathered in his yard.[2426] The survivors split in two groups and left the village with one group heading in the direction of Konjević Polje while the other group headed to Srebrenica.[2427] Bosnian Serbs were involved in the collection and movement of the bodies with tractors.[2428]

748. The Chamber took judicial notice that approximately 65 inhabitants of Glogova were killed during the operation and that most of the buildings in the village were then burned.[2429] The

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2423 P3188 (Witness statement of Mušan Talović dated 14 July 2011), para. 36. The bodies of Dževad and Kemal Ibišević which were lying on top of Talović were exhumed from a mass grave. P4853 (Updated Table 2 to the Report of Amor Mašović), p. 3.

2424 P3188 (Witness statement of Mušan Talović dated 14 July 2011), para. 38. *See also* P3263 (Witness statement of Suad Džafić dated 31 August 2011), para. 11 (stating that "[s]ome 60 villagers" were killed in the attack on Glogova on 9 May 1992).

2425 P3188 (Witness statement of Mušan Talović dated 14 July 2011), para. 38; Mušan Talović, T. 17641 (22 August 2011). Talović saw the bodies of Adem Junuzović, Banovka Junuzović, Hamed Delić, Đafo Delić, Uzeir Talović, Avdo Golić, Nezir Omerović, Šaban Gerović, Medo Delić, Šaban Mušić, Jusuf Ibišević, Mehmed Ibišević, Hajdar Alihromić, Selmo Omerović, Ćamil Rizvanović, Jasmin Rizvanović, Mustafa Rizvanović, Nermin Omerović, Ramo Golić, Ramiz Gerović, Halid Milačević, Osman Ibišević, Ramo Gerović, and Refik Ibišević. The witness confirmed that the name Selmo Omerović appears twice, once on this list and once on the previous list referred to in fn. 2419 because they were two different people. Mušan Talović, T. 17642 (22 August 2011). Of these names identified by Talović, nine were identified by Mašović as having been exhumed from individual or mass graves. P4853 (Updated Table 2 to the Report of Amor Mašović), pp. 3–6.

2426 P3188 (Witness statement of Mušan Talović dated 14 July 2011), para. 39.

2427 P3188 (Witness statement of Mušan Talović dated 14 July 2011), para. 41.

2428 P3188 (Witness statement of Mušan Talović dated 14 July 2011), para. 42; P4374 (Witness statement of Milenko Katanić dated 11 October 2011), paras. 37–40; Milenko Katanić, T. 24538 (10 February 2012).

2429 *See* Adjudicated Fact 2320. Defence witnesses testified *inter alia* (i) that during the fighting in Glogova there was mayhem as paramilitary units also joined and that 25 people of military age were killed by volunteers who sought revenge; (ii) the Bratunac Crisis Staff intended to disarm and not kill civilians; (iii) some people were killed during the operation to disarm Bosnian Muslim "extremists"; and (iv) Serb Forces were under strict orders not to kill anyone unless attacked. D3194 (Witness statement of Rodoljub Đukanović dated 24 March 2013), paras. 42, 48, 51; D3852 (Witness statement of Mirko Perić dated 1 July 2013), para. 11; D3126 (Witness statement of Jovan Nikolić dated 10 March 2013), para. 46. *See also* D3690 (Witness statement of Nedo Nikolić dated 8 June 2013), paras. 9–10; D3115 (Witness statement of Branimir Tešić dated 9 March 2013), para. 25; Branimir Tešić, T. 35259 (12 March 2013); D3174 (Witness statement of Vujadin Stević dated 23 March 2013), para. 15. Having reviewed this evidence, the Chamber does not find the testimony of the relevant witnesses to be reliable in this regard. In reaching that conclusion the Chamber refers to its credibility assessment in fns. 2248, 2256, 2336, 2338, and 2342. The Chamber further notes that when challenged on

villagers from Glogova who were not killed were taken into the custody of the Serb Forces and transported to the Bratunac Stadium; the able-bodied men were separated and taken to the Vuk Karadžić School while the women and children were loaded on buses and taken to Bosnian Muslim controlled areas.[2430]

749. The Chamber therefore finds that at least 65 Bosnian Muslims were killed by Serb Forces in the village of Glogova on or about 9 May 1992.

(F) Actions of paramilitaries

750. The municipal authorities faced problems with paramilitaries and volunteers who arrived in Bratunac, tried to take power, terrorised the population[2431] and did not accept the command structures or local authorities.[2432] In contrast, volunteers who came to the municipality and placed themselves at the disposal of the JNA or joined the Bratunac Brigade were welcomed.[2433] For instance, representatives of the volunteers were also included in the War Staff of Bratunac which was proclaimed on 8 May 1992.[2434] Đukanović and Deronjić were involved in bringing volunteers from Vukovar to Bratunac.[2435]

751. On 1 May 1992, the Bratunac Crisis Staff decided that all volunteers who did not want to place themselves under the command of the army would be expelled from Bratunac and forbade all paramilitary formations, "illegal citizens", and other groups who illegally possessed weapons from

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cross-examination, Perić conceded that he only testified about what he had heard and he did not know anything about the killings. Mirko Perić, T. 40802–40804 (3 July 2013).

2430 P3263 (Witness statement of Suad Džafić dated 31 August 2011), paras. 10–11. *See also* D3852 (Witness statement of Mirko Perić dated 1 July 2013), para. 12. Defence witnesses testified that the population stated they wanted to leave voluntarily for their own security. D3126 (Witness statement of Jovan Nikolić dated 10 March 2013), para. 47; D3398 (Witness statement of Ljubisav Simić dated 7 April 2013), para. 59. The Chamber refers to its credibility assessment in fns. 2256 and 2268 in concluding that the evidence of the relevant witnesses about the voluntariness of the departure of the Bosnian Muslim population to be unreliable.

2431 Milenko Katanić, T. 24531–24532 (10 February 2012); P6196 (Romanija-Birač CSB report, 27 August 1992), pp. 2–3; Aleksandar Tešić, T. 35334(13 March 2013); KDZ480, T. 24235–24237 (7 February 2012). *But see* Branimir Tešić, T. 35261–35264 (12 March 2013) (denying the suggestion that the authorities in Bratunac only became concerned with the actions of volunteers after they started attacking Bosnian Serbs).

2432 D3115 (Witness statement of Branimir Tešić dated 9 March 2013), para. 30; D3126 (Witness statement of Jovan Nikolić dated 10 March 2013), paras. 36, 40. *See also* Srbislav Davidović, T. 24439 (9 February 2012); D3118 (Witness statement of Aleksandar Tešić dated 10 March 2013), para. 17.

2433 Milenko Katanić, T. 24533 (10 February 2012).

2434 D2061 (List of decisions and orders issued by the Crisis Staff, War Staff, and Wartime Presidency of Bratunac Municipality, 29 August 1992), p. 3.

2435 P1477 (Ratko Mladić's notebook, 14 February–28 May 1992), p. 253. *But see* Rodoljub Đukanović, T. 36185–36188 (27 March 2013) (who denied the truth of this diary entry which suggested that they were responsible for bringing "all the cutthroats from Vukovar" to the municipality and testified that he was not aware of who brought the volunteers to Bratunac). Simić testified that the local authorities tried unsuccessfully to prevent some volunteers from arriving in the municipality. D3398 (Witness statement of Ljubisav Simić dated 7 April 2013), paras. 42–45. However, the Chamber does not find Simić's evidence to be entirely reliable in this regard. In reaching that conclusion, it refers to it credibility assessment in fn. 2268.

acting in the municipality.[2436] The Bratunac Crisis Staff also issued a decision that if paramilitaries did not comply with the decision to leave the municipality, military formations would be ordered to intervene.[2437] Despite these orders, the paramilitary units did not leave the municipality.[2438] On 6 May 1992, the Crisis Staff issued a decision that all paramilitary formations should leave Bratunac by the next day, however, Bosnian Serb citizens rallied in support of the paramilitary units.[2439]

752. The Bratunac Crisis Staff issued a number of other decisions in May 1992, including restrictions on the sale of alcohol, and measures to combat looting, smuggling, and the illegal movement by individuals into apartments.[2440]

753. Following an inspection by the Romanija-Birač CSB in August 1992, it was reported that the Bratunac SJB had been involved in investigating and documenting war crimes committed against Bosnian Serbs.[2441] This report also indicated that while volunteers had become involved in

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2436 D2060 (Order of Bratunac Crisis staff, 1 May 1992), pp. 3–4; Milenko Katanić, T. 24532, 24535 (10 February 2012); D2061 (List of decisions and orders issued by the Crisis Staff, War Staff, and Wartime Presidency of Bratunac Municipality, 29 August 1992), p. 4; D3126 (Witness statement of Jovan Nikolić dated 10 March 2013), paras. 38–39; D3398 (Witness statement of Ljubisav Simić dated 7 April 2013), paras. 64–65; Ljubisav Simić, T. 37295 (16 April 2013). *See also* Adjudicated Fact 2314; D3194 (Witness statement of Rodoljub Đukanović dated 24 March 2013), para. 45; Rodoljub Đukanović, T. 36199 (27 March 2013); D3117 (Bratunac Crisis Staff order, 1 May 1992); Branimir Tešić, T. 35261, 35273, 35277–35278 (12 March 2013); D3118 (Witness statement of Aleksandar Tešić dated 10 March 2013), para. 26; Aleksandar Tešić, T. 35331–35333 (13 March 2013).

2437 D2061 (List of decisions and orders issued by the Crisis Staff, War Staff, and Wartime Presidency of Bratunac Municipality, 29 August 1992), p. 3.

2438 *See* Adjudicated Fact 2314. *But see* D3194 (Witness statement of Rodoljub Đukanović dated 24 March 2013), paras. 45, 48; D3126 (Witness statement of Jovan Nikolić dated 10 March 2013), para. 39; Ljubisav Simić, T. 37296 (16 April 2013); Aleksandar Tešić, T. 35331–35333 (13 March 2013). The Chamber does not consider their evidence that the TO Staff and police were unable to remove paramilitaries because they were too strong to be reliable. In reaching that conclusion the Chamber refers to its credibility assessment in fns. 2248, 2256, 2268, and 2338.

2439 D3116 (Bratunac Crisis Staff decision, 6 May 1992); Branimir Tešić, T. 35274–35275 (12 March 2013).

2440 D2061 (List of decisions and orders issued by the Crisis Staff, War Staff, and Wartime Presidency of Bratunac Municipality, 29 August 1992), pp. 3, 5; Milenko Katanić, T. 24542 (10 February 2012). *See also* D4698 (Order of Bratunac Interim Government, 8 July 1992). The local authorities, including the police, faced problems from paramilitaries and volunteers and some measures were taken to try and control them. D3115 (Witness statement of Branimir Tešić dated 9 March 2013), para. 30; D3118 (Witness statement of Aleksandar Tešić dated 10 March 2013), para. 18; D3196 (Witness statement of Dušan Mićić dated 24 March 2013), para. 3; D3126 (Witness statement of Jovan Nikolić dated 10 March 2013), para. 50.

2441 P6196 (Romanija-Birač CSB report, 27 August 1992), p. 2. *See also* P6197 (Romanija-Birač CSB report, 8 September 1992), p. 4. Branimir Tešić testified that when filing criminal reports no distinction was made based on ethnicity. However, when confronted with these documents which suggested that the SJB was successful in conducting war crimes investigations into crimes committed by Bosnian Muslims and did not mention investigations into crimes committed by Bosnian Serbs, he distanced himself and claimed that this was not his job. Branimir Tešić, T. 35264–35268, 35284 (12 March 2013). Having regard to his evasiveness on the issue and apparent contradictions, the Chamber does not find Tešić's evidence to be reliable in this regard. The Chamber also refers to its credibility assessment in fn. 2236. However, the Chamber finds that in May 1992, the police were involved in preventing the rape of a Bosnian Muslim woman. D4673 (Bratunac SJB criminal report, 25 May 1992); D4277 (Request from Zvornik Prosecutor's Office, 26 May 1993).

"robberies and troublemaking", Ljubisav Simić said that the police should be engaged to prevent further lootings since Bosnian Serb houses were now being looted too.[2442]

754. In September 1992, paramilitaries remained in Bratunac and the SJB, with the assistance of the military and civilian authorities, sought to place them under the command of the VRS.[2443] On 17 December 1992, it was reported that there were still a number of paramilitary formations in the zone of responsibility of the Bratunac Brigade and they were only there to loot.[2444] On 29 December 1992, the Accused ordered the establishment of military rule in Bratunac.[2445]

755. On 1 February 1993, Deronjić delivered a speech at a meeting of the SDS Municipal Board attended by the RS commissioner, Jovo Mijatović.[2446] Deronjić provided an overview of events from 1 April 1992 and assessed that, with the assistance of the SDS Main Board and local boards, operations had been carried out very well in the municipality.[2447] At this same meeting, objections were voiced to the SJB due to their "indolence" with respect to crime prevention, in particular in relation to the unauthorised appropriation of property, which was sometimes covered up or allowed.[2448] The SDS Main Board thus proceeded to pass a no-confidence vote in the chief of the SJB. Jovo Mijatović then nominated Ljubiša Borovčanin as the commander.[2449]

756. The municipal authorities continued to face problems with paramilitaries, including a paramilitary unit which, in March 1993, was involved in looting and had no respect for the Bosnian Serb civilian and military authorities in Bratunac.[2450] Momir Nikolić reported on the activities of this paramilitary unit, demanded that they stop mistreating members of the Bratunac Brigade, and asked that they be withdrawn from the municipality.[2451]

2442 P6196 (Romanija-Birač CSB report, 27 August 1992), p. 3.

2443 P6197 (Romanija-Birač CSB report, 8 September 1992), para. 6. *See also* P1107 (SerBiH MUP report to the Minister of Interior re inspection of Romanija-Birač CSB and SJB, 10 August 1992), p. 3. The Chamber also received evidence that a paramilitary group was involved in the killing Bosnian Muslims in August 1992. P3264 (Report of Milići SJB, 3 August 1992), pp. 1–2. *But see* Branimir Tešić, T. 35267–35268 (12 March 2013). The Chamber notes that this killing is not charged pursuant to Schedules A or B of the Indictment. *See* fn. 13.

2444 P2955 (Report of the Drina Corps, 17 December 1992), pp. 3–4.

2445 D3122 (Bratunac Brigade report, 30 December 1992), p. 1; Aleksandar Tešić, T. 35338 (13 March 2013).

2446 P4378 (Minutes of the Bratunac SDS Municipal Board meeting, 1 February 1993), p. 1.

2447 P4378 (Minutes of the Bratunac SDS Municipal Board meeting, 1 February 1993), pp. 1–3; P4374 (Witness statement of Milenko Katanić dated 11 October 2011), para. 19; Milenko Katanić, T. 24529 (10 February 2012).

2448 P4378 (Minutes of the Bratunac SDS Municipal Board meeting, 1 February 1993), pp. 2–3.

2449 P4378 (Minutes of the Bratunac SDS Municipal Board meeting, 1 February 1993), p. 3; Milenko Katanić, T. 24530 (10 February 2012).

2450 D2062 (Report of Bratunac Brigade, 5 March 1993); Momir Nikolić, T. 24730–24734 (15 February 2012).

2451 Momir Nikolić, T. 24733 (15 February 2012).

(G) Detention facilities in Bratunac

(1) Scheduled Detention Facility C.6.1

757. The Indictment refers to the use of the Bratunac Football Stadium as a detention facility from at least 10 to 18 May 1992.[2452]

758. The Bratunac Football Stadium was located close to the Bratunac SJB and the Vuk Karadžić School.[2453]

759. Following the attack by Serb Forces on Mihaljevići and Suha on 10 May 1992, male villagers were arrested and taken to the Vuk Karadžić School, while women and children were taken to the Bratunac Football Stadium.[2454] Serb Forces drove Bosnian Muslims from their homes and told them not to lock their doors and to head to Bratunac.[2455] Through loudspeakers, the men were threatened that if they did not surrender the women and children would be killed.[2456] Those who surrendered formed a column and were led on foot towards the Bratunac Football Stadium by Bosnian Serb reserve soldiers, including local Bosnian Serbs wearing JNA uniforms.[2457] The Bosnian Muslims were reassured by one soldier that nothing would happen to them, that they would be taken to the stadium for their own protection, and that they would be protected from Arkan's men.[2458]

760. On or about 17 May 1992, villagers from Vitkovići were taken by bus to the Bratunac Football Stadium, along with a third bus filled with villagers from Krasanpolje and other villages close to Bratunac.[2459]

2452 Indictment, Scheduled Detention Facility C.6.1, fn. 7, referring to Rule 73 *bis* Submission, Appendix B, p. 13.

2453 P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), p. 282; Branimir Tešić, T. 35253 (12 March 2013); P290 (Aerial photograph of Bratunac marked by KDZ107).

2454 *See* Adjudicated Fact 2321; Mirsada Malagić, T. 23505 (24 January 2012); P3205 (Witness statement of KDZ605 dated 22 August 2011), paras. 50–52 (under seal). *See also* D3194 (Witness statement of Rodoljub Đukanović dated 24 March 2013), para. 44; KW12, T. 44742, 44745 (9 December 2013).

2455 P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 46 (under seal).

2456 P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 47 (under seal).

2457 P3205 (Witness statement of KDZ605 dated 22 August 2011), paras. 47–49 (under seal); KDZ605, T. 17914 (25 August 2011). *See also* P4374 (Witness statement of Milenko Katanić dated 11 October 2011), para. 50. Đukanović stated that he sought information about the detention of Bosnian Muslims and tried to take steps to prevent it but was ordered not to interfere. D3194 (Witness statement of Rodoljub Đukanović dated 24 March 2013), para. 44. The Chamber does not find Đukanović's evidence with respect to what he tried to do and what he was told about the Bosnian Muslims who he saw outside the Bratunac stadium to be reliable. In reaching that conclusion the Chamber refers to its credibility assessment in fn. 2248.

2458 P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 48 (under seal); KDZ605, T. 17915 (25 August 2011).

2459 P3263 (Witness statement of Suad Džafić dated 31 August 2011), paras. 21–22; Suad Džafić, T. 18193–18194 (1 September 2011); Adjudicated Fact 2322. Džafić also testified about the killing of a man who was taken off

761. After the attack on Glogova,[2460] Deronjić informed the Bratunac Crisis Staff that he had information that "volunteers had gathered the Muslim population at the stadium in Bratunac" and some men had been taken out to the Vuk Karadžić School.[2461]

762. Milenko Katanić was able to speak to a commander of a paramilitary group and secure the release of his best man who had been detained at the stadium.[2462] Thousands of Bosnian Muslims, including women, children and the elderly,[2463] were detained at the Bratunac Football Stadium before being transported to locations such as Tuzla.[2464] People were being constantly brought to and taken away from the stadium from Bratunac and surrounding villages.[2465] Soldiers used loudspeakers to call out names of people who would be taken away from the stadium.[2466] Money, jewellery, and identification documents were taken away and soldiers threatened children that they would cut off their ears if they did not give them their earrings.[2467] One man was also beaten and stabbed.[2468]

763. After being held for some time, the Bosnian Muslims in the stadium were informed via loudspeaker that they had to move; they were taken to buses and trucks outside the stadium, and told they were going to Tuzla.[2469] A large number of soldiers separated the able-bodied men and sent the women and children to the buses which headed to Tuzla; the men were taken under guard

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the bus. The Chamber notes that this killing is not charged pursuant to Schedules A or B of the Indictment. *See* fn. 13.

2460 For general evidence on the attack against Glogova, *see* paras. 738–749.

2461 D3398 (Witness statement of Ljubisav Simić dated 7 April 2013), para. 59. *See* P3207 (Aerial photograph of Bratunac marked by KDZ605) (under seal) for location of the school; P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 5 (under seal). Tešić stated that Deronjić had gone to the stadium and asked the paramilitaries not to mistreat people. D3118 (Witness statement of Aleksandar Tešić dated 10 March 2013), para. 24. The Chamber notes that Tešić's evidence in this regard is of very little weight given that he claimed that he did not know that Bosnian Muslims had been brought to the stadium but then states that he was later told about Deronjić's actions to protect the Bosnian Muslims.

2462 P4374 (Witness statement of Milenko Katanić dated 11 October 2011), paras. 50–51; Milenko Katanić, T. 24539 (10 February 2012).

2463 P3205 (Witness statement of KDZ605 dated 22 August 2011), paras. 62–64 (under seal).

2464 P4374 (Witness statement of Milenko Katanić dated 11 October 2011), para. 50.

2465 P3205 (Witness statement of KDZ605 dated 22 August 2011), paras. 63–64 (under seal); P4374 (Witness statement of Milenko Katanić dated 11 October 2011), para. 45.

2466 P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 62 (under seal).

2467 P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 62 (under seal).

2468 P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 62 (under seal). *See also* P43 (Witness statement of Mirsad Smajš dated 18 December 1993), pp. 3–4 (stating that approximately 430 detainees were brought from the Bratunac Football Stadium and detained at the gym in Pale and they told him they had been beaten at the stadium and some had been mutilated). While the Chamber finds that Bosnian Muslims were taken from the Bratunac Football Stadium and detained in Pale, in the absence of further evidence, it does not consider that it can rely on Smajš' hearsay evidence alone to establish that detainees were mutilated at the Bratunac Football Stadium by Serb Forces. For evidence relating to the detention in Pale Gym, *see* Scheduled Detention Facility C.19.2.

2469 P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 66 (under seal). *See also* D3115 (Witness statement of Branimir Tešić dated 9 March 2013), para. 28; Branimir Tešić, T. 35255–35256, 35272 (12 March 2013) (private session).

to the Vuk Karadžić School.[2470] Women and children from Suha who could not fit on the buses were told to go home and return the next morning to be taken by bus to Tuzla.[2471] They were warned not to leave and told that if they complied they would guarantee the lives of their husbands.[2472] From mid-May 1992 on, detainees held at the Bratunac Football Stadium were forced on buses and sent to Vlasenica municipality where some men were detained at the Vlasenica municipal prison.[2473]

764. The Chamber therefore finds that in mid-May 1992, Bosnian Muslims from Bratunac and surrounding villages, including women, children and the elderly, were brought to and detained at the Bratunac Football Stadium by Serb Forces. The Bosnian Muslims were detained at this location until their transportation to other municipalities or detention facilities. Detainees were threatened and their valuables were confiscated and at least one man was beaten and stabbed.

(2) Scheduled Detention Facility C.6.2 and Scheduled Incident B.4.1.

765. The Indictment refers to the use of the Vuk Karadžić School as a detention facility at least between 1 May and 31 December 1992.[2474] The Prosecution alleges that approximately 50 people were killed while being detained at the Vuk Karadžić School between 10 and 16 May 1992.[2475]

(a) Arrival of detainees and control of facility

766. After the arrival of Serb Forces in Bratunac, some prominent Bosnian Muslims were brought to the Vuk Karadžić School and detained there.[2476] Groups of volunteers would select individuals from the Bosnian Muslim population in Bratunac, interrogate them, and then bring them to the Vuk Karadžić School.[2477]

2470 P3205 (Witness statement of KDZ605 dated 22 August 2011), paras. 67–69 (under seal); P3263 (Witness statement of Suad Džafić dated 31 August 2011), para. 10; P4374 (Witness statement of Milenko Katanić dated 11 October 2011), para. 45. *See also* Branimir Tešić, T. 35253–35259 (12 March 2013).

2471 P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 67 (under seal).

2472 P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 67 (under seal).

2473 P3263 (Witness statement of Suad Džafić dated 31 August 2011), paras. 24–29; *see* Adjudicated Fact 2323. For evidence of detention at the Vlasenica prison, *see* Scheduled Detention Facility C.25.2.

2474 The Prosecution submits that the evidence presented shows that the facility was operational from 3 May 1992 until on or about 14 May 1992. Prosecution Final Brief, Appendix B, fn. 136.

2475 Indictment, Scheduled Incident B.4.1.

2476 P3263 (Witness statement of Suad Džafić dated 31 August 2011), paras. 6, 8; P4375 (Aerial photograph of Bratunac marked by Milenko Katanić); P4308 (Book of photographs and maps prepared by Jean-René Ruez, 22 June 2009), p. 282. *See also* P3188 (Witness statement of Mušan Talović dated 14 July 2011), paras. 31, 40.

2477 P4374 (Witness statement of Milenko Katanić dated 11 October 2011), para. 46.

767. On 10 May 1992, after the attack on Krasanpolje by paramilitaries, over 500 Bosnian Muslim men from villages in Bratunac were detained in the Vuk Karadžić School.[2478] On 11 May 1992, the Bratunac TO brought approximately 250 of Hranča's inhabitants to the municipal hall of Bratunac and from there, approximately 60 men were taken to the school.[2479] Further, as mentioned, a very large group of able-bodied Bosnian Muslim men were separated from women and children held at the Bratunac Football Stadium and taken under guard to the school.[2480] This group included some elderly men.[2481] On the same day, hundreds of men were brought to the school in groups every hour.[2482] The people detained at the school were Bosnian Muslim civilians; some were captured while they were trying to escape but most were rounded up from their homes by Bosnian Serb soldiers.[2483]

768. There were approximately 30 soldiers on guard around the school.[2484] The soldiers were wearing reserve military uniforms and carried automatic and semi-automatic rifles.[2485] Some of Arkan's men were present when Bosnian Muslims were brought to the school.[2486] Bosnian Serb officials, including Deronjić and Momir Nikolić, also visited the school and the gym where the detainees were held.[2487] Detainees were threatened to give statements indicating their involvement in the distribution of arms and the killing of Bosnian Serbs.[2488]

2478 *See* Adjudicated Fact 2325.

2479 Adjudicated Fact 2327. Simić denied any knowledge of this incident and stated that the municipality building was unable to accommodate that many people. D3398 (Witness statement of Ljubisav Simić dated 7 April 2013), para. 91. The Chamber refers to its credibility assessment in fn. 2268 in concluding that it does not find Simić's evidence with respect to the transfer and detention of residents from Hranča to be reliable. In addition his evidence on this issue is qualified, in that he denied any personal knowledge about this incident.

2480 P3205 (Witness statement of KDZ605 dated 22 August 2011), paras. 51, 69–70 (under seal). *See also* KW12, T. 44745–44746 (9 December 2013).

2481 P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 70 (under seal).

2482 P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 71 (under seal).

2483 P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 73 (under seal).

2484 P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 53 (under seal).

2485 P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 54 (under seal).

2486 P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 54 (under seal).

2487 P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 105 (under seal). KDZ605 recognised Deronjić but was told about Nikolić by the other detainees.

2488 P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 56 (under seal); KDZ605, T. 17917 (25 August 2011) (private session), T. 17918–17919 (25 August 2011).

(b) Conditions of detention, treatment, and killing of detainees

769. Detainees at the Vuk Karadžić School were severely mistreated and beaten repeatedly.[2489] For example, on 9 May 1992, after the attack on Glogova, Mustafa Golić was taken to the school and severely beaten.[2490] Similarly, a former Bosnian Muslim policeman was taken out and beaten.[2491] On 11 May 1992, detainees were severely beaten in the sports hall with, *inter alia*, iron tubes, heavy wooden sticks, and a rifle butt.[2492] One of the detainees was threatened before being cut with a knife.[2493] Detainees were thrown to the ground, kicked, and some were beaten till they lost consciousness while others were killed.[2494] These killings and mistreatment were carried out by three soldiers while other soldiers guarded the door or stood in the corridors or at the entrance to the school.[2495] Some of the soldiers inside the school identified themselves as Arkan's men and told the detainees they were paid to do what they were doing and would make more money if they killed more people.[2496] One of the detainees was saved from further mistreatment by a soldier who knew him and was told that he could be taken to the Bratunac Football Stadium but that he and

2489 Adjudicated Fact 2326. *See also* KW12, T. 44746 (9 December 2013). Mićić stated that the members of the military police did not see any detainees being beaten, did not hear any shots, or see any bodies near the school. D3196 (Witness statement of Dušan Mićić dated 24 March 2013), paras. 7, 12. The Chamber does not find Mićić's evidence with respect to the mistreatment of detainees to be reliable. In reaching that conclusion the Chamber notes that his evidence was marked by contradictions and indicators that he was not being forthright in his testimony. In addition the Chamber notes that the value of Mićić's evidence in this regard is further undermined given that he stated that he did not go to the school himself.

2490 P3188 (Witness statement of Mušan Talović dated 14 July 2011), paras. 31, 40.

2491 P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 83 (under seal).

2492 P3205 (Witness statement of KDZ605 dated 22 August 2011), paras. 57, 60 (under seal).

2493 P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 60 (under seal).

2494 P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 58 (under seal); KDZ605, T. 17898 (25 August 2011). While KDZ605 testified that some of the detainees were killed, there is insufficient evidence to determine how many were killed in this incident.

2495 P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 59 (under seal). Defence evidence sought to place the complete blame for the beating and killing of detainees at the school on volunteers and tried to distance the authorities and themselves from direct knowledge of the mistreatment of detainees and control of the facility. Defence witnesses also testified that civilian authorities and the Bratunac Crisis Staff tried to intervene to protect and secure the release of the detainees at the facility but were unsuccessful due to the power of the volunteers. D3852 (Witness statement of Mirko Perić dated 1 July 2013), para. 12; D3118 (Witness statement of Aleksandar Tešić dated 10 March 2013), paras. 25, 31; Aleksandar Tešić, T. 35331–35332 (13 March 2013); Vujadin Stević, T. 36045–36047 (26 March 2013); D3398 (Witness statement of Ljubisav Simić dated 7 April 2013), paras. 60–62; P4374 (Witness statement of Milenko Katanić dated 11 October 2011), para. 47. *See also* D3115 (Witness statement of Branimir Tešić dated 9 March 2013), paras. 24, 28; Branimir Tešić, T. 35252 (12 March 2013). The Chamber notes that the evidence of these witnesses was marked by extreme evasiveness, contradictions and indicators of bias and that they were seeking to mislead the Chamber. For example Perić was contradicted by evidence that he himself brought detainees to the school. The Chamber therefore does not consider their evidence in this regard to be reliable.

2496 P3205 (Witness statement of KDZ605 dated 22 August 2011), paras. 59, 75 (under seal); KDZ605, T. 17897, 17904 (25 August 2011). The other soldiers included locals from Bratunac and from Serbia.

other Bosnian Muslims would have to go from there to Tuzla because Bosnian Serbs were going to live in Bratunac.[2497]

770. A man who identified himself as Goran Zekić's father came to the school on one occasion and said that "300 people had to pay for the death of his son".[2498] When an individual named Zaim Huseinović from Potočari was identified, he was questioned about who killed Zekić and Arkan's men in Potočari; he was then beaten and fell to floor.[2499] A man named Krke intervened to stop the beating but once Krke left, Huseinović was hit several times until his brains spilled out and he died.[2500] On his arrival at the facility, KDZ605 saw five or six bodies including the body of Safet Karić who was lying on his stomach in the toilet.[2501]

771. A soldier who called himself Zoka and was known as the "Macedonian", would often come in and out of the sports hall, mistreat, and kill detainees.[2502] Zoka was accompanied by two others, including a man from Serbia named Bane Topolović who identified himself as one of Arkan's men and a man who identified himself as "Dragan from Milići".[2503] These men, along with other guards, beat the detainees severely for three days with steel rods, tubes, handles from rakes and shovels.[2504]

772. The detainees were told to squeeze into the sports hall and when they told the guards that they would not all fit, the guards told them that whoever was left outside the door would be killed. Approximately 10 to 20 of the men were taken outside; there was then screaming and gunfire.[2505] The detainees were taken to one side of the sports hall and "stacked almost up to the ceiling"; they were then beaten, provoked, and asked if they still wanted their independence. Some of the detainees were made to sing "Chetnik" songs and display the "Serb three-finger sign".[2506] Topalović, Dragan, and Zoka identified the main Muslim priest in Bratunac, Mustafa

2497 P3205 (Witness statement of KDZ605 dated 22 August 2011), paras. 60–61 (under seal); KDZ605, T. 17898 (25 August 2011).

2498 P3205 (Witness statement of KDZ605 dated 22 August 2011), paras. 97, 104 (under seal); KDZ605, T. 17922 (25 August 2011).

2499 P3205 (Witness statement of KDZ605 dated 22 August 2011), paras. 86, 96 (under seal).

2500 P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 86 (under seal).

2501 P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 55 (under seal); KDZ605, T. 17922 (25 August 2011). The body of Safet Karić was exhumed from a mass grave. P4853 (Updated Table 2 to the Report of Amor Mašović), p. 4.

2502 P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 74 (under seal). KDZ605 stated that Zoka appeared to be drunk or on drugs.

2503 P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 74 (under seal).

2504 P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 75 (under seal).

2505 P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 72 (under seal).

2506 P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 76 (under seal).

Mujkanović.[2507] He was ordered to take off his coat so that he could be beaten more easily; he was then forced to sing "Chetnik" songs, drink beer, and join the men in the corner of the hall who had to make the "Serb three-finger sign". When Mujkanović refused to make this sign and showed only two fingers, he was stabbed in the throat by Bane Topalović and was taken out to the hangar.[2508] Mujkanović showed signs of life as he was taken out and shot.[2509]

773. A military commander in JNA uniform entered the room and ordered the three soldiers to stop beating the detainees. Seven or eight detainees at the bottom of the pile were found to have died of suffocation.[2510] The military commander ordered that the detainees be given food and water and he shouted at the soldiers saying: "What are you doing to these people?"[2511] After this, the Bosnian Serb guards told the detainees that their fight against the paramilitaries had not been successful thus far but that the "Bosnian Serb leadership" would soon be able to throw them out.[2512]

774. However, after the commander left, the three soldiers returned and started calling out names of detainees at random, after which those called out were severely beaten or killed.[2513] People who worked in the school and intellectuals from Bratunac were also called out and some men were killed.[2514] KW12 estimated that approximately 20 detainees were beaten and then killed in his presence.[2515] The soldiers played Serbian music, drank a lot of beer, and made the detainees swear against the Bosnian State and President and sing "Chetnik" songs.[2516] On the first day of these killings and acts of mistreatment, the detainees were not given any food.[2517] On the second day the

2507 P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 90 (under seal).

2508 P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 90 (under seal).

2509 P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 90 (under seal). The body of Mustafa Mujkanović was exhumed from a mass grave. P4853 (Updated Table 2 to the Report of Amor Mašović), p. 5.

2510 P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 78 (under seal). KDZ605 identified three of those who died, namely Omer Muhić, Husnija Hadžibulić, and Hazim Muratović. The bodies of Husnija Hadžibulić and Omer Muhić were identified as having been later exhumed from a mass grave. P4853 (Updated Table 2 to the Report of Amor Mašović), pp. 3–4.

2511 P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 79 (under seal); KDZ605, T. 17919 (25 August 2011).

2512 P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 77 (under seal); KDZ605, T. 17919 (25 August 2011). *See also* P3206 (Video footage re people from Bratunac in Visoko sports hall, with transcript); P3209 (Video still of the face of a man) (under seal); KDZ605, T. 17871–17874, 17876–17878 (25 August 2011) (private session).

2513 P3205 (Witness statement of KDZ605 dated 22 August 2011), paras. 80, 82, 84–86, 94–95, 98, 133–134 (under seal); KDZ605, T. 17920–17921 (25 August 2011).

2514 P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 81 (under seal). The Chamber has insufficient evidence to identify how many detainees were killed or the manner in which they were killed.

2515 KW12, T. 44746–44747, 44755 (9 December 2013).

2516 P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 98 (under seal).

2517 P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 93 (under seal).

guards were ordered to provide the detainees with food and water, and some sandwiches and juice were thrown into the room but it was only sufficient for half of the detainees.[2518]

775. When detainees were beaten they were threatened and subjected to political comments such as "You wanted a state: here is a state for you", "where is now your Alija to save you?", "Where is Naser, your liberator?"[2519] In one incident, the shape of a cross was cut on the arm of one detainee with a knife.[2520] If detainees made eye-contact with Topolović he would call them out and they would be beaten.[2521]

776. Topalović beat some of the detainees to death.[2522] For example, Ramo Karić was called out, beaten, and shot in the elbow by Topalović before being beaten again, this time to death.[2523] Ahmet Salkić was selected and called "Ustasha". He was hit on the forehead close to the eye before falling to the ground and sustaining another blow. His body was then carried out by the detainees.[2524] Hajrudin Čomić was ordered to kneel down and place his forehead on the floor before Topalović shot him in the back of his lower neck with a pistol.[2525] The beatings and killings continued through the night and KDZ605 saw at least 50 Bosnian Muslims killed with the use of different objects, including wooden handles, iron pipes, iron bed legs, and pistol butts.[2526]

777. One old man was beaten and killed after he was told that his son had shot at Bosnian Serb troops.[2527] Another man named Džemo Hodžić was accused of being a military expert and of arming the Bosnian Muslims; he was beaten until the soldiers thought he was dead and then he was placed on a truck with bodies.[2528] When Hodžić was found to be still alive, he was then taken back

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2518 P3205 (Witness statement of KDZ605 dated 22 August 2011), paras. 94–95 (under seal).

2519 P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 92 (under seal).

2520 P3205 (Witness statement of KDZ605 dated 22 August 2011), paras. 133, 135 (under seal); P3210 (Video still of exposed torso of a man) (under seal); KDZ605, T. 17875 (25 August 2011) (private session); KDZ605, T. 17897–17902 (25 August 2011).

2521 KDZ605, T. 17897–17898 (25 August 2011).

2522 KDZ605, T. 17898 (25 August 2011).

2523 P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 99 (under seal). The body of Ramo Karić was exhumed from a mass grave. P4853 (Updated Table 2 to the Report of Amor Mašović), p. 4. The Chamber does not consider that KDZ605's estimation that Topalović was responsible for approximately 90% of the killings at the school to be of much weight.

2524 P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 100 (under seal). The body of Ahmet Salkić was exhumed from a mass grave. P4853 (Updated Table 2 to the Report of Amor Mašović), p. 5.

2525 P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 101 (under seal). The body of Hajrudin Čomić was exhumed from a mass grave. P4853 (Updated Table 2 to the Report of Amor Mašović), p. 2.

2526 P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 91 (under seal). *See also* P3206 (Video footage re people from Bratunac in Visoko sports hall, with transcript).

2527 P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 92 (under seal); KDZ605, T. 17906–17907 (25 August 2011).

2528 P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 102 (under seal); KDZ605, T. 17922–17923 (25 August 2011).

inside, beaten, and then stabbed to death.[2529] Several men detained at the Vuk Karadžić School were taken out by the guards and killed.[2530] For example, Mensur Husić was brought to the school and beaten.[2531] Husić screamed and begged not to be killed. He was then taken outside, and a burst of fire, and another scream was heard.[2532] Detainees were assigned to take away the bodies of those who had been killed in the sports hall and to take them to the hangar.[2533] There was a large pile of bodies in the hangar.[2534]

778. Đukanović was informed that people brought from Hranča in May 1992 had been taken to the Vuk Karadžić School and killed there.[2535] The Bosnian Serb authorities arranged for the Civilian Protection to bury the Bosnian Muslim bodies at the hangar.[2536] A mass grave was dug in which between 100 and 150 bodies of Bosnian Muslims who KDZ107 identified as having been killed at the Vuk Karadžić School were buried in a field by the Drina River.[2537]

2529 P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 102 (under seal); KDZ605, T. 17922–17923 (25 August 2011). The body of Džemo Hodžić was exhumed from a mass grave. P4853 (Updated Table 2 to the Report of Amor Mašović), p. 3.

2530 Adjudicated Fact 2328. *See also* KW12, T. 44746 (9 December 2013); P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 106 (under seal) (stating that some detainees were taken away but that he did not know what happened to them).

2531 P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 103 (under seal).

2532 P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 103 (under seal). The body of Mensur Husić was exhumed from a mass grave. P4853 (Updated Table 2 to the Report of Amor Mašović), p. 3.

2533 P3205 (Witness statement of KDZ605 dated 22 August 2011), paras. 87–88 (under seal).

2534 [REDACTED]. The Chamber received evidence about the exhumation and disappearance of a large number of Bosnian Muslims from Bratunac in 1992. P4854 (Updated Table 1 to the Report of Amor Mašović), p. 1; P4852 (Report of Amor Mašović, 20–21 October 2009), p. 3; P4853 (Updated Table 2 to the Report of Amor Mašović), pp 1-107; D2250 (Ewa Tabeau's report entitled "Deaths and Disappearance of BiH Muslims 1992–1995," 25 April 2012); Ewa Tabeau, T. 28411–28412 (2 May 2012); Ewa Tabeau, T. 28411–28412 (2 May 2012); Dževad Gušić, T. 17780–17781 (24 August 2011). However, the Chamber will not rely on this evidence in the absence of a positive connection with a scheduled killing incident charged in the Indictment.

2535 D3194 (Witness statement of Rodoljub Đukanović dated 24 March 2013), paras. 40, 46. The Chamber notes an inconsistency in his evidence with respect to the lack of involvement of the authorities in the matter and his evidence that he convened a Bratunac Crisis Staff meeting to discuss how to save people who were in danger. Similarly Tešić testified that the Bratunac Crisis Staff was shocked to hear about the killings, that it condemned this action, and agreed that such conduct by paramilitaries should be prevented. D3118 (Witness statement of Aleksandar Tešić dated 10 March 2013), para. 25. The Chamber does not find the evidence of Tešić and Đukanović to be reliable in this regard as they tried to distance themselves and the local authorities from this incident. In reaching that conclusion the Chamber also refers to its credibility assessment in fns. 2248 and 2338 with respect to Đukanović and Tešić.

2536 D3194 (Witness statement of Rodoljub Đukanović dated 24 March 2013), para. 47. Tešić testified that they only found approximately 20 dead bodies which were taken away and buried correctly following autopsies. D3118 (Witness statement of Aleksandar Tešić dated 10 March 2013), paras. 27–29. The Chamber does not find Tešić's evidence as to the number of bodies buried or that they were buried correctly following autopsies to be reliable. In reaching that conclusion the Chamber refers to its credibility assessment in fn. 2338.

2537 KDZ107, P345 (Transcript from *Prosecutor v. Popović et al.*), T. 9397–9399, 9557. While KDZ107 testified that these victims had been killed at the Vuk Karadžić School, he does not clarify on what basis he knew this. The Chamber is therefore not satisfied that it can rely on his evidence to conclude beyond reasonable doubt that all of these bodies were of detainees who had been killed at the school as charged in this scheduled incident.

779. On 14 May 1992, following a decision of the Bratunac Crisis Staff, approximately 400 Bosnian Muslim detainees were packed onto trucks and buses,[2538] transported to Pale under the escort of the MP and civilian police, and from there transferred to Bosnian Muslim controlled territory.[2539]

(c) Conclusion

780. The Chamber therefore finds that hundreds of Bosnian Muslim men, including the elderly, were detained by Serb Forces at the Vuk Karadžić School in May 1992. Detainees were subjected to severe beatings, including with iron tubes, wooden sticks and rifle butts, and some were stabbed. Detainees were held in cramped conditions and on one occasion some detainees died of suffocation. Detainees were also subjected to acts of humiliation and threats while detained at the school. A number of detainees died following beatings while others were taken out and shot. The Chamber finds that in total at least 50 detainees were killed by Serb Forces while detained at the Vuk Karadžić School between 10 and 16 May 1992.

(H) Scheduled Incident D.6

781. The Indictment refers to the destruction of four cultural monuments and sacred sites in Bratunac between April and May 1992.[2540]

782. The Chamber took judicial notice that four Muslim monuments in Bratunac municipality were heavily damaged or completely destroyed between April and June 1992, including the mosque in Bratunac town and the mosque in Glogova, which was demolished with explosives during the

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2538 P3208 (List of men taken from Bratunac to Pale); P3205 (Witness statement of KDZ605 dated 22 August 2011), paras. 108–111, 127 (under seal); D2850 (Witness statement of Tomislav Hršum dated 27 January 2013), para. 17; D3118 (Witness statement of Aleksandar Tešić dated 10 March 2013), para. 26. *See also* P733 (Witness statement of Sulejman Crnčalo dated 1 November 2009), para. 56.

2539 KW12, T. 44746–44748, 44751 (9 December 2013); D3194 (Witness statement of Rodoljub Đukanović dated 24 March 2013), paras. 46–47; D2850 (Witness statement of Tomislav Hršum dated 27 January 2013), para. 17; P4374 (Witness statement of Milenko Katanić dated 11 October 2011), para. 49. *See also* D3196 (Witness statement of Dušan Mićić dated 24 March 2013), para. 13; D3115 (Witness statement of Branimir Tešić dated 9 March 2013), para. 29; Milan Tupajić, P5238 (Transcript from *Prosecutor v. Krajišnik*), T. 15395–15396. For evidence relating to treatment of detainees in Pale, *see* Scheduled Detention Facility C.19.2. Defence witnesses also testified that the Bosnian Muslims could not be returned to Bratunac and were transferred to Pale to save and protect them from the volunteers when the Bratunac Crisis Staff heard about the killings. D3194 (Witness statement of Rodoljub Đukanović dated 24 March 2013), paras. 46, 48; D3118 (Witness statement of Aleksandar Tešić dated 10 March 2013), paras. 26, 31. However, having reviewed the evidence, the Chamber does not consider this evidence to be reliable in this regard. In reaching that conclusion the Chamber also had regard to its credibility assessment in fn. 2236 above and also notes that the evidence was marked by indicators that the witnesses in question were seeking to distance themselves from any responsibility with respect to events at the Vuk Karadžić School.

2540 These are the Bratunac town mosque, Glogova mosque, a Qur'an school in Glogova, and the Islamic archives of Bratunac.

attack on 9 May 1992.[2541] During attacks on Muslim villages, including Glogova, Serb Forces deliberately torched and destroyed mosques.[2542] The Bratunac town mosque, the Islamic archive in Bratunac and the Qur'an school in Glogova were completely destroyed while the Glogova mosque was heavily damaged.[2543]

783. Therefore the Chamber finds that four cultural monuments and sacred sites were heavily damaged or completely destroyed by Serb Forces between April and June 1992.

(I) Movement of the population from Bratunac

784. The increasing intimidation and the reports that Bosnian Serbs were being armed by the SDS and JNA prompted people to slowly move out of Bratunac even before the conflict began.[2544] In the months leading up to the conflict in Bratunac, Bosnian Serbs, consisting mostly of women, children and the elderly left the municipality.[2545] Large numbers of citizens also left Bratunac out of fear after the armed conflict began in Bijeljina and Zvornik.[2546] As discussed above, following the killing of Goran Zekić by Bosnian Muslims in May 1992, Serb Forces launched a number of attacks against Bosnian Muslim villages.[2547] The killing of Goran Zekić at the beginning of May 1992 created great fear and caused both Bosnian Serbs and Bosnian Muslims to leave Bratunac.[2548]

785. After Bosnian Serbs took over the police station, Bosnian Muslims left Bratunac daily.[2549] Some Bosnian Muslims left after being told by their neighbours that they had to leave and that it would be better for them if they left Bratunac because "some people" would come to the

2541 *See* Adjudicated Fact 2330; P3196 (Witness statement of Dževad Gušić undated), para. 69; P4374 (Witness statement of Milenko Katanić dated 11 October 2011), para. 55. While Gušić testified to the destruction of ten mosques in Bratunac, not all are charged in the Indictment.

2542 *See* Adjudicated Fact 2331.

2543 P4070 (Attachment to the expert report of András J. Riedlmayer, entitled "Destruction of Cultural Heritage in BiH" prepared for the Karadžić case, formatted records), pp. 65-72; P4071 (Slide images of damaged religious sites in BiH), p. 19; P4069 (Cultural destruction database), records 82–85. *See also* P4068 (András Riedlmayer's expert report on Destruction of Cultural Heritage in Bosnia and Herzegovina during 1992-1995, 7 May 2009), paras. 16, 54; András Riedlmayer, T. 22544–22545 (9 December 2011). Riedlmayer surveyed a total of 12 religious sites in Bratunac which were destroyed but the Chamber notes that only four are charged in the Indictment.

2544 P3196 (Witness statement of Dževad Gušić undated), paras. 45(a), 49.

2545 P3196 (Witness statement of Dževad Gušić undated), para. 75; P3205 (Witness statement of KDZ605 dated 22 August 2011), para. 29 (under seal). Gušić also stated that Bosnian Serbs claimed to be leaving Bratunac because they were in danger but they were in fact leaving in order to achieve a number of objectives, including to allow them be placed under a unified command to later occupy Bratunac. The Chamber places no weight on the views and speculation of Gušić's and KDZ605 views as to why the Bosnian Serbs left Bratunac.

2546 D3852 (Witness statement of Mirko Perić dated 1 July 2013), para. 6; D3690 (Witness statement of Neđo Nikolić dated 8 June 2013), para. 6. *See also* D3174 (Witness statement of Vujadin Stević dated 23 March 2013), para. 8; D3115 (Witness statement of Branimir Tešić dated 9 March 2013), paras. 9–10. Branimir Tešić acknowledged that especially Bosnian Muslims left the municipality.

2547 *See* paras. 740–742.

2548 D3398 (Witness statement of Ljubisav Simić dated 7 April 2013), paras. 39, 46.

2549 D3852 (Witness statement of Mirko Perić dated 1 July 2013), para. 8.

municipality.[2550] Bosnian Muslims left Bratunac and surrounding villages out of fear, *inter alia*, of the paramilitaries.[2551] Other Bosnian Muslims were forcibly moved out of their villages.[2552] The last group of Bosnian Muslims left after Bosnian Serb refugees arrived in Bratunac.[2553]

786. In mid-April 1992, after Serb Forces had entered Bratunac, some Bosnian Muslims asked for permission from Bosnian Serb municipal officials to leave Bratunac for Tuzla and were allowed to do so.[2554] The Bosnian Serb authorities were requested to secure escorts and passes for their safe passage by Bosnian Muslim leaders.[2555] A large number of permits were issued for both Bosnian Muslims and Bosnian Serbs to leave the municipality.[2556] At that time, a large group of Bosnian Muslims gathered in front of the municipality building and asked to be escorted to Konjević Polje and then police patrol escorted this group.[2557] While Bosnian Muslims may have asked to leave the municipality, the Chamber finds that these requests were not made voluntarily when considering the surrounding circumstances in which they left after Serb Forces had entered Bratunac.

787. A municipal commission was established in Bratunac, which drew up a list of all Bosnian Muslim houses and sealed them off and when Bosnian Serb refugees arrived they were accommodated in these houses.[2558] However, when large numbers of refugees arrived, some of the

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2550 KDZ065, P336 (Transcript from *Prosecutor v. Krstić*, and *Prosecutor v. Popović et al.*), T. 3212.

2551 Srbislav Davidović, T. 24450 (9 February 2012); P4374 (Witness statement of Milenko Katanić dated 11 October 2011), paras. 41, 43; Milenko Katanić, T. 24520–24521, 24540 (10 February 2012). The Chamber does not find Katanić's evidence to be plausible that Bosnian Muslims were transported from their villages to be protected from volunteers who could not be controlled. *See also* P405 (Witness statement of Amer Malagić dated 19 June 2000), p. 3.

2552 KDZ605, T. 17891 (25 August 2011).

2553 D3118 (Witness statement of Aleksandar Tešić dated 10 March 2013), para. 30.

2554 D3194 (Witness statement of Rodoljub Đukanović dated 24 March 2013), paras. 30–31; Rodoljub Đukanović, T. 36186 (27 March 2013); D3126 (Witness statement of Jovan Nikolić dated 10 March 2013), para. 35.

2555 D3194 (Witness statement of Rodoljub Đukanović dated 24 March 2013), para. 32; D3126 (Witness statement of Jovan Nikolić dated 10 March 2013), para. 40.

2556 D3398 (Witness statement of Ljubisav Simić dated 7 April 2013), para. 52. *See also* D3690 (Witness statement of Nedo Nikolić dated 8 June 2013), para. 6; Mirko Perić, T. 40807 (3 July 2013).

2557 D3194 (Witness statement of Rodoljub Đukanović dated 24 March 2013), para. 33. While the Chamber finds that the Bosnian Serb authorities arranged for the transport of Bosnian Muslims, the Chamber does not find the evidence of Defence witnesses that this demonstrated that the authorities were simply respecting the wishes of the Bosnian Muslims who voluntarily wanted to leave the municipality to be reliable. D3126 (Witness statement of Jovan Nikolić dated 10 March 2013), para. 41; D3852 (Witness statement of Mirko Perić dated 1 July 2013), para. 8. *See also* D3690 (Witness statement of Nedo Nikolić dated 8 June 2013), para. 6; D3852 (Witness statement of Mirko Perić dated 1 July 2013), para. 12; D3174 (Witness statement of Vujadin Stević dated 23 March 2013), paras. 25–27; Vujadin Stević, T. 36043–36045 (26 March 2013). In reaching that conclusion, the Chamber refers to its credibility assessment in fns. 2236, 2256, and 2342 and also refers to its findings with respect to the overall circumstances created in the municipality.

2558 P4374 (Witness statement of Milenko Katanić dated 11 October 2011), para. 22; D2061 (List of decisions and orders issued by the Crisis Staff, War Staff, and Wartime Presidency of Bratunac Municipality, 29 August 1992), p. 3; Milenko Katanić, T. 24542 (10 February 2012).

houses were broken into and the head of police was criticised for failing to prevent these property crimes.[2559]

788. In late May or early June 1992 the Bratunac Brigade called on Bosnian Muslims who did not want to fight a war to return to their homes and live normally.[2560] However, by June 1992, with the exception of a few individuals there were no Bosnian Muslims in Bratunac.[2561]

789. On 6 June 1992, the Accused, Mladić, and Koljević were informed by Ostojić that there were "no Muslims in Bratunac municipality".[2562] The Accused was at a meeting in Zvornik on 30 June 1992 when Simić said that only two Muslims remained in Bratunac.[2563]

790. As discussed in more detail in Section IV.C.1.a., while Serb Forces were successful in taking over and holding town centres in municipalities including Bratunac, pockets in the surrounding countryside, which had a Bosnian Muslim majority population, remained under the control of Bosnian Muslim forces.[2564] Bosnian Muslim forces in the second half of 1992 and early 1993 launched an offensive in which they took control of territory in Bratunac.[2565] The counter-offensive by the VRS in spring 1993 prompted the movement of the vast majority of the Bosnian Muslim civilians who remained in Konjević Polje and thousands fled towards Srebrenica.[2566]

791. Having considered the totality of the evidence and assessed the circumstances in which departures occurred, the Chamber finds that Bosnian Muslims were forced to leave Bratunac.

2559 Srbislav Davidović, T. 24392 (9 February 2012); P4374 (Witness statement of Milenko Katanić dated 11 October 2011), para. 22.

2560 D3398 (Witness statement of Ljubisav Simić dated 7 April 2013), para. 55.

2561 P4374 (Witness statement of Milenko Katanić dated 11 October 2011), para. 44; P4994 (Addendum to Ewa Tabeau's expert report entitled "Ethnic Composition in Internally Displaced Persons and Refugees from 27 Municipalities of BiH 1991 to 1997", 3 February 2009), p. 30.

2562 P1478 (Ratko Mladić's notebook, 27 May–31 July 1992), pp. 93, 98, 101.

2563 P1478 (Ratko Mladić's notebook, 27 May–31 July 1992), pp. 246, 258. *See also* Ljubisav Simić, T. 37302–37303, 37310–37311 (16 April 2013) (testifying that he was referring only to Muslims who remained in Bratunac town).

2564 *See* para. 4946.

2565 *See* para. 4946. The Chamber received evidence that by the end of 1992, following a counter-offensive by Bosnian Muslim forces, many Bosnian Serbs from Bratunac fled across the Drina River to Serbia. *See* D1504 (Report of humanitarian organisation, 21 December 1992), paras. 2–6 (under seal). However, the Chamber considers that such evidence does not negate its findings with respect to the displacement of the Bosnian Muslim population by Serb Forces.

2566 *See* paras. 4947–4949, 4954–4956, 4962.

iii. Brčko

(A) Charges

792. In relation to Brčko, the Prosecution has limited the allegations in the Indictment to crimes associated with Luka camp.[2567]

793. Under Count 3, the Prosecution alleges that persecution, a crime against humanity, was committed in Luka camp as part of the objective to permanently remove Bosnian Muslims and/or Bosnian Croats from the Municipalities.[2568] Acts of persecution alleged to have been committed at Luka camp by Serb Forces and Bosnian Serb Political and Governmental Organs include killings related to the detention facility as well as killings committed during, and deaths resulting from, cruel and inhumane treatment.[2569] The Prosecution also characterises these killings as extermination, a crime against humanity, under Count 4; murder, a crime against humanity, under Count 5; and murder, a violation of the laws or customs of war, under Count 6.[2570]

794. Other acts of persecution alleged to have been committed in Luka camp by Serb Forces and Bosnian Serb Political and Governmental Organs include (i) torture, beatings, and physical and psychological abuse as cruel or inhumane treatment;[2571] (ii) rape and other acts of sexual violence as cruel and inhumane treatment;[2572] (iii) the establishment and perpetuation of inhumane living conditions, including the failure to provide adequate accommodation, shelter, food, water, medical care, or hygienic sanitation facilities, as cruel or inhumane treatment;[2573] (iv) unlawful detention;[2574] and (v) forced labour at the frontline and the use of Bosnian Muslims and Bosnian Croats as human shields.[2575]

2567 *See* Prosecution Submission Pursuant to Rule 73 *bis*(D), 31 August 2009, fn. 14; Pre-Trial Conference, T. 467 (6 October 2009); Rule 73 *bis* Decision, para. 6; Decision on Fourth Adjudicated Facts Motion, para. 28; Hearing, T. 16607, 14 July 2011 (recalling that while the Prosecution may lead general evidence relating to the take-over of Brčko, it should not present evidence pertaining to incidents alleged to have occurred in Brčko during the take-over and in detention facilities which were struck out of the Indictment after the Rule 73 *bis* Decision and noting that with respect to the alleged Municipalities JCE, given the large number of municipalities remaining in the Indictment and the number of crimes alleged to have occurred therein, there is no need for the Prosecution to present evidence relating to crimes struck out under Rule 73 *bis* in order to present its case on the pattern of events across the municipalities).

2568 Indictment, paras. 48–49.

2569 Indictment, para. 60(a)(ii). *See* Scheduled Incident B.5.1.

2570 Indictment, para. 63(b).

2571 Indictment, para. 60(b). *See* Scheduled Detention Facility C.7.2.

2572 Indictment, para. 60(c). *See* Scheduled Detention Facility C.7.2.

2573 Indictment, para. 60(d). *See* Scheduled Detention Facility C.7.2.

2574 Indictment, para. 60(g). *See* Scheduled Detention Facility C.7.2.

2575 Indictment, para. 60(h). The Chamber notes that in footnote 8 of paragraph 60(i) of the Indictment, the Prosecution specifies that it will not allege criminal responsibility for plunder of property in municipalities including Brčko. The Chamber further recalls that the Prosecution in its closing arguments clarified that with respect to footnote 8 of the Indictment, it did not allege criminal responsibility for both appropriation and

(B) Lead-up

795. Brčko is a municipality in northeastern BiH on the border with Croatia along the Sava River.[2576] In 1991, the population of Brčko consisted of approximately 45% Bosnian Muslims, 25% Bosnian Croats, and 20% Bosnian Serbs.[2577] Inter-ethnic relations deteriorated in Brčko after the formation of national parties, the organisation of political rallies in Brčko,[2578] the outbreak of war in Croatia and Slovenia and the referendum on the secession of BiH.[2579] From the autumn of 1991 there was an increasing militarisation of Brčko with weapons distributed to residents of all ethnicities[2580] and the arrival of paramilitary units.[2581]

796. In December 1991 the President of the SDS in Brčko, Milenko Vojinović received and read out the Variant A/B Instructions[2582] after which (i) the Serb Municipal Assembly of Brčko was formed and Đorde Ristanić was appointed as President;[2583] and (ii) a Crisis Staff was formed with Boško Maričić as its president.[2584]

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plunder in certain municipalities, even though the footnote only referred to plunder. Prosecution Closing Argument, T. 47694 (30 September 2014). The Chamber further notes that the Prosecution does not allege criminal responsibility for forcible transfer or deportation in Brčko. Indictment, fn. 6.

2576 D484 (Map of BiH); P3009 (Map of BiH and Brčko); Isak Gaši, P3002 (Transcript from *Prosecutor v. Krajišnik*), T. 389, 410; Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4278.

2577 P2888 (Brčko's War Presidency Summary of events in Brčko Municipality), p. 1; P3023 (Witness statement of Đorđe Ristanić dated 15 June 2011), para. 2; Isak Gaši, P3002 (Transcript from *Prosecutor v. Krajišnik*), T. 392–393. *See also* Pero Marković, T. 34722 (4 March 2013). The town of Brčko consisted of approximately 56% Bosnian Muslims, 20% Bosnian Serbs and 7% Bosnian Croats. P2888 (Brčko's War Presidency Summary of events in Brčko Municipality), p. 1; Isak Gaši, P3002 (Transcript from *Prosecutor v. Krajišnik*), T. 410.

2578 Isak Gaši, P3002 (Transcript from *Prosecutor v. Krajišnik*), T. 400, 402, 538–539.

2579 D3003 (Witness statement of Petar Kaurinović 17 February 2013), paras. 3–6; D3073 (Witness statement of Obren Marković dated 2 March 2013), paras. 3–4, 9; D3072 (Witness statement of Pero Marković dated 1 March 2013), paras. 7, 9. The Chamber also heard evidence that SDS representatives began being outvoted on the Executive Board. D3072 (Witness statement of Pero Marković dated 1 March 2013), para. 6.

2580 P58 (Witness statement of Sakib Husrefović dated 27 May 1995), p. 3; P3023 (Witness statement of Đorđe Ristanić dated 15 June 2011), paras. 8–12, 87–88; Isak Gaši, P3002 (Transcript from *Prosecutor v. Krajišnik*), T. 404–406, 535; D1563 (Letter signed by Isak Gaši), p. 2; Adjudicated Facts 2335–2336; P2888 (Brčko's War Presidency Summary of events in Brčko Municipality), pp. 1–2; D3073 (Witness statement of Obren Marković dated 2 March 2013), paras. 9, 13; Obren Marković, T. 34774, 34777 (5 March 2013).

2581 P2888 (Brčko's War Presidency Summary of events in Brčko Municipality), p. 3; P3023 (Witness statement of Đorđe Ristanić dated 15 June 2011), paras. 98–100, 102; Isak Gaši, P3002 (Transcript from *Prosecutor v. Krajišnik*), T. 406; D1412 (Report of Republic of Serbia MUP, 8 August 1992), p. 7.

2582 P3023 (Witness statement of Đorđe Ristanić dated 15 June 2011), paras. 13, 32–37, 65–66. *See also* Đorđe Ristanić, T. 16732 (15 July 2011) (testifying that Vojinović was in contact with and received instructions on behalf of the Brčko SDS from republican-level leaders, particularly Krajišnik by telephone).

2583 P3023 (Witness statement of Đorđe Ristanić dated 15 June 2011), paras. 1, 41–44. *See also* Pero Marković, T. 34721–34722 (4 March 2013).

2584 P3023 (Witness statement of Đorđe Ristanić dated 15 June 2011), paras. 39–40. Other members of the Crisis Staff were Vojinović, Pero Marković, and Miodrag Pajić. *See also* P2761 (RS MUP report on work for period April to December 1992), p. 5. The Chamber received Defence evidence that while the Crisis Staff was formed it did not have any role. *See* D3072 (Witness statement of Pero Marković dated 1 March 2013), para. 19. However, in light of the evidence received about the existence and role of the Crisis Staff in Brčko, discussed for example in paras. 829 and 833, the Chamber does not accept this evidence.

797. In the lead-up to April 1992, preparations were made for the establishment of a Bosnian Serb SJB in Brčko.[2585] There were also discussions and an agreement between the SDS and SDA on the physical division of Brčko following an SDS proposal.[2586]

798. On 30 April 1992, the pedestrian and railroad bridges that connected Brčko with Croatia were blown up in twin explosions.[2587] On or about 1 May 1992 Serb Forces numbering approximately 1,000 men launched an attack on Brčko.[2588] The Serb Forces involved in this attack included Serb units of the JNA, over 500 men from Bijeljina consisting of uniformed units, active and reserve police officers, soldiers, military reserves, a TO battalion, Ljubiša Savić's ("Mauzer") Serbian National Guard, Arkan's men, the White Eagles and the Radicals commanded by Mirko Blagojević.[2589] The Serb Forces initially met with armed resistance from groups using light infantry weapons but they quickly took control of the town.[2590]

2585 P2761 (RS MUP report on work for period April to December 1992), p. 5; Đorđe Ristanić, T. 16781 (18 July 2011). For evidence on the divisions between police *see* D3003 (Witness statement of Petar Kaurinović 17 February 2013), paras. 7–8, 20; D3073 (Witness statement of Obren Marković dated 2 March 2013), para. 10. *See also* D3072 (Witness statement of Pero Marković dated 1 March 2013), para. 8. Other municipal structures including the War Presidency (which was replaced by the War Commission) and the War Executive Board were formed in April and May 1992. P3023 (Witness statement of Đorđe Ristanić dated 15 June 2011), paras. 17–19, 21–25, 29, 144–145, 149; P2888 (Brčko's War Presidency Summary of events in Brčko Municipality), p. 1; D3072 (Witness statement of Pero Marković dated 1 March 2013), para. 30; P2888 (Brčko's War Presidency Summary of events in Brčko Municipality), p. 6; P3023 (Witness statement of Đorđe Ristanić dated 15 June 2011), paras. 30–31. *See also* Pero Marković, T. 34721–34722, 34727 (4 March 2013); P6172 (Brčko War Presidency travel pass, 8 May 1992).

2586 Isak Gaši, P3002 (Transcript from *Prosecutor v. Krajišnik*), T. 407–408. The Chamber received Defence evidence which suggested that the division of the municipality was a joint proposal from all three parties in power. *See* D3072 (Witness statement of Pero Marković dated 1 March 2013), para. 33. The Chamber does not find this evidence reliable in light of Marković's equivocal answers when questioned about whether it was an SDS proposal. In addition the Chamber finds that Marković's evidence was marked by insincerity and evasiveness.

2587 KDZ057, P66 (*Transcript from Prosecutor v. Krajišnik*), T. 564–565 (under seal); P2888 (Brčko's War Presidency Summary of events in Brčko Municipality), p. 2; D1574 (Report of Brčko SJB, undated), p. 1; Isak Gaši, P3002 (Transcript from *Prosecutor v. Krajišnik*) T. 411–412; P3010 (Photograph of bridge in Brčko); P3018 (Map of Brčko marked by Isak Gaši); P3020 (BiHTV report entitled "Dossier Brčko", with transcript), pp. 1, 6; D1563 (Letter signed by Isak Gaši), p. 6; Pero Marković, T. 34724 (4 March 2013). The Chamber received evidence about the circumstances in which the bridges were blown up and who was supposedly responsible for this incident. However, given the limited allegations with respect to Brčko, the Chamber will not enter findings with respect to who was responsible for these explosions and the number or identity of the people killed or injured in this incident. *See* P58 (Witness statement of Sakib Husrefović dated 27 May 1995), p. 3; D3073 (Witness statement of Obren Marković dated 2 March 2013), paras. 18–19; Obren Marković, T. 34778 (5 March 2013); Isak Gaši, P3002 (Transcript from *Prosecutor v. Krajišnik*) T. 496–497; Isak Gaši, T. 16671 (15 July 2011); KDZ010, P416 (Transcript from *Prosecutor v. Jelisić*), T. 59–60, 103; P3023 (Witness statement of Đorđe Ristanić dated 15 June 2011), paras. 111–116; Đorđe Ristanić, T. 16741 (18 July 2011).

2588 Adjudicated Fact 2340.

2589 Milorad Davidović, T. 15541 (28 June 2011); P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 123; P2888 (Brčko's War Presidency Summary of events in Brčko Municipality), pp. 2–4; D3144 (Witness statement of Dragomir Ljubojević dated 18 March 2013), para. 8; Dragomir Ljubojević, T. 35905 (22 March 2013); P2889 (Report of the Eastern Bosnia Corps, 29 September 1992), p. 1; P3020 (BiHTV report entitled "Dossier Brčko", with transcript), p. 7; P2901 (SRT video footage of interview of Mirko Blagojević), p. 9; P58 (Witness statement of Sakib Husrefović dated 27 May 1995), p. 4; KDZ010, P416 (Transcript from *Prosecutor v. Jelisić*), T. 136–137. *See also* Adjudicated Facts 2340, 2341, 2343; Đorđe Ristanić, T. 16709, 16711, 16720–16721 (15 July 2011); P3023 (Witness statement of Đorđe Ristanić dated 15 June 2011), paras.

(C) Scheduled Detention facility C.7.2

799. The Indictment refers to the use of the Luka camp as a detention facility at least from 7 May 1992 until mid July 1992.[2591]

(1) Establishment and control of camp

800. Luka Camp was located in the vicinity of the Brčko SJB building[2592] and consisted of hangars or warehouses which had been previously used for the storage of goods.[2593] From early May 1992, many military-aged non-Serb men from Brčko municipality were taken to Luka Camp and detained in a hangar, after having been separated from women, children and the elderly.[2594] The men were brought to the camp from various locations in Brčko including the barracks,[2595] the Laser Company,[2596] the mosque,[2597] the Brčko hospital,[2598] and the police station.[2599] Bosnian Muslims were taken to the mosque from their homes during searches for weapons which were conducted by armed men who had disguised their faces with paint or black stockings.[2600] This

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131, 174; KDZ057, P66 (Transcript from *Prosecutor v. Krajišnik*), T. 567–568, 570 (under seal); P2763 (Bijeljina CSB report, 7 May 1992); D3003 (Witness statement of Petar Kaurinović 17 February 2013), para. 18; Obren Marković, T. 34785 (5 March 2013); D3072 (Witness statement of Pero Marković dated 1 March 2013), para. 17; Pero Marković, T. 34735 (4 March 2013). On 19 May 1992, the Bijeljina CJB reported to the MUP that the Serb TO of SAO Semberija and Majevica had "liberated and holds three quarters of the Brčko town territory" and that combat operations were being carried out in the neighbourhood of Klanac where the forces of the "TO of former BH" had concentrated. P5489 (Report of Bijeljina SJB, 19 May 1992), p. 1.

2590 *See* Adjudicated Fact 2344. *See also* P2901 (SRT video footage of interview of Mirko Blagojević), p. 9.

2591 Indictment, Scheduled Detention Facility C.7.2. The Prosecution submits that the evidence shows that the facility operated from 4 May until at least August 1992. Prosecution Final Brief, Appendix B.

2592 Đorđe Ristanić, T. 16710 (15 July 2011); P3024 (Map of Brčko marked by Đorđe Ristanić).

2593 P58 (Witness statement of Sakib Husrefović dated 27 May 1995), p. 7; P3012 (Aerial photograph of Luka Camp); D1570 (Map of Brčko marked by Đorđe Ristanić); P3015 (Photograph of warehouse at Luka Camp); P3018 (Map of Brčko marked by Isak Gaši); P3014 (Photograph of hangar at Luka Camp).

2594 *See* Adjudicated Facts 2354, 2356. One woman and her son were also among the people detained with Gaši. Isak Gaši, P3002 (Transcript from *Prosecutor v. Krajišnik*), T. 450–454. *See also* Milorad Davidović, T. 15543–15544 (28 June 2011).

2595 Adjudicated Fact 2357.

2596 P58 (Witness statement of Sakib Husrefović dated 27 May 1995), pp. 7–8.

2597 Đorđe Ristanić, T. 16712–16713 (15 July 2011); Đorđe Ristanić, T. 16743 (18 July 2011); P58 (Witness statement of Sakib Husrefović dated 27 May 1995), pp. 4, 7–8.

2598 KDZ010, P416 (Transcript from *Prosecutor v. Jelisić*), T. 55–56, 116–117, 133, 137–139, 154–155 (testifying that he was arrested by men in military camouflage uniforms, some with red berets, including Dušan Tadić, Pero Zarić and a man identified as Zeljko). P417 (Photograph of hangar marked by KDZ010). *See also* Adjudicated Fact 2347. [REDACTED].

2599 Isak Gaši, P3002 (Transcript from *Prosecutor v. Krajišnik*), T. 422, 441–442, 444–445, 468, 526–529; Isak Gaši, T. 16614–16615 (14 July 2011) (testifying that he was arrested and taken to the police station in Brčko and was detained there for up to an hour before being called out by a local Bosnian Serb wearing a JNA uniform and another man who wore a camouflage uniform and spoke in a Serbian accent and that on arrival at the Luka Camp, he was taken by a policeman from Brčko to an office); P3011 (Photograph of entrance to police station, in Brčko).

2600 P58 (Witness statement of Sakib Husrefović dated 27 May 1995), pp. 4–6 (testifying that when being taken away, he saw many of his neighbours including women and children heading towards the mosque and groups of two or three soldiers every five to ten metres along the way. On the way to the mosque, Husrefović was told to

operation was commanded by Mauzer.[2601] Between May and June 1992 groups of people were brought in and out of the hangar at Luka Camp with the number of people detained ranging from 100 to 200 people, approximately 90% of whom were Bosnian Muslims with the remainder Bosnian Croats and Albanians.[2602]

801. Members of the Brčko SJB and others in police uniforms were present at Luka Camp or visited there.[2603] In addition, soldiers in JNA uniforms, other men in camouflage uniforms, including those with the insignia of Arkan, as well as members of the Serbian SUP would also come to the camp.[2604] Goran Jelisić was in charge of the camp[2605] and introduced himself to the detainees as the "Serbian Adolf Hitler".[2606] Jelisić wore a blue police uniform and later wore a military camouflage uniform.[2607] Towards the end of May 1992, Jelisić was replaced by a new director named Konstantin Simonović who was a policeman from the Brčko SJB.[2608]

802. In early May 1992, the Brčko War Presidency was informed by the Chief of the Brčko SJB and Brčko residents that people were being detained at Luka Camp with no legal grounds and that they were mostly Bosnian Muslims from Brčko who were brought there by Serb Forces.[2609] Veselić in agreement with the War Presidency sent police inspectors to Luka Camp to identify what

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stop against a tree, and was beaten with rifle butts by five or six soldiers and when detained in the mosque the detainees were guarded by five to ten Bosnian Serb soldiers dressed in grey olive colour uniforms).

2601 P58 (Witness statement of Sakib Husrefović dated 27 May 1995), pp. 4–6.

2602 Isak Gaši, P3002 (Transcript from *Prosecutor v. Krajišnik*) T. 450–454. The people detained with Gaši were all men who were in civilian clothes with the exception of one woman and her son and nearly all of them were from Brčko. Gaši testified that the people ranged in age from 20 to 75. *See also* Adjudicated Fact 2358.

2603 Isak Gaši, T. 16613–16615, 16617–16618 (14 July 2011); P3005 (Brčko SJB payroll sheet, September 1992), pp. 1, 4–6; Đorđe Ristanić, T. 16817 (18 July 2011). *See also* Petar Kaurinović, T. 34129–34131 (20 February 2013); Obren Marković, T. 34795 (5 March 2013); P6177 (Brčko District Police information, 11 September 1999).

2604 Isak Gaši, P3002 (Transcript from *Prosecutor v. Krajišnik*), T. 455–456.

2605 KDZ010, P416 (Transcript from *Prosecutor v. Jelisić*), T. 58. *See also* Adjudicated Fact 2355.

2606 KDZ057, P66 (Transcript from *Prosecutor v. Krajišnik*), T. 604, 649–650 (under seal); Adjudicated Fact 2365. *See also* Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić*), T. 21428.

2607 KDZ010, P416 (Transcript from *Prosecutor v. Jelisić*), T. 76; Isak Gaši, T. 16638–16639 (14 July 2011). Gaši identified Jelisić and the uniform he wore in this photograph. P3008 (Photograph of an execution outside Brčko SJB). *See also* P3028 (Photograph of Goran Jelisić outside Brčko SJB); Isak Gaši, P3002 (Transcript from *Prosecutor v. Krajišnik*) T. 458. While Jelisić dressed in police uniform the Chamber received evidence that he was not a regular policeman and that at the time individuals wore uniforms and put on ranks and insignia and gave themselves titles. D3003 (Witness statement of Petar Kaurinović 17 February 2013), para. 26; Đorđe Ristanić, T. 16794–16795 (18 July 2011); Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić*), T. 21650–21651, 21815–21816.

2608 Adjudicated Fact 2355; Isak Gaši, T. 16615–16616 (14 July 2011); Isak Gaši, P3002 (Transcript from *Prosecutor v. Krajišnik*), T. 456–457; Obren Marković, T. 34795 (5 March 2013); KDZ010, P416 (Transcript from *Prosecutor v. Jelisić*), T. 129–130. The Chamber finds that Kaurinović was contradicted with respect to his evidence that Simonović was never an employee of the MUP. D3003 (Witness statement of Petar Kaurinović 17 February 2013), para. 32; Petar Kaurinović, T. 34132–34133 (20 February 2013); P3005 (Brčko SJB payroll sheet, September 1992), p. 1.

2609 Đorđe Ristanić, T. 16712–16715 (15 July 2011). *See also* P3023 (Witness statement of Đorđe Ristanić dated 15 June 2011), paras. 192–193.

was happening there and to officially question people about the reason for their detention; some detainees were then released and some were issued with passes to leave the camp.[2610] Some of the detainees were also released when Bosnian Serb acquaintances came and asked for their release, but this did not happen very often and, in some cases, they were re-arrested and detained after their release.[2611] This demonstrates that detainees were released in a selective manner, based on personal connections and that there still remained a significant number of Bosnian Muslims who were detained at Luka Camp. Ristanić visited Luka Camp on one occasion to secure the release of some detainees, but he did not visit the camp again.[2612]

803. From around June 1992 some detainees from Luka Camp were taken to Batković camp in Bijeljina.[2613] When Davidović and his team arrived in Brčko in July 1992 he went to Luka Camp and found approximately 60 to 70 Bosnian Muslims, including children detained, in a hangar.[2614] These detainees were released.[2615]

2610 P3023 (Witness statement of Đorđe Ristanić dated 15 June 2011), paras. 194–195, 198–199; Đorđe Ristanić, T. 16715–16719, 16722 (15 July 2011), T. 16793, 16809–16812 (18 July 2011); P3027 (Aerial photograph of Luka Camp marked by Đorđe Ristanić), marked with B; P3025 (Travel permit issued by Brčko's War Presidency, 9 May 1992); P3026 (Travel pass issued by Brčko's War Presidency, 14 May 1992). One of these passes was signed by Jelisić as "Adolf" with the notation "100% clean and vouched for!". Between 80 to 100 people were selected by Ristanić for release when he visited the administration building of Luka Camp. D3003 (Witness statement of Petar Kaurinović 17 February 2013), paras. 25–26. *See also* Pero Marković, T. 34730, 34733 (4 March 2013); P6173 (Brčko garrison travel pass, 13 July 1992); D1577 (Brčko garrison travel pass, 8 July 1992); D1578 (Certificate of Brčko MUP, July 4 1992); D1579 (Brčko War Presidency travel pass, 23 May 1992); D1580 (Brčko War Presidency travel pass, 8 May 1992).

2611 KDZ010, P416 (Transcript from *Prosecutor v. Jelisić*), T. 122–124. *See also* Isak Gaši, P3002 (Transcript from *Prosecutor v. Krajišnik*), T. 454, 490–493, 495, 497–499, 519. Gaši was detained at the camp until 7 June 1992 when he was released by a man in the uniform of the JNA military police who introduced himself as Rade Bozić and was informed that Captain Dragan of the Red Berets had issued the order for his release. *See* KDZ057, P66 (Transcript from *Prosecutor v. Krajišnik*), T. 619 (under seal).

2612 Đorđe Ristanić, T. 16722–16723 (15 July 2011). The Chamber received contrary evidence which suggested that Ristanić was angry when Kaurinović reported that some of the detainees had been released and that he ordered that the detainees be kept in detention for the purposes of exchange. Petar Kaurinović, T. 34138–34140 (20 February 2013); P6147 (Excerpt from record of interview with Petar Kaurinović, undated), pp. 2–3. However, the Chamber does not find this evidence to be reliable. In reaching that conclusion the Chamber observed that Kaurinović's evidence was marked with contradictions and evasiveness and it was of the view that he was not a frank and forthcoming witness.

2613 Đorđe Ristanić, T. 16805 (18 July 2011).

2614 P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 111; Milorad Davidović, T. 15544 (28 June 2011).

2615 P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 111.

(2) Conditions of detention and treatment of detainees[2616]

804. The detainees were held in a hangar in crowded, unsanitary conditions.[2617] Some detainees were lying on cardboard and on the concrete floor on both sides of the hangar.[2618] Their personal documents and valuables were seized by the guards on arrival.[2619] Detainees were not allowed to leave the camp and had to ask for permission from the guards each time they wanted to go outside to use the toilet or drink water.[2620] When detainees were given permission to go to the toilet and take some water they were beaten.[2621] Gaši was told that he would be given one tablet to treat the diarrhoea he was suffering from, for each Muslim "extremist" he named.[2622]

805. The detainees were told by Jelisić that they would be interrogated, that those who were found to be "guilty" would be killed and the others would be released.[2623] Jelisić boasted to the detainees that he had killed many people at Luka Camp thus far and that he would continue to do so.[2624] He also told the detainees that he had been given the green light to do whatever he wanted to the Bosnian Muslim detainees and that it was his duty to hate and "eradicate the Muslim people" as there were too many of them.[2625] The Chamber received evidence that Jelisić was unpredictable and not of sound mind.[2626] However, this is not medical evidence and simply reflects an observation about the nature of Jelisić's conduct; it does not amount to a medical diagnosis which the Chamber could rely on to make a finding in this regard.

2616 The Chamber received evidence about the nature and conditions of detention and mistreatment of detainees at other locations in Brčko. P58 (Witness statement of Sakib Husrefović dated 27 May 1995), pp. 5–7; Milorad Šehovac, T. 31353–31355, 31361–31363 (12 and 13 December 2012); P6043 (Map of Bosanski Samac marked by Milorad Šehovac); Adjudicated Fact 2347. The Chamber will not enter findings in this regard given that the allegations in the Indictment are limited to mistreatment and detention at Luka camp.

2617 *See* Adjudicated Fact 2354.

2618 Isak Gaši, P3002 (Transcript from *Prosecutor v. Krajišnik*), T. 445, 451. *See also* KDZ010, P416 (Transcript from *Prosecutor v. Jelisić*), T. 63–64.

2619 KDZ010, P416 (Transcript from *Prosecutor v. Jelisić*), T. 64, 85.

2620 Isak Gaši, P3002 (Transcript from *Prosecutor v. Krajišnik*) T. 455.

2621 KDZ010, P416 (Transcript from *Prosecutor v. Jelisić*), T. 83–84.

2622 Isak Gaši, T. 16616 (14 July 2011).

2623 KDZ010, P416 (Transcript from *Prosecutor v. Jelisić*), T. 58–59 (testifying that Jelisić had stated that in his view there was not "a single balija who was not guilty").

2624 KDZ010, P416 (Transcript from *Prosecutor v. Jelisić*), T. 60. *See also* Isak Gaši, P3002 (Transcript from *Prosecutor v. Krajišnik*), T. 458; Isak Gaši, T. 16616–16617 (14 July 2011); D1436 (Report of SerBiH MUP, 17 June 1992), p. 3.

2625 KDZ057, P66 (*Transcript from Prosecutor v. Krajišnik*), T. 604 (under seal); Adjudicated Facts 2347, 2365. *See also* Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić*), T. 21428. The Chamber received evidence which suggested that Jelisić was given instructions by Mauzer's and Arkan's men to carry out killings in Brčko. P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 115. However, the Chamber does not accept this evidence in the absence of further corroboration as it is not clear on what basis Davidović reached his conclusion in this regard.

2626 Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić*), T. 21642–21643. *See also* D1436 (Report of SerBiH MUP, 17 June 1992), p. 3.

806. Detainees were frequently verbally abused, threatened, and beaten by the guards at the camp, sometimes with mace like weapons or wrenches.[2627] Two of the detainees, were nicknamed the "Muslims snipers" and were taken outside and beaten daily. One of these detainees was a mentally disabled man named "Jovo".[2628] Some of these detainees were beaten by a man named Enver who introduced himself as a "Chetnik".[2629] On one occasion Enver grabbed a man by the neck and kicked him,[2630] Enver then carved a cross on his forehead with a knife and the man fell to the ground bleeding.[2631] On one occasion, a man was brought into the middle of the room where newly arrived detainees were present and beaten fiercely until his screams stopped.[2632] Jelisić told the detainees that this "is just an example of what could happen to you".[2633] Detainees were also ordered to beat each other.[2634] The detainees were called "balijas", a "Turkish gang, a fictitious people, a non-existent people" and told that they would all be killed or exterminated.[2635] They were also forced to sing "Chetnik" songs which were played.[2636] Jelisić and Ranko Češić took part in the beating of detainees.[2637]

807. Petar Kaurinović (a.k.a. Pero), a member of the Brčko SJB, carried out interrogations at the camp and asked detainees about weapons and "Bosnian Muslim extremists".[2638] Gaši was not

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2627 KDZ010, P416 (Transcript from *Prosecutor v. Jelisić*), T. 56, 63–64, 98, 128–129, 152–153; P417 (Photograph of hangar marked by KDZ010); P58 (Witness statement of Sakib Husrefović dated 27 May 1995), pp. 7–8; KDZ057, P66 (Transcript from *Prosecutor v. Krajišnik*), T. 585, 611 (under seal); Isak Gaši, P3002 (Transcript from *Prosecutor v. Krajišnik*), T. 468–469 (testifying that he was beaten by a man named Zivan who wore a camouflage uniform with the insignia of Arkan's men and who was accompanied by two men in JNA reserve uniforms); Adjudicated Facts 2359–2360.

2628 Isak Gaši, P3002 (Transcript from *Prosecutor v. Krajišnik*) T. 552.

2629 Isak Gaši, P3002 (Transcript from *Prosecutor v. Krajišnik*) T. 464. *See also* KDZ010, P416 (Transcript from *Prosecutor v. Jelisić*), T. 127.

2630 Isak Gaši, P3002 (Transcript from *Prosecutor v. Krajišnik*) T. 464.

2631 Isak Gaši, P3002 (Transcript from *Prosecutor v. Krajišnik*) T. 464.

2632 KDZ057, P66 (Transcript from *Prosecutor v. Krajišnik*), T. 605–608 (under seal).

2633 KDZ057, P66 (Transcript from *Prosecutor v. Krajišnik*), T. 605–608 (under seal).

2634 KDZ057, P66 (Transcript from *Prosecutor v. Krajišnik*), T. 587 (under seal).

2635 KDZ010, P416 (Transcript from *Prosecutor v. Jelisić*), T. 56, 64, 98, 152–153. *See also* KDZ057, P66 (*Transcript from Prosecutor v. Krajišnik*), T. 585 (under seal).

2636 KDZ010, P416 (Transcript from *Prosecutor v. Jelisić*), T. 64, 152–153. *See also* Isak Gaši, P3002 (Transcript from *Prosecutor v. Krajišnik*) T. 456, 487 (testifying that on one occasion soldiers in camouflage uniforms, including the old and new JNA uniforms, and carrying flash lights arrived at the camp at around 2 a.m. and started beating and kicking the detainees and forced them to sing a "Serbian song" as loud as they could for 40 minutes while beating them and pointing the flashlights in their faces).

2637 Adjudicated Facts 2359–2360. On one occasion, a woman identified as "Monika", arrived with Jelisić, poured a bottle of cola over one of the detainees, and broke the bottle over his head. Isak Gaši, P3002 (Transcript from *Prosecutor v. Krajišnik*) T. 457–458. Češić was at the time a member of the police reserve corps of the war station of the Brčko SJB. Isak Gaši, T. 16612–16613 (14 July 2011); P3004 (Brčko SJB certificate re Ranko Ćešić, 28 October 1992); Obren Marković, T. 34792 (5 March 2013); P6177 (Brčko District Police information, 11 September 1999). *See also* Petar Kaurinović, T. 34132 (20 February 2013). Češić was a member of the Brčko SJB from 15 May until 26 June 1992 and then continued to serve in the VRS in Brčko till October 1992. P6176 (Certificate of RS Ministry of Defence, Brčko Department, 5 July 2002); Obren Marković, T. 34792–34793, 34801–34802 (5 March 2013).

2638 Isak Gaši, P3002 (Transcript from *Prosecutor v. Krajišnik*) T. 470–472; P3005 (Brčko SJB payroll sheet, September 1992); Isak Gaši, T. 16611–16613 (14 July 2011), T. 16698 (15 July 2011).

mistreated when he was interrogated by Kaurinović and was asked whether he had been ill-treated and why he had bruises on his head.[2639] Gaši for fear of repercussions decided to say he had not been ill-treated.[2640]

808. On one occasion Češić interrogated a female detainee and intimidated her by firing an automatic rifle in her direction.[2641] Češić then drove her out of the camp and raped her at knife point in a vehicle.[2642] After this Češić said he would take her to the bridge, cut her throat and throw her into the river.[2643] Češić was then stopped by a man who identified himself as "Dragan", who berated Češić for taking out a detainee without permission.[2644] The female detainee was then taken by Dragan to the SUP where she was interrogated by Veselić, taken to the Brčko hospital and then driven back to Luka Camp with three other detainees.[2645] The female detainee was taken to a room and raped again by two soldiers.[2646] When in this room, she saw a woman lying on the floor undressed and heard the screams of another woman.[2647] From 5 to 19 May 1992 while detained at the camp, the female detainee was raped on a continuous basis.[2648] On 19 May 1992, some detainees outlined the nature of their rape and mistreatment to a military officer who visited the camp with Veselić, after which the mistreatment stopped with a guard posted at the entrance to the detainees' rooms.[2649]

809. As detailed below, the mistreatment and beating of the detainees continued even after Jelisić told them about receiving an order to prohibit such acts.[2650]

2639 Isak Gaši, P3002 (Transcript from *Prosecutor v. Krajišnik*) T. 471–472. Seven or eight days after Gaši's arrival at Luka Camp he was also questioned by Pero Zarić and Branko Gajić who were assistants to the commander of the Brčko SJB. Isak Gaši, T. 16611–16612 (14 July 2011); P3003 (Minutes of Brčko SJB, 2 June 1992), p. 1. *But see* Petar Kaurinović, T. 34141 (20 February 2013) (stating that he did not recall having a conversation with Gaši).

2640 Isak Gaši, P3002 (Transcript from *Prosecutor v. Krajišnik*) T. 471.

2641 [REDACTED].

2642 [REDACTED]. The witness testified that while being raped he said words to the effect of "it was a pleasure to have one more balija woman to rape". [REDACTED].

2643 [REDACTED].

2644 [REDACTED].

2645 [REDACTED].

2646 [REDACTED].

2647 [REDACTED].

2648 [REDACTED].

2649 [REDACTED].

2650 *See* para. 822. The Chamber received evidence that Kaurinović in the few days he was at the camp only heard about one incident of mistreatment which he passed on to Veselić and that Veselić said they would try to do everything to prevent such incidents and restore order in Luka but that the paramilitaries had absolute power and could do what they wanted. Petar Kaurinović, T. 34136–34137, 34146 (20 February 2013). The Chamber does not find this evidence to be reliable. In reaching this conclusion the Chamber observed that Kaurinović's evidence was marked with contradictions and evasiveness and concluded that he was not a frank and forthcoming witness.

810. Some detainees were forced to serve soldiers food, clean their offices and toilets with their bare hands and were also taken from the camp to clean Bosnian Muslim houses in the town for the use of Bosnian Serb families who would return.[2651] Detainees were also forced to carry bodies, and were beaten and taunted when doing so.[2652]

(3) Conclusion on conditions of detention and treatment of detainees

811. Based on the above, the Chamber finds that Serb Forces brought to and detained non Serbs, including women, children, and the elderly at Luka camp from May to June 1992. The Chamber further finds that the detainees were held in poor conditions. These included lack of space, adequate bedding, and poor sanitary conditions. The Chamber also finds that detainees were regularly and viciously subjected to beatings by Serb Forces at Luka camp. Finally, the Chamber finds that female detainees were raped while at the camp.

(4) Scheduled Killing Incident – B.5.1

812. The Prosecution alleges that a number of men were killed at Luka camp between 8 May and 6 June 1992.[2653]

813. On numerous occasions, groups of detainees at Luka camp were taken out of the hangar and summarily executed.[2654] While at the camp, one detainee saw a document entitled "People to be executed", which listed approximately 50 prominent, educated, or wealthy Muslims and Croats.[2655] On 9 May 1992, Jelisić brought Stjepo Glavočević, a Bosnian Muslim, into the hangar, while he was holding the man's severed ear, he then struck Glavočević with a sabre, killing him.[2656] Jelisić also took two Bosnian Muslim men from Bijeljina out of the hangar and later ordered two other detainees to move their bodies to a pile of other bodies.[2657] Jelisić also shot two men named Jasminko and Cita.[2658]

2651 KDZ057, P66 (Transcript from *Prosecutor v. Krajišnik*), T. 613–614 (under seal). *See also* Isak Gaši, T. 16614–16615 (14 July 2011). While Gaši uses the phrase "collected volunteers" to sweep the streets and do other jobs in town, in light of the other evidence, and the circumstances of their detention, the Chamber does not accept that the detainees performed this work voluntarily. However, the Chamber notes that this type of forced labour is not charged in the Indictment, which only covers forced labour at the frontlines.

2652 *See* para. 816.

2653 The Prosecution submits that the evidence shows that these killings occurred between 4 May 1992 and 7 June 1992. Prosecution Final Brief, Appendix B.

2654 *See* Adjudicated Fact 2362.

2655 Adjudicated Fact 2366; KDZ057, P66 (Transcript from *Prosecutor v. Krajišnik*), T. 612–613 (under seal).

2656 *See* Adjudicated Fact 2363.

2657 P58 (Witness statement of Sakib Husrefović dated 27 May 1995), pp. 8–9.

2658 P58 (Witness statement of Sakib Husrefović dated 27 May 1995), pp. 8–9.

814. During the night of 11 May 1992, four detainees were called out of the hangar, and other detainees could hear the blows, the detainees moaning and begging as they were beaten and cursed outside the hangar.[2659] One of the detainees was instructed to lie down and lean his head against a grate, after which a "silenced shot" was heard, followed by the "blunt sound of a blow against the concrete".[2660] This was repeated in the following days, with groups of four detainees taken out approximately 25 to 30 times with only one or two detainees returning from each group.[2661]

815. The guards would yell that the detainees should come out by themselves and on the second or third day of his detention, KDZ010 "volunteered" to go out, after about ten groups of four "volunteers" had left the hangar.[2662] Outside they were beaten and cursed, after which they were lined up against the wall with their heads bent down and hands behind their backs.[2663] One man was pulled out of the group of four by a man identified as "Ivan" who was also known as "Repić" and ordered to lie on the asphalt and place his head on a grate after which he was shot by Jelisić.[2664] On one occasion the guards entered the hangar and asked if any of the detainees were married to Serb women, and when one man stood up and was taken outside, the detainees could hear that he was verbally abused, beaten and then ordered by Jelisić to lie down and put his head against the grate; a gun shot was then heard.[2665] On another occasion Gaši saw "four civilians" being taken out of an office at Luka Camp and saw Češić shooting at their backs after which two men fell to the ground.[2666] On yet another day, a detainee dropped a bottle of water, soldiers beat him fiercely, and Jelisić took him to a grate where he was killed in the same way as the other detainees.[2667]

816. At the end of every night a group of seven or eight detainees were called out to clean the blood outside the hangar.[2668] Detainees were also ordered to carry bodies into a refrigerated

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2659 KDZ010, P416 (Transcript from *Prosecutor v. Jelisić*), T. 65.

2660 KDZ010, P416 (Transcript from *Prosecutor v. Jelisić*), T. 65–66. *See also* Isak Gaši, P3002 (Transcript from *Prosecutor v. Krajišnik*), T. 460; P3016 (Photograph of Luka Camp).

2661 KDZ010, P416 (Transcript from *Prosecutor v. Jelisić*), T. 70, 81, 113–114.

2662 KDZ010, P416 (Transcript from *Prosecutor v. Jelisić*), T. 66.

2663 KDZ010, P416 (Transcript from *Prosecutor v. Jelisić*), T. 67; P417 (Photograph of hangar marked by KDZ010) (the detainees were lined up at the spot marked 1).

2664 KDZ010, P416 (Transcript from *Prosecutor v. Jelisić*), T. 67–70, 81, 156–157 (testifying that after killing one of the detainees in this manner Jelisić said:"Another balija less"); P417 (Photograph of hangar marked by KDZ010). *See also* Isak Gaši, P3002 (Transcript from *Prosecutor v. Krajišnik*), T. 459 (stating that he heard about Jelisić killing detainees from another detainee present during the execution and that Gaši was also told that 80 detainees had been killed in this way and that this detainee had helped load the bodies onto a truck).

2665 KDZ010, P416 (Transcript from *Prosecutor v. Jelisić*), T. 82–83.

2666 Isak Gaši, P3002 (Transcript from *Prosecutor v. Krajišnik*), T. 461 (testifying that he could not confirm whether the people were killed on the spot and that a man in camouflage uniform identified as Mišo Cajević and a man in police uniform who Gaši believed was Pudić were at the scene when the shooting occurred). *See also* P3017 (Photograph of Ranko Češić).

2667 KDZ010, P416 (Transcript from *Prosecutor v. Jelisić*), T. 84–85. KDZ010 could only see him beaten but was taken out of sight when he heard the shot.

2668 KDZ010, P416 (Transcript from *Prosecutor v. Jelisić*), T. 70.

lorry[2669] which was used to transport the bodies elsewhere; other bodies were thrown into the Sava River.[2670] When Gaši returned to the hangar after helping with the disposal of the bodies a soldier told them: "You'd better keep quiet about what you had done and what you had seen".[2671] After detainees returned from carrying bodies they were beaten and taunted by threats that they would face the same fate in a few days.[2672]

817. On one occasion, approximately 50 civilians were lined up near the entrance to the warehouse after which a blast of gunfire, moans and the sound of bodies falling onto the concrete could be heard.[2673]

818. There was an agreement between the War Presidency and Veselić, the Chief of the Brčko SJB, under which the bodies collected from Luka Camp would be identified.[2674]

819. While the Chamber received evidence which suggested that the Bosnian Serb authorities in Brčko were not aware of events or killings at Luka Camp until much later, the Chamber is not satisfied that Kaurinović was able to adequately explain a prior inconsistent statement which suggested that the Crisis Staff was in charge of the town and would have known about events at the camp.[2675] Kaurinović was also confronted with and did not adequately explain evidence that tended

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2669 KDZ010, P416 (Transcript from *Prosecutor v. Jelisić*), T. 69, 79–80, 155–156. The witness identified the truck in this photograph as the one used for the purpose of storing the bodies. P420 (Photograph of mass grave in Brčko); Adjudicated Fact 2364.

2670 KDZ010, P416 (Transcript from *Prosecutor v. Jelisić*), T. 155–156; Adjudicated Fact 2364. Gaši and three or four detainees were taken by a man in camouflage uniform and two guards in JNA reserve uniforms to throw a group of 15 to 20 bodies into the river. The bodies were in civilian clothes and had bloodstains on their backs and bullet holes in the back or in the back of their heads and necks. Gaši recognised two of the bodies and they were Bosnian Muslims. Gaši was not sure whether the bodies thrown into the river were shot at Luka Camp or at another location. Isak Gaši, P3002 (Transcript from *Prosecutor v. Krajišnik*), T. 464–466; Isak Gaši, T. 16626 (14 July 2011).

2671 Isak Gaši, P3002 (Transcript from *Prosecutor v. Krajišnik*) T. 467–468.

2672 KDZ010, P416 (Transcript from *Prosecutor v. Jelisić*), T. 69–70, 81, 156–157, Adjudicated Fact 2364.

2673 KDZ057, P66 (*Transcript from Prosecutor v. Krajišnik*), T. 591–593 (under seal).

2674 Đorđe Ristanić, T. 16816 (18 July 2011). The Chamber also received evidence about steps taken by Bosnian Serb authorities for the identification of 60 Bosnian Muslims killed by paramilitaries. However, it is not clear whether or not these killings relate to Luka Camp, therefore the Chamber will not make any findings in this regard. Petar Kaurinović, T. 34115–34116, 34125–34129 (20 February 2013). The Chamber received other evidence about disappereances, killings and burials of victims in mass graves in Brčko. *See* P1607 (RS Ministry of Justice report on prisons and camps on the RS territory, 22 October 1992), p. 3; D3105 (Witness statement of Slobodan Avlijaš dated 9 March 2013), para. 27; Slobodan Avlijaš, T. 35196 (11 March 2013); P3023 (Witness statement of Đorđe Ristanić dated 15 June 2011), paras. 189–191, 202–205, 214–217, 220–223; Đorđe Ristanić, T. 16726, 16730, 16736 (15 July 2011); P4854 (Updated Table 1 to the Report of Amor Mašović), p. 1; P4852 (Report of Amor Mašović, 20–21 October 2009), pp. 3, 11. *See also* P87 (List of Commissions for Exchange, 1992) (under seal). However, this evidence cannot be directly connected to events at Luka Camp, and so the Chamber will not be making findings in this regard.

2675 D3003 (Witness statement of Petar Kaurinović 17 February 2013), paras. 22–23; Petar Kaurinović, T. 34116–34117, 34120–34121 (20 February 2013). Ristanić was also unclear about whether and when he received information about the killings which were reported to have occurred at Luka Camp; he claimed that he only heard rumours and later through stories reported in the media and from people who had been in the camp about what happened there. Given his equivocal answers in an attempt to distance himself from knowledge of these

to contradict his evidence that the police were unable to control the activities of paramilitaries in the camp.[2676] This contradictory evidence revealed that the police themselves were actually involved in the killing and mistreatment of detainees.[2677] The evidence about lack of knowledge about events at Luka Camp on the part of the Bosnian Serb authorities is also not consistent with evidence that in June or July 1992, Dr. Milan Novaković who was the President of the Bijeljina Municipal Board of the SDS "announced on radio that the Jelisić 'factory' was the most productive (at expulsion and murder of Muslims) at the time".[2678]

820. Ristanić testified that with respect to the Bosnian Serb municipal authorities "we either didn't have [the] strength or willingness" to stop Jelisić.[2679] While the Chamber accepts that the Bosnian Serb authorities were not willing to stop Jelisić it does not accept the suggestion that they did not have the power to do so.[2680] In this regard the Chamber notes that Jelisić was eventually removed from the police, but there was no investigation of the alleged crimes and he was simply transferred to a military unit.[2681] In addition the Chamber received evidence of an Eastern Bosnia Corps report which suggested that Ristanić himself was aware about murders which had been committed in the municipality and did not care about preventing the information from leaking "because there were much larger graves in Prijedor".[2682] While Ristanić denied the specific detail contained in this report, the Chamber accepts that it supports the other evidence received which suggests a level of awareness by the Bosnian Serb authorities about crimes committed in the municipality and attempts to cover them up.[2683]

821. In this regard it was also reported that the commander of the Brčko barracks, Colonel Đurđević and the Corps Staff were informed of these events "in order to prevent leakage of information" but that they responded that this was a matter for the civilian authorities.[2684] This report also noted that organs from the Army and SUP and Simo Radovanović, who was one of Captain Dragan's instructors, suggested that the civilian authorities "do this properly to prevent

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events, the Chamber does not accept Ristanić's evidence in this regard. *See* P3023 (Witness statement of Đorđe Ristanić dated 15 June 2011), paras. 185–187; Đorđe Ristanić, T. 16726 (15 July 2011); Đorđe Ristanić, T. 16796 (18 July 2011).

2676 D3003 (Witness statement of Petar Kaurinović 17 February 2013), paras. 22–23; Petar Kaurinović, T. 34116–34117, 34120–34121, 34134 (20 February 2013), T. 34134 (20 February 2013).

2677 D3003 (Witness statement of Petar Kaurinović 17 February 2013), paras. 22–23; Petar Kaurinović, T. 34116–34117, 34120–34121, 34134 (20 February 2013), T. 34134 (20 February 2013).

2678 P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 116.

2679 P3023 (Witness statement of Đorđe Ristanić dated 15 June 2011), para. 210.

2680 P3023 (Witness statement of Đorđe Ristanić dated 15 June 2011), paras. 209–211.

2681 P3023 (Witness statement of Đorđe Ristanić dated 15 June 2011), paras. 209–211.

2682 P2889 (Report of the Eastern Bosnia Corps, 29 September 1992), p. 1.

2683 P2889 (Report of the Eastern Bosnia Corps, 29 September 1992), p. 1. Đorđe Ristanić, T. 16731–16732 (15 July 2011), T. 16746 (18 July 2011). *See also* Adjudicated Fact 2367.

2684 P2889 (Report of the Eastern Bosnia Corps, 29 September 1992), pp. 1–2.

information leakage".[2685] This report also observed that the next action was to "officially admit in front of the international community that a certain number of Muslims and Croats for whom we would have to prove that they had been working on ethnic cleansing of Serbs from these areas".[2686] The report stressed that "absolutely correct documentation" had to be established for these Bosnian Muslims and Bosnian Croats for presentation to representatives of the international community who were expected to visit Brčko very soon.[2687] The report mentioned that the "next phase would be public trial of two or three extremists with all possible publicity" for the international reporters.[2688]

822. The killings at Luka Camp continued until on or about 16 May 1992 when Jelisić entered the hangar with Major Džurković and a captain wearing a JNA uniform and said that they had received an order that the killing and mistreatment of detainees were prohibited after which the names and personal details of the detainees were recorded.[2689] However, contrary to this order, the mistreatment and beating of the detainees continued.[2690]

823. In light of the evidence above, the Chamber finds that a large number of non-Serb men were killed by Serb Forces at the Luka Camp between at least 9 May 1992 and 16 May 1992.

(D) Problems with paramilitaries and law and order

824. The Bosnian Serb local authorities had difficulties in controlling paramilitary groups which entered and operated in Brčko; these paramilitaries attacked or mistreated police, army officers, soldiers and civilians and placed pressure on the SJB and other municipal structures.[2691] The

2685 P2889 (Report of the Eastern Bosnia Corps, 29 September 1992), p. 2.

2686 P2889 (Report of the Eastern Bosnia Corps, 29 September 1992), p. 2.

2687 P2889 (Report of the Eastern Bosnia Corps, 29 September 1992), p. 2.

2688 P2889 (Report of the Eastern Bosnia Corps, 29 September 1992), p. 2.

2689 KDZ010, P416 (Transcript from *Prosecutor v. Jelisić*), T. 70–71, 85, 143–145. The Chamber notes that contrary to this order the mistreatment and beating of the detainees continued. KDZ010, P416 (Transcript from *Prosecutor v. Jelisić*), T. 130–131, 145–146.

2690 KDZ010, P416 (Transcript from *Prosecutor v. Jelisić*), T. 130–131, 145–146.

2691 Živan Filipović, T. 35813 (21 March 2013); P2888 (Brčko's War Presidency Summary of events in Brčko Municipality), pp. 3–6; D3003 (Witness statement of Petar Kaurinović 17 February 2013), para. 23; D1412 (Report of Republic of Serbia MUP, 8 August 1992), pp. 7–8, 10; P2889 (Report of the Eastern Bosnia Corps, 29 September 1992), p. 1; D3073 (Witness statement of Obren Marković dated 2 March 2013), para. 29; D3072 (Witness statement of Pero Marković dated 1 March 2013), para. 20; P2853 (Report of Bijeljina CSB, 21 May 1992), p. 1; Milorad Davidović, T. 15474–15475 (28 June 2011); Dragomir Andan, T. 40835–40836 (5 July 2013); D1436 (Report of SerBiH MUP, 17 June 1992), pp. 3–4; Milorad Davidović, T. 15748–15749 (30 June 2011). *See also* P58 (Witness statement of Sakib Husrefović dated 27 May 1995), p. 2; Pero Marković, T. 34738 (4 March 2013); D3003 (Witness statement of Petar Kaurinović 17 February 2013), paras. 21, 23–24; Isak Gaši, P3002 (Transcript from *Prosecutor v. Krajišnik*), T. 506–507; Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 21411; P3023 (Witness statement of Đorđe Ristanić dated 15 June 2011), para. 25; D3003 (Witness statement of Petar Kaurinović 17 February 2013), paras. 13, 18, 21; D3073 (Witness statement of Obren Marković dated 2 March 2013), para. 29; Obren Marković, T. 34788–34789, 34800 (5 March 2013); D3072 (Witness statement of Pero Marković dated 1 March 2013), paras. 14, 15, 16–17,

paramilitaries issued an ultimatum for the "removal of the entire management team of the Brčko SJB" which was complied with by the local authorities out of fear.[2692]

825. The Brčko SJB faced structural problems in carrying out investigations and had shortages in vehicles, equipment and communication facilities.[2693] Proposals were made to recruit new personnel, re-organise management, and remove individuals from reserve police units who had been charged with criminal acts, to cancel all unauthorised positions, and to improve co-operation with the military security, neighbouring SJB's and the Serbian MUP.[2694] The Brčko War Presidency leadership sent a summary of the situation in Brčko to the RS Presidency to identify the results achieved and the problems that needed to be resolved.[2695]

826. Between 29 May and 12 June 1992, employees of the Serbian MUP inspected and offered professional assistance to the Brčko SJB with respect to the failure to perform its basic functions.[2696] Dragan Andan was sent to Brčko to rebuild the SJB structures and organisation; he also attempted to eliminate the operations of paramilitary groups such as the Red Berets in Brčko and in doing so had ongoing struggles with the local political structures and paramilitary groups.[2697]

827. On 2 June 1992, the Brčko SJB established an organisational structure for the police station, appointed commanders and assistant commanders and outlined the tasks and obligations of personnel in preserving public law and order and protecting property.[2698] An agreement was reached that all detention measures "be recommended and submitted in writing" to the head of the

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19. The paramilitary groups identified as operating in Brčko included the units affilitated with Arkan, Mauzer, Captain Dragan, Šešelj, "Zika the Montenegrin", "the Obilić men from Kosoco", Živojin Ivanović, who was also known as "Crnogorac".

2692 D1412 (Report of Republic of Serbia MUP, 8 August 1992), p. 8; D3003 (Witness statement of Petar Kaurinović 17 February 2013), para. 22. Paramilitaries also threatened officials of the local authorities. Milorad Šehovac, T. 31381 (13 December 2012)

2693 D1574 (Report of Brčko SJB, undated), p. 4; Đorđe Ristanić, T. 16799 (18 July 2011).

2694 D1574 (Report of Brčko SJB, undated), p. 4; Đorđe Ristanić, T. 16800 (18 July 2011).

2695 P2888 (Brčko's War Presidency Summary of events in Brčko Municipality), p. 6. *See also* Đorđe Ristanić, T. 16728–16729 (15 July 2011); P3023 (Witness statement of Đorđe Ristanić dated 15 June 2011), paras. 224–225.

2696 D1436 (Report of SerBiH MUP, 17 June 1992), p. 1.

2697 Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 21402–21403, 21406–21421, 21426–21427, 21629–21631; D3779 (Minutes from meeting of Brčko SJB specialist board, 2 June 1992), pp. 3–4; D3780 (Brčko SJB information, undated); D3810 (Bijeljina CSB dispatch to SerBiH MUP, 23 July 1992); D3811 (Bijeljina CSB dispatch to SerBiH MUP, 24 July 1992); Dragomir Andan, T. 40819–40822, 40836 (5 July 2013); D3789 (Dragomir Andan's notes), pp. 3–4; D3778 (CSB Bijeljina authorisation, 28 May 1992); D3788 (Bijeljina CSB report to SerBiH MUP, 20 July 1992). Andan acknowledged that in the few weeks he was in Brčko his first task was to set up the police station but he did not have time to investigate mass graves, murders and rapes. Dragomir Andan, T. 40897 (5 July 2013).

2698 P3003 (Minutes of Brčko SJB, 2 June 1992), p. 1.

Brčko SJB by the head of the Crime department and that a depot be established in which stolen items could be stored.[2699]

828. Over 150 policemen from the frontlines were withdrawn to form a functioning patrol in the town of Brčko and other measures were taken to gather information on crimes committed including property offences, violent and sex crimes.[2700] Given that a large number of crimes had also been committed by members of the SJB, it was agreed that the gathering of information would continue once the armed conflict was over and necessary measures would be taken against the persons in question at that time.[2701]

829. In the summer of 1992, given the increasing security problems in northeast BiH including in Brčko, the SerBiH MUP requested the Federal SUP to send the police and Milorad Davidović to the area to stabilise the security situation and establish the normal functioning of organs of internal affairs.[2702] Davidović was asked by the leaders of the Crisis Staff in Brčko to come to Brčko to re-establish law and order.[2703] This followed a request from the Accused that a special unit be sent to Brčko to address the problems with paramilitaries.[2704]

830. Davidović located, disarmed and arrested the Red Berets including their leader "Žika" and the Božić brothers who had identification from the Serbian MUP.[2705] After he arrested some of the Red Berets, Frenki Simatović phoned Davidović twice, cursed him and asked how he had the right to act in that way.[2706] The Chief of the SJB was arrested and beaten by members of a paramilitary unit and Ristanić himself was detained by paramilitaries wearing red berets in late July or early

2699 P3003 (Minutes of Brčko SJB, 2 June 1992), p. 3.

2700 D1436 (Report of SerBiH MUP, 17 June 1992), pp. 1–2; Milorad Davidović, T. 15747 (30 June 2011); Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 21410, 21422, 21639–21640.

2701 D1436 (Report of SerBiH MUP, 17 June 1992), p. 2.

2702 D1412 (Report of Republic of Serbia MUP, 8 August 1992), p. 1. *See also* Petar Kaurinović, T. 34135 (20 February 2013); D3072 (Witness statement of Pero Marković dated 1 March 2013), para. 21; Pero Marković, T. 34752 (4 March 2013); D1632 (Report of Bijeljina SJB, 23 July 1992), p. 2.

2703 P2848 (Witness statement of Milorad Davidović dated 22 June 2011), paras. 102, 105. The delegation that came to Bijeljina to request assistance from Davidović were Đorđe Ristanić, Dr. "Beli" and Pavle Milinković. *See also* D3003 (Witness statement of Petar Kaurinović 17 February 2013), para. 24; D3073 (Witness statement of Obren Marković dated 2 March 2013), para. 30.

2704 Đorđe Ristanić, T. 16796 (18 July 2011). *See also* D3072 (Witness statement of Pero Marković dated 1 March 2013), para. 21; Pero Marković, T. 34752 (4 March 2013); Milorad Šehovac, T. 31381–31382 (13 December 2012); Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 21456–21457.

2705 P2848 (Witness statement of Milorad Davidović dated 22 June 2011), paras. 103, 106; Đorđe Ristanić, T. 16801–16802 (18 July 2011); D1412 (Report of Republic of Serbia MUP, 8 August 1992), pp. 6, 9–10. *See also* Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 21456–21457; D3073 (Witness statement of Obren Marković dated 2 March 2013), para. 30.

2706 P2848 (Witness statement of Milorad Davidović dated 22 June 2011), paras. 80, 112.

August 1992 for bringing people from Bijeljina to Brčko to introduce order.[2707] The paramilitaries expressed their anger and threatened Ristanić because their men had been arrested.[2708]

831. Davidović was transporting the arrested paramilitaries to Bijeljina when he received a radio call which demanded the immediate release of the Red Berets and informed him that the members of the Crisis Staff were being held hostage and one person would be killed every half an hour if the demand was not complied with.[2709] VRS Lieutenant Colonel Milinković, also pleaded with Davidović to release the arrested men or otherwise the Red Berets would kill him.[2710] Davidović refused to comply with these demands and took the arrested persons to Bijeljina.[2711]

832. Davidović returned to Brčko the next morning and was informed that the members of the Crisis Staff had been released, after which 90 Red Berets were arrested, of which 80 were from Serbia.[2712] The arrested individuals were placed on buses and transported across the border to Sremska Rača and handed to representatives of the Serbian MUP.[2713]

833. Davidović established curfews and check-points in Brčko with the support of the Crisis Staff, engaged the active duty policemen and was able to restore some law and order within three days of taking control of the Brčko SJB.[2714] An agreement was reached between the VRS and the SDS regarding the command of the area which allowed Davidović and his team to move back and forth between Bijeljina and Brčko to maintain stability.[2715]

2707 P3023 (Witness statement of Đorđe Ristanić dated 15 June 2011), paras. 25–26; Đorđe Ristanić, T. 16786, 16802–16804 (18 July 2011).

2708 Đorđe Ristanić, T. 16803–16804 (18 July 2011).

2709 P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 108; D1412 (Report of Republic of Serbia MUP, 8 August 1992), p. 8; Milorad Davidović, T. 15799 (30 June 2011).

2710 P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 109.

2711 P2848 (Witness statement of Milorad Davidović dated 22 June 2011), paras. 108–109; Milorad Davidović, T. 15800 (30 June 2011).

2712 P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 110. *See also* Đorđe Ristanić, T. 16804 (18 July 2011). While Ristanić's version of events is slightly different in terms of timing, the Chamber accepts that Davidović's direct evidence to be more reliable.

2713 P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 110; Milorad Davidović, T. 15676 (29 June 2011).

2714 P2848 (Witness statement of Milorad Davidović dated 22 June 2011), paras. 111; Milorad Davidović, T. 15544 (28 June 2011); Milorad Davidović, T. 15765–15766 (30 June 2011); Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 21419–21421, 21639–21640. *See also* D3003 (Witness statement of Petar Kaurinović 17 February 2013), para. 24; Petar Kaurinović, T. 34117 (20 February 2013).

2715 P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 124.

iv. Foča

(A) Charges

834. Under Count 3, the Prosecution alleges that persecution, a crime against humanity, was committed in Foča as part of the objective to permanently remove Bosnian Muslims and/or Bosnian Croats from the Municipalities.[2716] Under Count 1, the Prosecution further alleges that in certain municipalities, including Foča, this persecutory campaign included or escalated to include conduct that manifested an intent to destroy in part the national, ethnical and/or religious groups of Bosnian Muslims and/or Bosnian Croats as such.[2717]

835. Acts alleged to have been committed in Foča by Serb Forces and Bosnian Serb Political and Governmental Organs include killings during and after the take-over of Foča;[2718] killings related to detention facilities; and killings committed during and deaths resulting from, cruel and inhumane treatment at scheduled detention facilities.[2719] The Prosecution characterises these acts as killing, an underlying act of genocide, under Count 1; persecution, a crime against humanity, under Count 3; extermination, a crime against humanity, under Count 4; murder, a crime against humanity, under Count 5; and murder, a violation of the laws or customs of war, under Count 6.[2720]

836. Other acts alleged to have been committed in Foča by Serb Forces and Bosnian Serb Political and Governmental Organs include torture, beatings, and physical and psychological abuse, rape and other acts of sexual violence during and after the take-over and in scheduled detention facilities, as well as the establishment and perpetuation of inhumane living conditions in detention facilities, as cruel or inhumane treatment, an act of persecution under Count 3.[2721] In relation to Count 1, the Prosecution alleges that in scheduled detention facilities in Foča thousands of Bosnian Muslims and Bosnian Croats were subjected to cruel and inhumane treatment, including torture, physical and psychological abuse, rape, other acts of sexual violence, and beatings by Serb Forces and Bosnian Serb Political and Governmental Organs; the Prosecution characterises this inhumane

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2716 Indictment, paras. 48–49.

2717 Indictment, paras. 37–38.

2718 Indictment, para. 60(a)(i). *See* Scheduled Incidents A.5.2 and A.5.4. The Chamber notes that Scheduled Incident A.5.1 was withdrawn by the Prosecution pursuant to the "Notice of Withdrawal of Incident A.5.1." filed on 18 August 2014.

2719 Indictment, para. 60(a)(ii). *See* Scheduled Incident B.8.1. The Prosecution does not allege criminal responsibility for killings resulting from cruel and inhumane treatment at Scheduled Detention Facilities C.10.2, C.10.5, C.10.6, C.10.7. Indictment, fn. 4.

2720 Indictment, paras. 40(a)(i), 40(a)(ii), 63(a), 63(b).

2721 Indictment, para. 60(b), 60(c), 60(d) (specifying that the conditions included the failure to provide adequate accommodation, shelter, food, water, medical care, or hygienic sanitation facilities). *See* Scheduled Detention Facilities C.10.1. C10.2, C10.4, C.10.5, C10.6, and C10.7. The Prosecution does not allege criminal responsibility for rape and other acts of sexual violence in Scheduled Detention Facilities C.10.1 and C.10.6. Indictment, fn. 5.

treatment as causing serious bodily or mental harm to members of the Bosnian Muslim and Bosnian Croat groups, an underlying act of genocide.[2722] In addition, under Count 1, the Prosecution alleges that members of the Bosnian Muslim and Bosnian Croat groups were detained under conditions of life calculated to bring about physical destruction, namely through cruel and inhumane treatment, including torture, physical and psychological abuse, rape, other acts of sexual violence, inhumane living conditions, forced labour and the failure to provide adequate accommodation, shelter, food, water, medical care or hygienic sanitation facilities.[2723]

837. Under Count 3, other acts of persecution alleged to have been committed in Foča by Serb Forces and Bosnian Serb Political and Governmental Organs, include (i) forcible transfer or deportation of Bosnian Muslims and Bosnian Croats from their homes;[2724] (ii) unlawful detention in scheduled detention facilities;[2725] (iii) forced labour at the frontline and the use of human shields;[2726] (iv) appropriation or plunder of property, during and after the take-over of Foča, during arrests and detention and in the course of or following acts of deportation or forcible transfer;[2727] (v) the wanton destruction of private property including homes and business premises and public property including cultural monuments and sacred sites;[2728] and (vi) the imposition and maintenance of restrictive and discriminatory measures.[2729]

838. Under Counts 7 and 8, the Prosecution alleges deportation and inhumane acts (forcible transfer), respectively, as crimes against humanity.[2730] In this regard, the Prosecution alleges that, by the end of 1992, Serb Forces, Bosnian Serb Political and Governmental Organs had forcibly displaced Bosnian Muslims and Bosnian Croats from areas in Foča in which they had been lawfully present.[2731] It is alleged that from March 1992, restrictive and discriminatory measures, arbitrary arrest and detention, harassment, torture, rape and other acts of sexual violence, killing, destruction

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2722 Indictment, para. 40(b).

2723 Indictment, para. 40(c). *See* Scheduled Detention Facilities C.10.1, C.10.2, C.10.4, C.10.5, C.10.6, C.10.7.

2724 Indictment, para. 60(f).

2725 Indictment, para. 60(g). *See* Scheduled Detention Facilities C.10.1, C.10.2, C10.4, C.10.5, C.10.6, C.10.7.

2726 Indictment, para. 60(h).

2727 Indictment, para. 60(i).

2728 Indictment, para. 60(j). *See* Scheduled Incident D.10.

2729 Indictment, para. 60(k). The restrictive and discriminatory measures alleged include the denial of freedom of movement; the removal from positions of authority; the invasion of privacy through arbitrary searches of homes; unlawful arrest and/or the denial of the right to judicial process; and/or the denial of equal access to public services.

2730 Indictment, paras. 68–75.

2731 Indictment, paras. 69, 72.

of houses, cultural monuments and sacred sites, as well as the threat of further such acts caused Bosnian Muslims and Bosnian Croats to flee in fear while others were physically driven out.[2732]

(B) Lead-up

839. Foča is a large municipality in eastern BiH located to the southeast of Sarajevo in the region of Podrinje.[2733] Prior to the war the population of Foča was approximately 40,000 and consisted of about 52% Bosnian Muslims, 45% Bosnian Serbs, and about 3% who were Montenegrin.[2734] While Foča was ethnically mixed, there were neighbourhoods in Foča town and villages in the municipality which could be identified as predominantly Bosnian Muslim or Bosnian Serb.[2735]

840. Inter-ethnic relations in Foča deteriorated following the formation of national parties and after the multi-party elections with increasing divisions and suspicion on all sides.[2736] Petko Čančar was elected President of the SDS, but was later replaced by Miroslav Stanić.[2737] Rallies were held by both the SDS and SDA;[2738] this disrupted inter-ethnic relations further and led to rumours that the territory of the municipality, the companies, and institutions would be split along ethnic lines.[2739] Relations further deteriorated after war broke out in Slovenia and Croatia[2740] and the two

2732 Indictment, para. 71.

2733 D484 (Map of BiH); Momčilo Mandić, T. 5279–5280 (15 July 2010); Trifko Pljevaljčić, T. 32289 (21 January 2013); P1367 (Transcript of 26th session of RS Assembly, 2 April 1993), p. 25; P1371 (Transcript of 30th session of RS Assembly, 5-6 May 1993), p. 78.

2734 KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1296–1301; KDZ239, T. 18937 (16 September 2011); D4002 (Letter from Nedžad Ugljen to Vasvija Vidović, 4 July 1995), p. 23. *See also* P1480 (Ratko Mladić's notebook, 10–30 September 1992), p. 66.

2735 *See* Adjudicated Fact 724. *See also* Radojica Mlađenović, T. 36605 (4 April 2013).

2736 KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1182–1183; *see* Adjudicated Fact 725; Milorad Krnojelac, D2716 (Transcript from *Prosecutor v. Krnojelac*), T. 7601. *See also* Trifko Pljevaljčić, T. 32289–33290 (21 January 2013).

2737 D3314 (Witness statement of Radojica Mlađenović dated 1 April 2013), para. 14. Radojica Mlađenović was Vice President of the SDS.

2738 For evidence on SDA rallies, publications and the strike of Bosnian Muslims workers at the Fočatrans company which also disrupted inter-ethnic relations, *see* Milutin Vujičić, T. 32095, 32103–32104, 32106–32111, 32115–32121, 32141 (17 January 2013); D2767 (Witness statement of Milutin Vujičić dated 14 January 2013), paras. 2, 4; Trifko Pljevaljčić, T. 32293–32295, 32321, 32333–32334 (21 January 2013); D3314 (Witness statement of Radojica Mlađenović dated 1 April 2013), paras. 5–6, 9, 15; Radojica Mlađenović, T. 36689, 36709–36710 (5 April 2013); D3133 (Witness statement of Cvijetin Simić dated 16 March 2013), para. 37; P6079 (Foča SJB statement, 12 September 1990); KDZ017, T. 19881–19882 (4 October 2011); Robert Donia, T. 3223 (2 June 2010); Mitar Rašević, T. 46768–46769 (11 February 2014).

2739 KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1183–1185, 1294–1296; P6078 (Video clip re founding assembly of Foča SDA, with transcript); D2767 (Witness statement of Milutin Vujičić dated 14 January 2013), paras. 3, 5 (stating that the SDS was formed after the SDA); Milutin Vujičić, T. 32103–32109, 32112, 32114 (17 January 2013). *See also* Radojica Mlađenović, T. 36624–36625 (5 April 2013). According to Defence evidence and in the Accused's submission, the SDS rallies were directed towards respect for neighbourly relations and the preservation of peace. D3314 (Witness statement of Radojica Mlađenović dated 1 April 2013), paras. 15–16; D2767 (Witness statement of Milutin Vujičić dated 14 January 2013), para. 3; Defence Final Brief, para. 1758. However, the Chamber does not find the evidence adduced by the Accused to be reliable in this regard. In reaching that conclusion the Chamber noted that the evidence of the relevant witnesses was marked by multiple contradictions and extreme evasiveness.

2740 D3314 (Witness statement of Radojica Mlađenović dated 1 April 2013), para. 10.

communities further separated with Bosnian Serbs and Bosnian Muslims having their own cafés.[2741]

841. In 1991, Bosnian Serb leaders, including the Accused, Koljević, and Plavšić attended SDS rallies in Foča.[2742] Other SDS leaders from the Republican level including Velibor Ostojić, the minister of information in BiH,[2743] and Vojislav Maksimović, the President of the SDS Deputies' Club would often visit Foča, while Plavšić also visited occasionally.[2744] Maksimović, who was from Foča, made a statement at a public SDS rally in Goražde that "in the previous war the Drina flowed bloody, and in this war the Cehotina river would flow bloody too".[2745]

842. In June 1991, representatives of the SDA and SDS of Foča met to discuss issues, including an inter-party agreement for the appointment of personnel to official positions in the municipality including the SJB, the judiciary and the Municipal TO Staff.[2746]

(1) Division of municipal structures

843. In December 1991 the SDS decided to establish the Serb Assembly of Foča.[2747] On 24 January 1992, the Serb Assembly of Foča established an Executive Board with Radojica Mladenović as Chairman.[2748]

844. In an intercepted conversation between Stanić and the Accused in January 1992, the Accused asked Stanić about the situation in Foča.[2749] Stanić proceeded to tell the Accused that they

2741 KDZ017, T. 19877 (4 October 2011).

2742 D3314 (Witness statement of Radojica Mladenović dated 1 April 2013), para. 16; Radojica Mladenović, T. 36624 (5 April 2013); KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1186; KDZ239, T. 18961–18962 (16 September 2011). *See also* P5681 (Intercept of conversation between Biljana Plavšić and Radovan Karadžić, 23 May 1991), p. 1.

2743 KDZ379, P3332 (Transcript from *Prosecutor v. Krnojelac*), T. 3124.

2744 KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1186; KDZ239, T. 18961 (16 September 2011); KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2902, 2941; KDZ017, T. 19867–19868 (4 October 2011), 19868–19870 (4 October 2011) (private session); P90 (Witness statement of KDZ216 dated 8 June 1998), p. 16. (under seal).

2745 KDZ239, T. 18912, 18931 (15 September 2011); KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1186. The Chamber notes that the Cehotina River flows through Foča. D484 (Map of BiH).

2746 D1686 (Minutes of meeting between SDA and SDS, 20 June 1991), pp. 1–2; D1685 (Clarification of Foča Executive Board, 3 October 1991). *See also* D3314 (Witness statement of Radojica Mladenović dated 1 April 2013), para. 2. The Chamber notes there were disagreements about the appointment of individuals to certain positions but the parties discussed the importance of avoiding conflict. D3314 (Witness statement of Radojica Mladenović dated 1 April 2013), paras. 3, 12, 18, 29; D4872 (Letter from Vukosavljević to Foča Executive Board, 21 February 1992); D1686 (Minutes of meeting between SDA and SDS, 20 June 1991), p. 3; D2767 (Witness statement of Milutin Vujičić dated 14 January 2013), para. 28.

2747 P3333 (Official Gazette of Serbian Municipality of Foča, 17 September 1992), pp. 1–3; D3314 (Witness statement of Radojica Mladenović dated 1 April 2013), paras. 14, 20. *See also* Adjudicated Fact 729.

2748 P3333 (Official Gazette of Serbian Municipality of Foča, 17 September 1992), p. 11; P6264 (Excerpt from transcript of extended session of SDS Main Board and Executive Board, 14 February 1992, with audio), pp. 1–2. *See also* D3314 (Witness statement of Radojica Mladenović dated 1 April 2013), para. 20.

had formed a "Serb municipality and you have that information" after which the Accused said: "Yes, yes, and take complete control over your affairs" to which Stanić agreed and said "everything as it is in the instructions".[2750]

845. On 3 April 1992, the Statute of the Serb Municipality of Foča was promulgated and stated that the municipality was part of the SAO Herzegovina.[2751] This statute provided that the boundaries in the municipality "may be modified only keeping with the will of the local Serbian people" and also stipulated that the Serb Municipality of Foča was to enforce the laws of the SerBiH and the SAO Herzegovina.[2752] Pursuant to the terms of the statute, the Crisis Staff of the Serb Municipality of Foča ("Foča Crisis Staff") was established on the same day[2753] and Miroslav Stanić was appointed as its president.[2754] Bosnian Muslims also established a crisis staff in Foča.[2755] The Foča Crisis Staff operated from the Bosnian Serb neighbourhood of Čerežluk[2756] and was required to take over the duties of the Municipal Assembly during an imminent threat or state of war.[2757]

846. On 7 April 1992, following pressure from the SDS leadership, the police was divided along ethnic lines.[2758]

2749 P3337 (Intercept of conversation between Miroslav Stanić and Radovan Karadžić, 6 January 1992), p. 2; KDZ239, T. 18909 (15 September 2011).

2750 P3337 (Intercept of conversation between Miroslav Stanić and Radovan Karadžić, 6 January 1992), p. 2. The Chamber finds that considering the timing of this conversation and the context, the reference to "the instructions" is a reference to the Variant A/B Instructions which were distributed in December 1991. P5 (SDS Instructions for Organisation of Organs of the Serbian People in BiH, 19 December 1991), pp. 6, 10.

2751 P3333 (Official Gazette of Serbian Municipality of Foča, 17 September 1992), p. 14; KDZ239, T. 18938 (16 September 2011).

2752 P3333 (Official Gazette of Serbian Municipality of Foča, 17 September 1992), pp. 14, 16.

2753 P3333 (Official Gazette of Serbian Municipality of Foča, 17 September 1992), pp. 39–40. *See also* D3314 (Witness statement of Radojica Mladenović dated 1 April 2013), para. 20; D4002 (Letter from BiH MUP to Vasvija Vidović, 4 July 1995), p. 23.

2754 KDZ239, T. 18940 (16 September 2011). Members of the Foča Crisis Staff were not necessarily all SDS members. KDZ379, T. 18850–18851 (15 September 2011); Trifko Pljevaljčić, T. 32329 (21 January 2013). Other members of the Foča Crisis Staff included Vojislav Maksimović, Velibor Ostojić, Petko Čančar, Milum Milanović, Dragan Gagović, and Radojca Mladenović. D4002 (Letter from BiH MUP to Vasvija Vidović, 4 July 1995), p. 23. *See also* D1684 (Order of Foča Crisis Staff).

2755 *See* Adjudicated Facts 729, 730; KDZ017, T. 19878 (4 October 2011); D3314 (Witness statement of Radojica Mladenović dated 1 April 2013), paras. 4, 23.

2756 Adjudicated Fact 731.

2757 P3333 (Official Gazette of Serbian Municipality of Foča, 17 September 1992), pp. 31, 40–41; D3314 (Witness statement of Radojica Mladenović dated 1 April 2013), paras. 20, 22. *See also* Trifko Pljevaljčić, T. 32348–32349 (21 January 2013) (testifying that the Foča Crisis Staff was established when negotiations fell through).

2758 *See* Adjudicated Fact 732. *See also* Trifko Pljevaljčić, T. 32288 (21 January 2013); D3319 (Belgrade Radio news report, 8 April 1992).

(2) Militarisation of Foča

847. By January 1992 all Bosnian Muslim reservists had left the JNA base at Ustikolina following orders of the SDA.[2759] At that time, in addition to regular JNA troops a significant number of Serb reservists came to the JNA barracks and were provided with supplies.[2760]

848. In the months before the outbreak of the conflict in Foča, both Bosnian Serbs and Bosnian Muslims began to arm themselves, though Bosnian Serbs were better prepared.[2761] Bosnian Serbs armed themselves surreptitiously at first, distributing weapons by truck in the evenings, or from local businesses.[2762] Immediately prior to the outbreak of the conflict, the distribution of arms to Bosnian Serbs was done openly.[2763] On 17 March 1992, the Executive Board of the Serb Assembly of Foča sent a letter to the JNA General Staff urgently requesting that a JNA garrison be stationed in Foča.[2764]

849. The SDS and Gojko Janković were involved in military preparations and formed several units in the municipality.[2765] Stanić, who was also a member of the SDS Main Board, was the commander of the Tactical Group of Foča and became known as the "First War Commander" in the

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2759 KDZ379, T. 18867–18868 (15 September 2011); KDZ379, P3332 (Transcript from *Prosecutor v. Krnojelac*), T. 3101, 3103.

2760 KDZ379, P3332 (Transcript from *Prosecutor v. Krnojelac*), T. 3098, 3100.

2761 KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1187, 1307; KDZ379, T. 18857–18858 (15 September 2011); P90 (Witness statement of KDZ216 dated 8 June 1998), p. 3 (under seal). *See also* Adjudicated Fact 727. Pljevaljčić disputed the extent to which the Bosnian Serbs were armed and testified that only one reserve complement of Bosnian Serbs was armed and that Bosnian Serbs had access to hunting weapons but only took infantry weapons from warehouses when the conflict broke out. Trifko Pljevaljčić, T. 32299–32300, 32333 (21 January 2013). However, the Chamber notes that when confronted with evidence which suggested that the Bosnian Serb population was being armed, Pljevaljčić maintained that Gojko Janković was not involved but denied all knowledge about the formation of four battalions under the organisation of the SDS in 1991 and claimed he was not aware of what the Foča Crisis Staff did in forming units. Trifko Pljevaljčić, T. 32335–32336 (21 January 2013); P6082 (Proposal of Foča Territorial Group, 13 August 1993), p. 1. In light of these equivocal answers and the other evidence received on this issue, the Chamber does not accept Pljevaljčić's evidence about the extent to which Bosnian Serbs were being armed in Foča. The Chamber is however, satisfied that Bosnian Muslims were also armed to some extent and that Bosnian Muslim paramilitary formations, such as the Patriotic League and Green Berets, were present in Foča before clashes broke out. D2767 (Witness statement of Milutin Vujičić dated 14 January 2013), paras. 3, 5, 19, 22–24; Milutin Vujičić, T. 32124–32126, 32141 (17 January 2013); Trifko Pljevaljčić, T. 32286, 32291–32292, 32324, 32338–32339, 32342, (21 January 2013); D3065 (Witness statement of Aleksandar Vasiljević dated 26 February 2013), paras. 126, 222; D299 (ABiH Supreme Command Staff Special Report, 17 July 1993), p. 2; D246 (Article from Ljiljan, entitled "Inteview of the week: Halid Čengić", 18-25 May 1998), pp. 1, 6–7; D3128 (Witness statement of Veljko Marić dated 16 March 2013), para. 10; D3314 (Witness statement of Radojica Mladenović dated 1 April 2013), paras. 9, 11–12, 14, 45; D2739 (4th Corps security organ report, 1 December 1991), p. 3.

2762 *See* Adjudicated Fact 728.

2763 *See* Adjudicated Fact 728.

2764 P5481 (Request of Foča Municipal Assembly, 17 March 1992).

2765 P6081 (Video clips re interview and speech of Miroslav Stanić, with transcript). *See also* KDZ239, T. 18933 (15 September 2011); P6082 (Proposal of Foča Tactical Group, 13 August 1993), p. 1.

municipality.[2766] Another significant leader in Foča was Marko Kovač, a former JNA officer[2767] who subsequently took over from Stanić as the commander of the Tactical Group.[2768] Stanić and Kovač reported on behalf of the Tactical Group to Mladić[2769] and this unit was transformed into a unit of the VRS in May 1992.[2770] The Tactical Group reported to the Herzegovina Corps,[2771] which in turn reported on the activities of the Tactical Group to the VRS Main Staff.[2772]

(C) Take-over of Foča

850. On 2 March 1992, the SDS Municipal Board of Foča sent a letter addressed to the office of the President of the SDS Crisis Staff in Sarajevo indicating that they were "ready to carry out any order".[2773]

851. On 4 March 1992, at a meeting between representatives of the SDA and SDS, negotiations concluded with an agreement to lift blockades which had been erected by both Bosnian Muslims and Bosnian Serbs and to hold an extraordinary session of the Municipal Assembly to discuss the political and security situation.[2774] There were also discussions between Bosnian Serb and Bosnian Muslim representatives about the division of Foča into two municipalities and the division of power.[2775]

852. In early April 1992, Stanić, was heard on Radio Foča saying that it was no longer possible for Bosnian Serbs to live with their Bosnian Muslim neighbours, that they could not be woken

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2766 KDZ379, T. 18832–18833, 18836–18837 (15 September 2011); *see* Adjudicated Fact 731; P3476 (Video clip of interview with Miroslav Stanić, with transcript), pp. 2–3; P6081 (Video clips re interview and speech of Miroslav Stanić, with transcript); Radojica Mladenović, T. 36645–36646 (5 April 2013).

2767 P90 (Witness statement of KDZ216 dated 8 June 1998), p. 15 (under seal); KDZ216, P69 (Transcript from *Prosecutor v. Kunarac*), T. 3386 (under seal).

2768 Trifko Pljevaljčić, T. 32327 (21 January 2013); Radojica Mladenović, T. 36645–36646 (5 April 2013). *See also* P3476 (Video clip of interview with Miroslav Stanić, with transcript), p. 3 (stating that the Tactical Group was the name given to the group previously commanded by Stanić and that Stanić had handed over command of the group to Kovač).

2769 P1480 (Ratko Mladić's notebook, 10–30 September 1992), pp. 60–71; P1478 (Ratko Mladić's notebook, 27 May–31 July 1992), p. 394 (showing that Pero Elez also met with Mladić and requested supplies).

2770 KDZ239, T. 18932–18934 (15 September 2011), T. 19006 (16 September 2011).

2771 *See* P3355 (Combat report of Foča's Tactical Group, 21 July 1992); P6080 (Report of Foča Military Post, 10 October 1992).

2772 P3356 (Combat report of the Herzegovina Corps, 31 July 1992); P6659 (List of prisoners in Foča prison, 27 October 1993).

2773 P5515 (Letter from SDS Municipal Board of Foča to SDS Crisis Staff in Sarajevo, 2 March 1992).

2774 Trifko Pljevaljčić, T. 32286–32287, 32300, 32305 (21 January 2013); D3314 (Witness statement of Radojica Mladenović dated 1 April 2013), para. 22; D3315 (Protocol of inter-party meeting between SDS and SDA on 4 March 1992).

2775 D1690 (Announcement of Foča Municipal Assembly, 7 April 1992); D3317 (Agreement re Foča, 8 April 1992), p. 1; Radojica Mladenović, T. 36604–36607 (4 April 2013); Trifko Pljevaljčić, T. 32288–32289 (21 January 2013); D3314 (Witness statement of Radojica Mladenović dated 1 April 2013), para. 50. *See also* D3317 (Agreement re Foča, 8 April 1992) which pertains to an agreement reached between Bosnian Muslim and

every morning by the hodža from the mosque, and that there was a danger that the Bosnian Serb population would be circumcised.[2776] Stanić also stated the Bosnian Serb position that "the Drina would never become a border but a windpipe between two lungs", which was a reference to the RS and Serbia.[2777] Other messages were broadcast by radio to the effect that "the time had come for the Serbs to settle accounts with the balijas once and for all, and that the Serbs would no longer allow their ribs to be broken. They will no longer allow their children to be circumcised".[2778] These radio broadcasts created further divisions in Foča.[2779]

853. Despite these negotiations, armed clashes began in Foča on 6 April 1992 when the results of the referendum on the independence of BiH were published.[2780] By 7 April 1992, there was a presence of Serb Forces on the streets, and some people failed to report for work, fearful of the rising tensions in the town.[2781] After the conflict broke out there were calls by the military authorities for mobilisation of the Bosnian Serb population from loudspeakers.[2782] A number of Bosnian Serbs were mobilised on 7 April 1992 and issued with weapons and that night, Bosnian Serbs took over the Foča radio station, the warehouse of the regional medical centre, and the TO warehouse where weapons were stored.[2783]

854. On 7 April 1992, the President of the Serb Municipality of Foča made a public announcement that in accordance with decisions made by the Bosnian Serb Assembly, all organs of the Serb municipality would become operational.[2784] This same announcement called "upon the Serbian people and other civilians to maintain composure and common sense" and observed that TO units and the SJB would maintain public law and order, protect people and property, and prevent the presence of paramilitary formations in the Serb Municipality of Foča.[2785] It also

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Bosnian Serb representatives for the removal of barricades, the expulsion of armed people who had entered from outside, the introduction of a curfew, and a ban on the movement of units.

2776 KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1185.

2777 KDZ379, T. 18832–18834 (15 September 2011); P3476 (Video clip of interview with Miroslav Stanić, with transcript), p. 2.

2778 KDZ239, T. 18929 (15 September 2011).

2779 KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1185.

2780 KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1187–1188; *see* Adjudicated Facts 488, 491.

2781 *See* Adjudicated Fact 738. Mladenović disputed that the army was visibly present on the streets on 7 April 1992. D3314 (Witness statement of Radojica Mladenović dated 1 April 2013), para. 54. However, the Chamber does not consider that Mladenović's evidence can be relied on in this regard. In reaching that conclusion, the Chamber noted that his evidence was marked by contradictions, evasiveness, and bias.

2782 Milorad Krnojelac, D2716 (Transcript from *Prosecutor v. Krnojelac*), T. 7596, 7767–7768. This message was also broadcast on radio. KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1336.

2783 *See* Adjudicated Fact 738. *See also* KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1336.

2784 D1690 (Announcement of Foča Municipal Assembly, 7 April 1992).

2785 D1690 (Announcement of Foča Municipal Assembly, 7 April 1992).

appealed to all citizens, including Bosnian Muslims and Bosnian Serbs, not to move out of Foča and for those who had left to return.[2786]

855. Serb Forces deployed heavy artillery weapons on elevated sites around Foča.[2787] On the morning of 8 April 1992, Serb Forces commenced the main attack on the town of Foča, with a combination of infantry fire and shelling from artillery weapons directed primarily at predominantly Muslim neighbourhoods.[2788] They proceeded to take over Foča area by area, including the areas of Donje Polje and Šukovac where there was resistance by Bosnian Muslim forces.[2789] The Foča Crisis Staff issued orders for the taking of certain positions, which were implemented by Serbs Forces.[2790] The Serb Forces that took part in the attack included local soldiers as well as soldiers from Serbia and Montenegro, the Foča Tactical Group and paramilitaries, including the White Eagles.[2791] The attack continued for six or seven days, although the worst shelling and damage took place in the first few days.[2792] The attack resulted in large numbers of wounded civilians, most of whom were Bosnian Muslims.[2793]

2786 KDZ239, T. 18983, 18985 (16 September 2011). KDZ239 testified further that this was just a trap and the announcement was made "to increase the number of those who were caught" and those Bosnian Muslims who returned believing it to be safe "fared badly". However, the Chamber does not rely on KDZ239's assessment, which is based on his speculation.

2787 KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1190–1191; KDZ017, T. 19877 (4 October 2011). *See also* Adjudicated Fact 728.

2788 *See* Adjudicated Facts 741, 742. *See also* KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1190–1191; Trifko Pljevaljčić, T. 32304, 32321 (21 January 2013). Adjudicated Fact 741 indicates that the shelling was from Kalinovik and Miljevina. However, Vujičić testified that this was not possible given that Kalinovik was 40 kilometres away and thus out of range. Milutin Vujičić, T. 32145 (17 January 2013). While Vujičić's evidence was marked by evasiveness and some aspects were unreliable, the Chamber considers that his evidence does cast some doubt as to the precise origin of fire. However, this does not undermine the evidence that Serb Forces launched the artillery attacks in question.

2789 *See* Adjudicated Fact 743. Donje Polje was also the location of the Bosnian Muslim crisis staff in Foča. KDZ017, T. 19878 (4 October 2011); Adjudicated Fact 730. *See also* D3128 (Witness statement of Veljko Marić dated 16 March 2013), para. 24 (stating that the Serb Forces did not occupy the hospital but that the Bosnian Muslim forces retreated as they lost their position).

2790 KDZ379, T. 18834, 18836 (15 September 2011); P3476 (Video clip of interview with Miroslav Stanić, with transcript). Mlađenović testified that the goal of the Foča Crisis Staff was simply to "save the people" and deal with resources, supply and production. D3314 (Witness statement of Radojica Mlađenović dated 1 April 2013), paras. 20, 26; Radojica Mlađenović, T. 36626–36627, 36684 (5 April 2013). The Chamber does not consider that it can rely on Mlađenović's evidence in this regard given that his evidence was marked by significant contradictions and evasiveness which undermined his credibility and showed bias.

2791 D4002 (Letter from BiH MUP to Vasvija Vidović, 4 July 1995), p. 23; *see* Adjudicated Fact 741. *See also* KDZ379, P3332 (Transcript from *Prosecutor v. Krnojelac*), T. 3111; KDZ379, T. 18880–18881 (15 September 2011); KDZ216, P69 (Transcript from *Prosecutor v. Kunarac*), T. 3316 (under seal); KDZ017, T. 19892 (4 October 2011) (testifying that some of the soldiers also wore the five pointed star of the JNA); KDZ239, T. 18993 (16 September 2011) (testifying that Arkan's men and Šešelj's men and a "Guard" from Užice took part in the attack but he could not remember the insignia they wore).

2792 *See* Adjudicated Fact 747.

2793 *See* Adjudicated Fact 744. Defence witnesses testified that (i) Serb Forces were able to "liberate" Foča with few casualties on both sides; (ii) the White Eagles and JNA never took part in the conflict; (iii) civilians were not killed in the first few days; (iv) there was no heavy artillery fire at Foča; (v) Bosnian Serbs only fought with light arms until June 1992; (vi) the shelling by Bosnian Muslims caused panic and prompted large numbers of both Bosnian Serbs and Bosnian Muslims to head towards Montenegro and Serbia; and (vii) Serb Forces were

856. The Chamber finds that there were clashes between Serb Forces and Bosnian Muslim forces but before long Serb Forces had control of the town.[2794] During the conflict, many civilians hid in their homes, basements, or with relatives while others left Foča altogether for their safety.[2795]

857. During the attack, some neighbourhoods were destroyed and Bosnian Muslim homes were set on fire by Serb Forces.[2796] Bosnian Muslim homes were also set on fire by Serb Forces at that time as well as after the town had been secured.[2797] Some of these houses were looted before being set on fire.[2798] Some Bosnian Muslim houses were destroyed and were beside an untouched Serb apartment identified with a note saying "Serb apartment — do not torch".[2799] Fire engines protected Bosnian Serb houses while Bosnian Muslim houses burned.[2800] Other Bosnian Muslim

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able to take control of Foča with no assistance from the SDS leadership or the JNA. D2767 (Witness statement of Milutin Vujičić dated 14 January 2013), paras. 5–6, 12, 26–27, 29; Milutin Vujičić, T. 32122–32125 (17 January 2013); Trifko Pljevaljčić, T. 32301; 32303–32304, 32306, 32321–32322, 32327–32328, 32342, 32347–32348, 32350–32351 (21 January 2013); D3314 (Witness statement of Radojica Mlađenović dated 1 April 2013), para. 55; Radojica Mlađenović, T. 36612 (4 April 2013), T. 36617, 36690–36691 (5 April 2013). However, the Chamber does not find this evidence to be reliable. In reaching that conclusion, the Chamber noted that the evidence of the relevant witnesses was either based on speculation alone, or marked by evasiveness, contradictions, negative demeanour and indicators that they were trying to mislead the Chamber. These factors undermined their credibility and in light of the other evidence received, the Chamber does not consider this evidence to be reliable.

2794 KDZ017, T. 19869 (4 October 2011) (private session); T. 19876–19877 (4 October 2011); Adjudicated Fact 743; KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1188; D2767 (Witness statement of Milutin Vujičić dated 14 January 2013), para. 1; Milorad Krnojelac, D2716 (Transcript from *Prosecutor v. Krnojelac*), T. 7589. *See also* D3314 (Witness statement of Radojica Mlađenović dated 1 April 2013), paras. 30–31, 33; Trifko Pljevaljčić, T. 32305 (21 January 2013).

2795 Adjudicated Fact 746. Vujičić testified that both Bosnian Serbs and Bosnian Muslims left Foča during the fighting. D2767 (Witness statement of Milutin Vujičić dated 14 January 2013), para. 7. While the Chamber is satisfied that some Bosnian Serbs may have left, the remaining evidence indicates that this did not happen on the scale at which Bosnian Muslims left the municipality. *See* paras. 929–934.

2796 *See* Adjudicated Fact 902. *See also* Adjudicated Fact 813.

2797 *See* Adjudicated Fact 902; KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1188–1189. For example Donje Polje, the largely Muslim neighbourhood of Šukovać, and Bosnian Muslim houses in Kamerici and in Granovski Sokak were burned as was the old town neighbourhood of Prijeka Čaršija with its oriental-Islamic style market and Muslim houses in Pilipovići and the neighbouring village of Paunci. Adjudicated Facts 903, 904, 909. *See also* P90 (Witness statement of KDZ216 dated 8 June 1998), p. 12 (under seal); KDZ216, P69 (Transcript from *Prosecutor v. Kunarac*), T. 3367–3368 (under seal); P502 (Video clip of a man and destroyed houses). While KDZ239 testified that Bosnian Muslim homes were set on fire in order "to frighten the local population to flee the town", the Chamber does not rely on his opinion in this regard. The Chamber notes that the evidence adduced by the Defence does not dispute the destruction of Bosnian Muslim homes, but challenges the systematic nature of the destruction and seeks to blame Bosnian Muslim Forces for instigating these events. Mlađenović testified that (i) Bosnian Muslim houses were not systematically torched during the attack on the town; (ii) the torching of houses was started by Bosnian Muslim units; (iii) the military command issued an order which involved sealing abandoned properties and prohibiting destruction and looting of property; and that (iv) the burning of houses by both sides got out of control when Bosnian Muslim forces started burning houses. D3314 (Witness statement of Radojica Mlađenović dated 1 April 2013), paras. 46, 56; Radojica Mlađenović, T. 36615–36616, 36679, 36697 (5 April 2013). While the Chamber finds that some Bosnian Serb homes may have been burnt (*see* KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1188–1189), it does not consider Mlađenović's evidence to be reliable. In reaching that conclusion the Chamber noted that Mlađenović's evidence was marked by contradictions, extreme evasiveness and bias which undermined his credibility.

2798 KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1189.

2799 *See* Adjudicated Fact 905.

2800 *See* Adjudicated Fact 906.

houses were dismantled for materials or re-allocated to Bosnian Serbs who had lost their own homes.[2801] Bosnian Muslim businesses were looted or burned, or had equipment confiscated.[2802]

858. On 8 April 1992, roadblocks were set up throughout the town,[2803] but the Foča Crisis Staff called on citizens of all nationalities to remain calm and informed the population that the Bosnian Serb TO and SJB were controlling the town.[2804] By around mid-April 1992, Serb Forces had taken control of the town of Foča.[2805] Many of the Bosnian Muslims who had remained during the fighting fled Foča when Serb Forces took control of the town.[2806] After the Bosnian Serb civilian authorities returned to the municipality,[2807] it was announced on the radio during the second half of April 1992 that the administration of the entire municipality of Foča would be run by the Serbs.[2808] Ostojić reported that the Bosnian Serbs had "established state and executive authority in the Serbian commune of Foča".[2809] On or about 26 April 1992, Bosnian Serb officials including Maksimović, Stanić, Čančar and Ostojić, met at the Foča Crisis Staff headquarters.[2810]

859. After Serb Forces took control of Foča town, attacks against the non-Serb civilian population continued, including attacks against Bosnian Muslim villages which were taken over

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2801 Adjudicated Fact 907.

2802 *See* Adjudicated Fact 779.

2803 Adjudicated Fact 740.

2804 D3319 (Belgrade Radio news report, 8 April 1992); Radojica Mladenović, T. 36704 (5 April 2013).

2805 KDZ017, T. 19890 (4 October 2011); KDZ017, T. 19909–19910 (5 October 2011); P3338 (TANJUG news report, 14 April 1992) (in which Ostojić reported that the Bosnian Serb TO was controlling a "huge part of the town" and that the entire Bosnian Serb TO "is on its feet"); *see* Adjudicated Fact 748.

2806 *See* Adjudicated Fact 748. Vujičić testified that by the end of April, (i) Foča was freed and the remaining Bosnian Muslim civilian population and their homes were not touched; and (ii) civilians who had not left the villages remained in their homes. D2767 (Witness statement of Milutin Vujičić dated 14 January 2013), paras. 30–31. The Chamber does not consider Vujičić's evidence to be reliable on this issue. In reaching that conclusion the Chamber noted that his evidence was marked by evasiveness and other indicators which undermined his credibility.

2807 Radojica Mladenović, T. 36636 (5 April 2013).

2808 Adjudicated Fact 769.

2809 D3319 (Belgrade Radio news report, 8 April 1992); Radojica Mladenović, T. 36704 (5 April 2013). Ostojić was the state commissioner for Foča Municipality until this authority was transferred to Vojislav Maksimović on 4 June 1992 by a certificate signed on behalf of the Accused. P3339 (Certificate of appointment signed by Radovan Karadžić, 4 June 1992); KDZ239, T. 18911–18912 (15 September 2011).

2810 KDZ379, P3332 (Transcript from *Prosecutor v. Krnojelac*), T. 3118–3120; KDZ379, T. 18885–18886 (15 September 2011). *See also* P90 (Witness statement of KDZ216 dated 8 June 1998), p. 16 (under seal). [REDACTED]. In addition the Chamber received hearsay evidence that Velibor Ostojić attended meetings in Foča during the attack in April 1992 and said that there should be no negotiations, that "they should all be killed" and that they should "slaughter anything that is human". KDZ017, T. 19868–19870, (4 October 2011) (private session), T. 19872 (4 October 2011). *See also* Radojica Mladenović, T. 36636–36638 (5 April 2013) (acknowledging that Ostojić was present at some time during the take-over of Foča); KDZ379, P3332 (Transcript from *Prosecutor v. Krnojelac*), T. 3118–3121. *But see* Velibor Ostojić, D2361 (Transcript from *Prosecutor v. Krajišnik*), T. 26732–26734, 26738–26739; D2362 (Witness statement of Velibor Ostojić dated 6 June 2006), para. 36. However, having weighed the relevant evidence, the Chamber, while satisfied that Ostojić did attend some meetings during the conflict in Foča, is not satisfied that it can make a finding about what Ostojić said at those meetings based on this hearsay evidence.

and destroyed.[2811] For example, the village of Brod was attacked on 20 April 1992, after the village authorities did not respond to a Foča Crisis Staff demand that the village surrender.[2812] Similarly around 28 April 1992, Serb Forces attacked Ustikolina where Bosnian Muslims had tried to form resistance, after which the Serb Forces set fire to Bosnian Muslim houses there.[2813]

860. On 30 April 1992, Ostojić reported to the Bosnian Serb government that Ustikolina was "liberated" and that the civilian authorities had "control over the overall situation".[2814] Thereafter, Serb Forces continued attacking and destroying Muslim villages along the Drina while the population fled.[2815] Ostojić continued to report on progress of the military action in Foča to republican level organs.[2816] By around the end of April 1992, Serb Forces had control of the municipality.[2817]

861. In June 1992, Serb Forces continued to attack, loot, and burn down Bosnian Muslim villages in Foča.[2818] During these attacks Bosnian Muslim villagers were rounded up or captured, and sometimes beaten.[2819] For example, in Miljevina, Serb Forces set the surrounding Muslim villages on fire and arrested Bosnian Muslim civilian males.[2820]

(D) Events after the take-over of Foča

862. After the take-over, the municipality was run by the Foča Crisis Staff until the municipal assembly was able to function.[2821] Immediately after the take-over, restrictions were imposed on

2811 *See* Adjudicated Facts 749, 750.

2812 *See* Adjudicated Fact 753.

2813 *See* Adjudicated Facts 910, 755.

2814 P4986 (Report of SerBiH Government, 30 April 1992), p. 1.

2815 *See* Adjudicated Fact 756. While the Adjudicated Fact also refers to the killing of Bosnian Muslims, the Chamber notes that these killings are not charged pursuant to Schedules A or B of the Indictment. *See* fn. 13.

2816 P3476 (Video clip of interview with Miroslav Stanić, with transcript), p. 3.

2817 Adjudicated Fact 745; KDZ379, T. 18834–18835 (15 September 2011); P3476 (Video clip of interview with Miroslav Stanić, with transcript). *See also* Trifko Pljevaljčić, T. 32307 (21 January 2013).

2818 *See* Adjudicated Facts 751, 752.

2819 *See* Adjudicated Fact 752. While the Adjudicated Fact also refers to the killing of Bosnian Muslims, the Chamber notes that that these killings are not charged pursuant to Schedules A or B of the Indictment. *See* fn. 13. *See also* Milorad Krnojelac, D2716 (Transcript from *Prosecutor v. Krnojelac*), T. 7888.

2820 *See* Adjudicated Fact 754. According to Defence witnesses, when soldiers were mobilised into the Serb Forces they were informed about provisions of Geneva Conventions which were contained in the rules of conduct and an official announcement was read out to soldiers informing them that when mopping up villages the civilian population, homes and property were "completely off limits and that every transgression of these units would be strictly punished". D2767 (Witness statement of Milutin Vujičić dated 14 January 2013), paras. 14–15; Milutin Vujičić, T. 32133, 32145–32146 (17 January 2013). Considering that Vujičić's evidence was marked by indicators of evasiveness and attempts to mislead the Chamber, the Chamber does not find that this evidence is reliable.

2821 P6265 (Video footage of interview with Velibor Ostojić, with transcript), p. 6; Radojica Mlađenović, T. 36642 (5 April 2013).

the non-Serb inhabitants.[2822] Between 10 April 1992 and the beginning of June 1992, large-scale arrests of non-Serb civilian men, mostly of Muslim ethnicity, were carried out throughout Foča.[2823] Non-Serbs were arrested throughout the municipality. Bosnian Muslim men were rounded up in the streets, separated from the women and children and from the Bosnian Serb population.[2824] Others were arrested in their apartments or in the houses of friends and relatives, taken away from their workplaces, or dragged from their hospital beds and detained at multiple detention facilities.[2825] Upon arrest and during transportation to detention facilities, they were referred to by Serb soldiers by the derogatory term "balija", cursed, and beaten.[2826]

863. The Foča hospital continued to function and treated both Bosnian Muslims and Bosnian Serbs and civilians of all ethnicities who sought shelter there at the start of the conflict.[2827] On one occasion, a Bosnian Serb soldier severely kicked three patients in Foča hospital and beat them with a chair after learning that they were Muslim and the beating stopped only when a doctor intervened and called the police.[2828]

864. In April and May 1992, Bosnian Muslim households were searched by the Bosnian Serb MP or soldiers, including for weapons and money.[2829] Bosnian Serb houses were not searched, or at most were searched superficially.[2830] Bosnian Muslims were ordered to surrender their weapons while Serbs were allowed to keep theirs.[2831] Many of the Bosnian Muslims gave up their personal weapons so that they would not be accused of participating in the conflict.[2832]

2822 *See* Adjudicated Fact 766.

2823 *See* Adjudicated Fact 822.

2824 *See* Adjudicated Fact 767.

2825 KDZ239, T. 18946, 18984 (16 September 2011). *See* Adjudicated Fact 768.

2826 *See* Adjudicated Facts 766, 780.

2827 D3128 (Witness statement of Veljko Marić dated 16 March 2013), paras. 5, 8–13, 21–23; Veljko Marić, T. 35570–35574, 35578, 35580–35582, 35607–35613, 35621–35622 (19 March 2013); D3129 (Record of patients in pediatric ward of Foča Hospital March - December 1992); D3130 (Record of patients in Foča Hospital); D3131 (Excerpt from Foča Hospital patients log); D3132 (Excerpt from list of patients transferred from Goražde to Pljevlja, 1992). *See also* D3314 (Witness statement of Radojica Mlađenović dated 1 April 2013), para. 22; P6080 (Report of Foča Military Post, 10 October 1992).

2828 Adjudicated Fact 781. Veljko Marić testified that he had never heard about this incident. D3128 (Witness statement of Veljko Marić dated 16 March 2013), para. 26. The Chamber does not consider that Marić's lack of knowledge about this incident is inconsistent with it having occurred.

2829 *See* Adjudicated Fact 776. *See also* Milorad Krnojelac, D2716 (Transcript from *Prosecutor v. Krnojelac*), T. 7888. The Chamber notes that D1684 (Order of Foča Crisis Staff) is an order by the Foča Crisis Staff to the MP to disarm and take into custody any person involved in theft in the town and to "prohibit any misuse and conduct unbecoming a soldier". However, given that the order is undated, this limits its probative value.

2830 *See* Adjudicated Fact 777.

2831 *See* Adjudicated Fact 778.

2832 *See* Adjudicated Fact 747.

865. From April 1992, Bosnian Muslims were laid off from their jobs or were prevented or discouraged from reporting to work.[2833] Restrictions were placed on the movement of non-Serbs and announcements were made over the radio and with a loudspeaker on a police car that Bosnian Muslims were not allowed to move about.[2834] At the same time, the Bosnian Serb population could move around freely, with the exception of a night curfew from 8 p.m. to 6 a.m. imposed on all inhabitants.[2835] Bosnian Muslims were forbidden to meet with each other, and had their phone lines cut off.[2836] Restrictions imposed resulted in them being under virtual house arrest.[2837] Military check-points were established, controlling access in and out of Foča and its surrounding villages.[2838]

866. Paramilitary formations were present in Foča, including units known as Tuta's Group, Pero's group, Brane Ćosović's group, Gojko Janković's group, and Zaga's unit which was led by Dragan Kunarac, a.k.a. Zaga.[2839] Paramilitaries were involved in looting gold, jewellery, and money from homes.[2840] Commanders of these units would visit Kovač.[2841] However, by May 1992

2833 *See* Adjudicated Facts 770, 771.

2834 *See* Adjudicated Fact 772. Defence witnesses disputed this adjudicated fact and testified that it was dangerous for all citizens to walk around and that there were no restrictions on the movement of the non-Serb population except during the curfew when all citizens were subject to movement restrictions. D3314 (Witness statement of Radojica Mladenović dated 1 April 2013), paras. 25, 57; D3128 (Witness statement of Veljko Marić dated 16 March 2013), para. 25. The Chamber does not consider that this evidence is reliable. In reaching that conclusion, the Chamber noted that Mladenović's evidence was marked by multiple contradictions and extreme evasiveness. With respect to Marić, the Chamber notes that he simply states that Adjudicated Fact 772 is not correct and that it was dangerous for all citizens to walk around but does not expressly address whether or not there were additional restrictions imposed on Bosnian Muslims.

2835 *See* Adjudicated Fact 772.

2836 *See* Adjudicated Fact 773. Radojica Mladenović disputed this adjudicated fact and testified that it was not possible to selectively disconnect phone lines. D3314 (Witness statement of Radojica Mladenović dated 1 April 2013), para. 58. The Chamber does not consider that it can rely on this evidence as it was marked by multiple contradictions and extreme evasiveness which undermined his credibility.

2837 *See* Adjudicated Fact 774.

2838 Adjudicated Fact 775.

2839 P90 (Witness statement of KDZ216 dated 8 June 1998), pp. 6, 13, 15 (under seal); D4002 (Letter from BiH MUP to Vasvija Vidović, 4 July 1995), p. 23; P69 (Transcript from *Prosecutor v. Kunarac*), T. 3330, 3378, 3385–3386 (under seal); Milutin Vujičić, T. 32127–32128 (17 January 2013); Trifko Pljevaljčić, T. 32331–32332 (21 January 2013). *See also* P3354 (Order of Foča Tactical Group, 7 July 1992), p. 3 (identifying the involvement of Zaga's unit in mopping up operations).

2840 P90 (Witness statement of KDZ216 dated 8 June 1998), p. 15 (under seal).

2841 P69 (Transcript from *Prosecutor v. Kunarac*), T. 3386 (under seal); P90 (Witness statement of KDZ216 dated 8 June 1998), p. 15 (under seal). *See also* Radojica Mladenović, T. 36673 (5 April 2013) (testifying that these units "acted in concert with regular units of the army"). Defence witnesses testified that paramilitary groups (i) came to the municipality randomly for the purposes of plunder; (ii) were not considered welcome by the civilian and military authorities; and (iii) killed both Bosnian Serbs and Bosnian Muslims. D3314 (Witness statement of Radojica Mladenović dated 1 April 2013), paras. 42–43; Mitar Rašević, T. 46813–46815 (11 February 2014); Trifko Pljevaljčić, T. 32332–32333 (21 January 2013); D2767 (Witness statement of Milutin Vujičić dated 14 January 2013), para. 10; Milutin Vujičić, T. 32124 (17 January 2013). The Chamber does not find this evidence to be reliable. In this regard, with respect to Vujičić the Chamber notes a contradiction in his evidence. On the one hand, Vujičić states that the paramilitary formations were completely unknown to him, but he knew that they killed people regardless of ethnicity. Similarly, the evidence of Mladenović that these groups came randomly is contradicted by his evidence that some of the units "acted in concert with the regular units of the

the authorities attempted to expel paramilitary formations from the municipality.[2842] In July 1992, Mićo Stanišić instructed the special unit led by Davidović and Andan to establish law and order in Foča and to take measures against paramilitaries who were disrupting the functioning of the legal authorities.[2843]

(1) Scheduled Incident A.5.2

867. The Prosecution alleges that a number of civilians from the village of Jeleč were killed between 1 and 5 May 1992.

868. Jeleč is a village about 22 kilometres from Foča near Miljevina. Jeleč was shelled, attacked by infantry, and taken over by Serb Forces on 4 or 5 May 1992.[2844] Serb Forces set Jeleč on fire after which the population fled to a nearby forest. Muslims who stayed in their homes or who tried to escape were killed.[2845] Other male Bosnian Muslim villagers were captured and detained before being transferred to the KP Dom Foča.[2846]

869. The Chamber therefore finds that a number of civilians from the village of Jeleč were killed by Serb Forces between 1 and 5 May 1992.

(2) Scheduled Incident A.5.4

870. The Prosecution alleges that a number of people hiding in the woods near Mješaja/Trošanj were killed in early July 1992.

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army". In addition the evidence of these witnesses is marked by multiple other contradictions and extreme evasiveness, which undermine their credibility.

2842 KDZ379, T. 18889 (15 September 2011); D2767 (Witness statement of Milutin Vujičić dated 14 January 2013), para. 9; Trifko Pljevaljčić, T. 32332 (21 January 2013).

2843 Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 21493–21494, 21503, 21505. *See also* D4312 (Report of RS MUP, 14 September 1992), p. 1; D1675 (Report re Foča police station, 1 December 1992), pp. 1–4; D3314 (Witness statement of Radojica Mladenović dated 1 April 2013), para. 47.

2844 *See* Adjudicated Fact 760.

2845 *See* Adjudicated Fact 761. *See also* Adjudicated Fact 752. The Prosecution refers to Mašović's evidence with respect to the exhumation of one individual who it links to this incident. Prosecution Final Brief, Appendix G, Foča, Scheduled Incident A.5.2. Mašović refers to one individual from Jeleč who went missing on 4 May 1992 and who was exhumed from a grave. P4853 (Updated Table 2 to the Report of Amor Mašović), p. 6. However, the Chamber is not satisfied that, in the absence of further evidence it can link the named individual with this scheduled incident based on Mašović's evidence and will therefore not rely on this exhumation evidence for the purposes of entering findings with respect to this incident. Mladenović testified that Jeleč was a stronghold of the Patriotic League and Serb Forces "liberated" the village after previous failed attempts to negotiate for the return of weapons and to avoid clashes. D3314 (Witness statement of Radojica Mladenović dated 1 April 2013), para. 41. Similarly the Accused made a submission that the casualties in Jeleč were collateral damage in a military operation. Defence Final Brief, para. 1771. However, the Chamber does not consider that Mladenović's evidence or the Accused's unsupported submission contradicts the evidence which relates to the conduct of the members of Serb Forces who entered Jeleč, burnt down the village, forced villagers to flee, and killed those who remained in their houses or who tried to escape.

2846 *See* Adjudicated Fact 761. *See* Scheduled Detention Facility C.10.1 for evidence relating to detention and treatment at KP Dom Foča.

871. On 3 July 1992, the Bosnian Muslim village of Mješaja/Trošanj, situated between Foča and Tjienstište, was attacked by Serb Forces including units led by Gojko Janković and Radomir Kovač.[2847] Kovač was a member of Ćosović's group.[2848]

872. At the time of the attack, some Bosnian Muslim villagers in Trošanj continued living in their houses but would sleep in the woods at night and only return to their homes during the daytime.[2849] They were afraid because they saw other Muslim villages burning and felt targeted as Muslims.[2850] The Chamber also took judicial notice that three villagers in Mješaja/Trošanj were killed during the initial attack.[2851] However, the Chamber does not have sufficient evidence as to the circumstances surrounding the deaths of these three individuals during the attack on the village to make a finding in this regard.

873. After capturing a group of about 50 Muslim villagers, Serb Forces separated the men from the women. The women were chased down a hill towards the village and seven detained men were beaten and then killed.[2852] Serb soldiers hit the villagers with rifle butts and tree branches, kicking them, and calling them "Ustashas" and one of the Muslims lost an eye as a result of the beating.[2853]

2847 *See* Adjudicated Facts 763, 2398. The Chamber received evidence that Janković went to villages to identify how Bosnian Muslims and Bosnian Serbs could be rescued and that there had been previous attempts to negotiate the surrender of weapons in the village of Trošanj and assurances given to Bosnian Muslims who surrendered their weapons. Milutin Vujičić, T. 32128 (17 January 2013); D3316 (Agreement between Trošanj Muslim representatives and Foča authorities, 24 April 1992), p. 1. However, the Chamber does not accept that this evidence is reliable or can be connected with this incident. In reaching that conclusion the Chamber noted that Vujičić's evidence was marked by evasiveness and indicators that he was attempting to mislead the Chamber, which resulted in his credibility being undermined. In addition, the Chamber notes that Mlađenović acknowledged that he may have not been properly informed about all events in the village and denied any knowledge of evidence which suggested that Bosnian Muslims did in fact hand over weapons. Radojica Mlađenović, T. 36655–36656 (5 April 2013). The Chamber therefore does not consider that Mlađenović's evidence casts any doubt on the evidence received which relates to the conduct of Serb Forces during the attack.

2848 KDZ216, P69 (Transcript from *Prosecutor v. Kunarac*), T. 3385 (under seal).

2849 Adjudicated Fact 764.

2850 *See* Adjudicated Fact 764. *See also* Adjudicated Fact 752.

2851 *See* Adjudicated Facts 765, 2398, 2399.

2852 *See* Adjudicated Facts 765, 2398, 2399, 2401. The Prosecution refers to Mašović's evidence with respect to the exhumation of one individual who it links to this incident. Prosecution Final Brief, Appendix G, Foča Scheduled Incident A.5.4. Mašović's evidence is that ten bodies which were exhumed from a mass grave at Trošanj are linked to individuals who went missing on 1 May 1992. P4853 (Updated Table 2 to the Report of Amor Mašović), p. 6. The Chamber notes that this date is not consistent with the evidence which suggested that these killings occurred in July 1992. In addition, in the absence of further evidence, the Chamber cannot link the named individual with this scheduled incident based on Mašović's evidence and will therefore not rely on this exhumation evidence for the purposes of entering findings with respect to this incident.

2853 *See* Adjudicated Fact 2400.

Some Bosnian Muslims from the village were taken to detention facilities including KP Dom[2854] and the Worker's Huts at Buk Bijela.[2855]

874. The Chamber therefore finds that Serb Forces killed at least seven Bosnian Muslim civilians from the village of Mješaja/Trošanj in July 1992.

(E) Detention Facilities in Foča

(1) Scheduled Detention Facility C.10.6

875. The Indictment refers to the use of the TO military warehouses at Livade as a detention facility between 14 and 17 April 1992.

876. In mid-April 1992, many Bosnian Muslim civilians who were arrested in the centre of Foča or other areas of the town were taken and detained at the TO military warehouses at Livade.[2856] Those detained included several doctors and medical staff from Foča hospital and members of the SDA who were arrested by soldiers, including members of the TO and soldiers in camouflage JNA uniforms.[2857] During the arrests, several of the detainees were severely beaten and injured while others had their hands tied before being taken away.[2858] In mid April 1992, approximately 80 to 100 men were detained in hangars at the facility.[2859] This figure did not include the women and children who were separated and taken to other hangars.[2860] Most the people detained were Bosnian Muslims and one was a Bosnian Croat.[2861]

877. Some detainees who arrived at the facility had already been severely beaten.[2862] Veselin Čančar was the commander of Livade and was heard cursing and threatening the detainees.[2863] A

2854 Trifko Pljevaljčić, T. 32346 (21 January 2013). *See* Scheduled Detention Facility C.10.1 for evidence relating to detention and treatment at KP Dom Foča.

2855 *See* Adjudicated Fact 2407. *See* Scheduled Detention Facility C.10.4 for evidence relating to detention and treatment at the Worker's Huts at Buk Bijela.

2856 *See* Adjudicated Facts 782, 783, 784, 785.

2857 KDZ239, P3335 (Transcript from *Prosecutor v. Krnojelac*), T. 1195–1200, 1198–1199 (under seal). *See also* Adjudicated Fact 785. Mladenović stated that Bosnian Muslim civilians were brought to this facility for a short time as they were suspected of being involved in the arming of the Bosnian Muslim population. D3314 (Witness statement of Radojica Mladenović dated 1 April 2013), para. 36. The Chamber does not find this evidence to be reliable. In reaching that conclusion the Chamber noted that Mladenović's evidence was marked by multiple contradictions and extreme evasiveness.

2858 Adjudicated Fact 786. *See also* KDZ239, P3335 (Transcript from *Prosecutor v. Krnojelac*), T. 1197 (under seal).

2859 KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1200. *See also* Milorad Krnojelac, D2716 (Transcript from *Prosecutor v. Krnojelac*) T. 7887–7888.

2860 KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1200.

2861 KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1200, 1202. The Bosnian Croat was identified as Krunoslav Marinović.

2862 KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1200, 1202.

2863 KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1201–1202.

boy who was captured in the town of Foča and brought to Livade, was tied to a fence and beaten with ropes.[2864] While the detainees could not see the beating, they could hear the blows, his screams and the "rope piercing the air".[2865]

878. KDZ239 testified that the conditions at the facility were very poor, there "was a lot of humidity there. Hygienic conditions were poor, also food was not good, and this was not a good place to stay either. Conditions were poor".[2866] The Chamber does not consider that KDZ239's evidence in this regard provides sufficient detail to allow the Chamber to make a finding as to the conditions of detention at this facility. On 17 April 1992, all the male Bosnian Muslim civilians detained at Livade were transferred to the KP Dom Foča.[2867]

879. Based on the above, the Chamber finds that non-Serbs were brought to and detained at the TO military warehouses in Livade in mid-April 1992 and that some of the detainees were beaten there.

(2) Scheduled Detention Facility C.10.1

880. The Indictment refers to the use of the KP Dom Foča as a detention facility from 18 April 1992 until at least 31 December 1992.[2868]

(a) Arrival of detainees and control over the detention facility

881. Before the war KP Dom functioned as a prison with a capacity of between 600 and 800 detainees.[2869] However, many of these detainees were released or escaped in the lead-up to the war.[2870] Bosnian Muslims who had been arrested were transferred to the KP Dom Foča from mid-April 1992.[2871] For example, all Bosnian Muslim civilians detained at Livade were transferred to

2864 KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1202.

2865 KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1202.

2866 KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1202.

2867 *See* Adjudicated Fact 823; KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1204; Radojica Mladenović, T. 36657 (5 April 2013). *See also* Milorad Krnojelac, D2716 (Transcript from *Prosecutor v. Krnojelac*) T. 7887–7888.

2868 The Prosecution submits that the evidence shows that the facility operated from 18 April 1992 until 4 October 1994. Prosecution Final Brief, Appendix B.

2869 D4307 (Witness statement of Mitar Rašević dated 2 February 2014), paras. 3–5. *See also* P6657 (Sketch of KP Dom marked by Mitar Rasević); Adjudicated Fact 823; Milorad Krnojelac, D2716 (Transcript from *Prosecutor v. Krnojelac*), T. 7669 (testifying that to his knowledge the facility could house between 1,000 and 1,200 people); KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2894–2895; D3314 (Witness statement of Radojica Mladenović dated 1 April 2013), para. 48; Radojica Mladenović, T. 36657, 36667 (5 April 2013); D3105 (Witness statement of Slobodan Avlijaš dated 9 March 2013), paras. 34–35; P5527 (Decision of Radovan Karadžić to establish Correctional Facility in Foča), p. 1.

2870 D4307 (Witness statement of Mitar Rašević dated 2 February 2014), para. 5.

2871 *See* Adjudicated Facts 822, 823; KDZ239, T. 18914–18915 (15 September 2011).

the KP Dom in mid April 1992.[2872] When this group arrived there were already between 40 and 60 detainees in one room.[2873] After a few days the names and professions of the detainees were recorded by one of the guards.[2874] Towards the end of April 1992, detainees were taken from the Velečevo prison to KP Dom. At the entrance of the KP Dom there was a bus filled with women and children.[2875] A group of about 20 Bosnian Muslims from Foča who had fled were arrested in Montenegro and brought to KP Dom in May 1992 under the escort of police from Foča.[2876] After a few days, 50 to 60 other Bosnian Muslims civilians were brought from Foča and surrounding villages to the facility.[2877] More non-Serb detainees were brought to the facility in June 1992.[2878] Some Bosnian Serbs were also detained at the facility primarily for breaches of military discipline.[2879]

882. Even though Bosnian Muslims had been transferred to the facility from mid-April 1992, it was only on 4 July 1992 that the KP Dom Foča was formally established following a decision by the government of the SerBiH.[2880] Members of the municipal level military and civilian authorities visited the facility.[2881] Both the Ministry of Justice and the military authorities in Foča had responsibility and exercised control over the facility.[2882] However, it was the military authorities at

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2872 *See* Adjudicated Fact 823; KDZ239, T. 18914–18915 (15 September 2011) (testifying that none of the detainees had been on the frontline). On arrival, detainees from Livade were met by soldiers and police. KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1204. *See also* Radojica Mladenović, T. 36657 (5 April 2013); Milorad Krnojelac, D2716 (Transcript from *Prosecutor v. Krnojelac*), T. 7887–7888.

2873 KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1217.

2874 KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1204.

2875 KDZ379, P3332 (Transcript from *Prosecutor v. Krnojelac*), T. 3127, 3129.

2876 KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2774–2778, 2781–2782, 2789, 2793; KDZ017, T. 19894–19896 (4 October 2011); Momir Bulatović, T. 34569–34571 (1 March 2013). Miodrag Stevanović an official from Foča was involved in this arrest and transfer. The group of detainees brought from Montenegro included Bosnian Serb soldiers who had deserted but they were only detained at the KP Dom for a few days. This transfer occurred at the request of the Foča SUP. D1746 (Excerpt from report), pp. 1–4.

2877 KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2789.

2878 KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2792, 2799, 2820–2821 (testifying that those detained with him included men in their 60s and 70s and two of the 72 detainees held in his room were Bosnian Croats while the remainder were Bosnian Muslims).

2879 D2767 (Witness statement of Milutin Vujičić dated 14 January 2013), para. 31; KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2793; *see* Adjudicated Fact 826; P5545 (Report of Foča Penal and Correctional Facility, 11 July 1992), p. 3; D2722 (Report of KP Dom Foča to RS Ministry of Justice, undated), pp. 16–17; KDZ379, T. 18858 (15 September 2011).

2880 P1098 (Minutes of 36th session of SerBiH Government, 4 July 1992), pp. 2, 4; Slobodan Avlijaš, T. 35153 (11 March 2013); P6195 (Report on organising judiciary institutions in Foča); D3105 (Witness statement of Slobodan Avlijaš dated 9 March 2013), para. 8.

2881 D4307 (Witness statement of Mitar Rašević dated 2 February 2014), para. 16. Rašević identified Marko Kovač as one of the individuals who visited the facility.

2882 *See* Adjudicated Facts 836, 837, 838, 839, 840; D3314 (Witness statement of Radojica Mladenović dated 1 April 2013), para. 48; D4307 (Witness statement of Mitar Rašević dated 2 February 2014), paras. 11–16; Milorad Krnojelac, D2716 (Transcript from *Prosecutor v. Krnojelac*), T. 7599, 7944, 8175–8176; P6195 (Report on organising judiciary institutions in Foča), p. 2; P3343 (Ruling of RS Ministry of Justice and Administration, 16 December 1992), p. 1; P5545 (Report of Foča Penal and Correctional Facility, 11 July 1992), p. 1. While the Chamber accepts that there may have been difficulties in communication, Rašević's evidence that there was no contact between the KP Dom on the one hand and the Minister of Justice and the Republican

KP Dom that had the power to make decisions concerning which non-Serb detainees would be detained in, and released from, the facility.[2883] The military authorities at KP Dom could also make decisions about which persons would be permitted to enter the facility, and had some power over the appointment of persons to work assignments at the facility.[2884] Krnojelac was kept informed about who was to be detained by the military authorities and who was to be released[2885] and was obliged to forward requests for release of these detainees to the Foča Crisis Staff or the Foča Tactical Group.[2886] Krnojelac did forward some requests for release of Bosnian Muslim detainees to the Foča Crisis Staff and to the Foča Tactical Group and some requests were approved after the detainees had been processed.[2887]

883. Bosnian Muslim civilians who were arrested by Serb Forces were detained at KP Dom for periods lasting from four months to more than two and a half years.[2888] They were not detained on any legal grounds and their continued detention was not subject to review by Serb authorities.[2889]

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government on the other for a period for several months is not credible and in any event does not rule out the possibility of communication between other organs of the local authorities and the Republican government. *See* D4307 (Witness statement of Mitar Rašević dated 2 February 2014), para. 40.

2883 *See* Adjudicated Fact 837; P3347 (Order of Foča's Military Post, 7 September 1992); KDZ239, T. 18921 (15 September 2011). *See also* Milorad Krnojelac, D2716 (Transcript from *Prosecutor v. Krnojelac*), T. 8138; Milorad Krnojelac, D2715 (Testimony of Milorad Krnojelac in *Prosecutor v. Krnojelac*), T. 7687–7689, 7691 (under seal).

2884 *See* Adjudicated Fact 839.

2885 *See* Adjudicated Fact 838.

2886 *See* Adjudicated Fact 837; Milorad Krnojelac, D2716 (Transcript from *Prosecutor v. Krnojelac*), T. 7645–7648; D2723 (Request for release from KP Dom Foča, 30 July 1992); D2724 (Request for release from KP Dom Foča, 30 July 1992); D2725 (Request for release from KP Dom Foča, 14 May 1992).

2887 Milorad Krnojelac, D2716 (Transcript from *Prosecutor v. Krnojelac*), T. 7936–7938, 7940–7943; P3344 (Letter from KP Dom Foča's Acting Warden to Foča Crisis Staff, 15 May 1992); KDZ239, T. 18917 (15 September 2011), T. 18986–18987 (16 September 2011); D1688 (Report of Foča Tactical Group "A", 18 July 1992); P5540 (Discharge letter of Foča Crisis Staff re the release of Dževad Dedović, 7 May 1992); P5539 (Discharge letter of Foča Crisis Staff re the release of Enes Zuko, 21 May 1992); P5526 (Certificate of the Foča Crisis Staff, 7 July 1992); D1691 (Travel permit of Foča SJB, 26 June 1992); D1687 (List of men released from KP Dom Foča, 8 December 1992).

2888 *See* Adjudicated Fact 825; KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2818, 2820. Defence witnesses testified that the KP Dom Foča and other detention facilities (i) were "reception facilities" which were used by the Bosnian Serb authorities to protect and guarantee the security of these civilians from uncontrolled paramilitary and criminal elements; (ii) Bosnian Muslims who were held at these centres could ask for permission from the guards to either leave the municipality or to return to their villages to care for livestock or buy food from the shops. D2767 (Witness statement of Milutin Vujičić dated 14 January 2013), paras. 31, 33; Milutin Vujičić, T. 32097, 32133 (17 January 2013); Trifko Pljevaljčić, T. 32313–32316, 32344 (21 January 2013). The Chamber does not find this evidence to be reliable. In reaching that conclusion, the Chamber noted that Vujičić's evidence was marked by evasiveness and indicators that he was seeking to mislead the Chamber which undermined his credibility in this regard. With respect to Pljevaljčić's evidence on this issue, he testified in general terms and the Chamber is not satisfied that it pertains specifically to those detained at KP Dom Foča.

2889 *See* Adjudicated Facts 826, 827. Mitar Rašević testified that no detainee was brought to the facility without being referred by the army command with appropriate documentation which listed the grounds for detention. D4307 (Witness statement of Mitar Rašević dated 2 February 2014), paras. 29, 43; Mitar Rašević, T. 46816 (11 February 2014). The Chamber does not find this evidence to be reliable. In reaching that conclusion, the Chamber noted contradictions in the testimony of Rašević in this regard and his denial of knowledge that documentation used for the detention of individuals contained standard wording which suggested that they were captured in war operations, when they were actually civilians. Mitar Rašević, T. 46777–46780

Investigators from the MUP came to the KP Dom to interrogate detainees.[2890] The Chamber also received evidence that in February 1993, Slobodan Avlijaš sent a letter to penal and correctional facilities, including the KP Dom Foča, noting that the Ministry of Justice had been informed that people were detained without detention orders from a competent court. Avlijaš requested these correctional facilities to inform the Ministry about the number of detainees and those who did not have detention orders and to release the latter.[2891] However, ultimately, the Bosnian Muslim detainees were not suspected, charged, tried, or convicted for any crime before being detained or while detained at the KP Dom[2892] nor were they advised of their rights before or during their detention.[2893] After the conflict started, the overwhelming majority of those detained at the facility were Bosnian Muslims, these included doctors and medical health workers, journalists, former KP Dom employees, managers, police officers, and other civilians.[2894] No consideration was given to age, state of health or civilian status. The detainees ranged from 15 to almost 80 years of age.[2895] In addition to the mainly civilian population at the KP Dom, there was a small number of Bosnian Muslim soldiers kept in isolation cells separately from the civilian detainees.[2896]

884. In mid-April-1992, the facility was run by the Užice Corps of the JNA.[2897] Apart from members of the Užice Corps, the civilian police, and people from Serbia were also present at the

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(11 February 2014); P6656 (Excerpt from Mitar Rašević's testimony before BiH State Court, 11 December 2007), pp. 5–6. Similarly, the Chamber notes contradictions in Krnojelac's evidence on this issue. He initially testified that he was told people were detained there because they were Bosnian Muslims but later retracted this statement. Milorad Krnojelac, D2716 (Transcript from *Prosecutor v. Krnojelac*), T. 7844–7845.

2890 Milorad Krnojelac, D2716 (Transcript from *Prosecutor v. Krnojelac*), T. 7660–7663, 7849–7850, 8072.

2891 P5544 (Instructions on Detention of the RS Ministry of Justice and Administration, 23 February 1993).

2892 *See* Adjudicated Fact 828; KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2783, 2818, 2820.

2893 *See* Adjudicated Facts 829, 830.

2894 *See* Adjudicated Facts 830, 832. Marić also testified that in the middle of July 1992, Bosnian Muslim staff left the hospital but were not forced to do so. Marić was challenged about this evidence and maintained that non-Serb employees of the hospital were not expelled or detained at the KP Dom Foča but then acknowledged that one of his colleagues did end up at the facility. Veljko Marić, T. 35597–35599 (19 March 2013); P6206 (Order of Foča Tactical Group, 4 July 1993). In light of this inconsistency, the Chamber will not rely on the witness's assertion that no Bosnian Muslim employees of the hospital were detained at the KP Dom.

2895 *See* Adjudicated Fact 832. *See also* KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1217. Rašević testified that (i) there were no people under the age of 18; (ii) he did not recall seeing people over the age of 60 or 65 at the facility; and (iii) all detainees whether they were prisoners of war or convicts were treated the same regardless of ethnicity. D4307 (Witness statement of Mitar Rašević dated 2 February 2014), para. 43; Mitar Rašević, T. 46753, 46776–46777, 46783 (11 February 2014). The Chamber does not consider Rašević's evidence to be reliable in this regard. The Chamber notes that Rašević himself acknowledged that he did not know the situation until mid May 1992 when he returned to the facility and was inconclusive in his testimony when confronted with evidence which suggested that elderly detainees, women and children had been detained at the facility. *See* P6660 (Report of Foča Tactical Group, 31 August 1992), p. 2; P6659 (List of prisoners in Foča prison, 27 October 1993) and KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1224.

2896 *See* Adjudicated Fact 831; KDZ379, P3332 (Transcript from *Prosecutor v. Krnojelac*), T. 3137, 3141, 3152. *See also* KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1212–1213.

2897 *See* Adjudicated Fact 823; Milorad Krnojelac, D2716 (Transcript from *Prosecutor v. Krnojelac*), T. 7610–7611, 7615, 7618–7619, 8217–8218.

KP Dom.[2898] When the Užice Corps left, a unit known as the Livade Company consisting of local Bosnian Serbs, including the police, took responsibility for detained Bosnian Muslims.[2899]

885. On 18 April 1992, Milorad Krnojelac was appointed by the Foča Crisis Staff as the warden of KP Dom.[2900] Krnojelac was associated with members of the SDS and wore a military uniform at the facility.[2901] Savo Todović was the deputy warden and issued orders to detainees regarding work obligations.[2902] Bosnian Muslim detainees could not be taken away from the facility without prior authorisation by Todović[2903] or Krnojelac.[2904] Mitar Rašević was the commander of the guards at the facility.[2905] The guards included the former guards of KP Dom and wore military uniforms, the old KP Dom uniform, while others wore standard police, military, camouflage and multicoloured

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2898 KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1211. *See also* D4307 (Witness statement of Mitar Rašević dated 2 February 2014), para. 13.

2899 *See* Adjudicated Fact 823; Milorad Krnojelac, D2716 (Transcript from *Prosecutor v. Krnojelac*), T. 7610–7611, 7615, 7618–7619, 8217–8218.

2900 KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1213; D4307 (Witness statement of Mitar Rašević dated 2 February 2014), para. 11; Mitar Rašević, T. 46774–46775 (11 February 2014); D3314 (Witness statement of Radojica Mladenović dated 1 April 2013), para. 48; D2729 (Letter from RS Ministry of Justice and Administration re Krnojelac's employment status, 3 June 1994). *See also* Milorad Krnojelac, D2716 (Transcript from *Prosecutor v. Krnojelac*), T. 7600, 7638–7639, 7710–7711, 7768, 7775–7777 (testifying that he only received formal appointment to this role from the Ministry of Justice in July or August 1992). *See* P1141 (Decision of Ministry of Justice of SerBiH appointing Milorad Krnojelac, 17 July 1992). The Chamber notes Krnojelac's testimony that he was appointed to this post by the president of the Executive Board of the municipal assembly of Foča and denied knowledge that the Foča Crisis Staff appointed him to the post of warden of the facility or that he had the Foča Crisis Staff phone number. However, the Chamber does not consider his evidence to be reliable given that he was directly contradicted during his prior cross-examination which showed that he did have the Foča Crisis Staff number. Milorad Krnojelac, D2716 (Transcript from *Prosecutor v. Krnojelac*), T. 7604, 7781, 7784, 7844–7845. *See also* P3349 (List of persons working at Srbinje Penal and Correctional Facility between April 1992 and October 1994), p. 1, where Milorad Krnojelac is listed as a temporary acting warden from 18 April 1992 to 17 July 1992.

2901 KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2900–2901, 2905.

2902 KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2911–2912, 2927; KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1280; D4307 (Witness statement of Mitar Rašević dated 2 February 2014), paras. 11, 15; Milorad Krnojelac, D2715 (Transcript from *Prosecutor v. Krnojelac*), T. 7691 (under seal). Todović was appointed acting deputy warden of KP Dom on 16 December 1992 by a ruling signed by Momčilo Mandić. P3343 (Ruling of RS Ministry of Justice and Administration, 16 December 1992), p. 1; KDZ239, T. 18916 (15 September 2011)

2903 D4307 (Witness statement of Mitar Rašević dated 2 February 2014), para. 15.

2904 *See* Adjudicated Fact 840. The Chamber does not accept Krnojelac's evidence on this point which sought to minimise his involvement in the facility and which sought to distance himself from anything to do with detainees and his claims that he raised concerns about the detainees. Milorad Krnojelac, D2716 (Transcript from *Prosecutor v. Krnojelac*), T. 7605–7606, 7614, 7618, 7623–7626, 7639, 7654, 7855. The Chamber finds that his testimony is contradicted by other evidence received including Krnojelac's own reports regarding the use of the facility for the accommodation of Bosnian Muslim detainees and the request for personnel and funds. D2732 (Report of KP Dom Foča, 6 May 1993); P5545 (Report of Foča Penal and Correctional Facility, 11 July 1992).

2905 KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2915; Milorad Krnojelac, D2716 (Transcript from *Prosecutor v. Krnojelac*), T. 8070; Milorad Krnojelac, D2715 (Transcript from *Prosecutor v. Krnojelac*), T. 7691 (under seal); D4307 (Witness statement of Mitar Rašević dated 2 February 2014), para. 1; Mitar Rašević, T. 46752–46754 (11 February 2014); D4308 (Excerpt of rules governing the internal organisation of KP Dom Foča, August 1992). *See also* KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1280–1281.

uniforms.[2906] During the first few weeks of detention, military units were responsible at KP Dom.[2907] Members of the military would enter the KP Dom, although they needed the prior permission of the military authorities.[2908] Towards the end of April 1992, pursuant to an order of the Executive Board of the Serb Municipality of Foča, approximately 40 people who had worked as policemen were assigned by the Foča Crisis Staff to work at the KP Dom.[2909] The Foča Crisis Staff also appointed authorised persons for the purposes of interrogations at the facility.[2910]

886. In May 1992, the Command of the Foča Tactical Group requested the allocation of rooms within the KP Dom for "accommodation of prisoners of war".[2911] This request was approved by Krnojelac.[2912] In August 1992, the Bosnian Serb Government established commissions for the inspection of "collection centres and other facilities for prisoners".[2913] These commissions were instructed to look into the status of people held at these facilities in accordance with international conventions, to speed up the processing of these individuals, and to report on their inspection.[2914] Avlijaš was a member of a commission which visited Foča and was informed by the commander of the Foča Tactical Group that the "prisoners of war in the facility" were his business and it was a military matter for him to handle.[2915] In November 1992, Krnojelac reported to the Ministry of Justice that the KP Dom was used for the accommodation of Bosnian Muslim "prisoners of war" and requested a resolution about the legal status of the KP Dom.[2916]

887. Some detainees were released after interrogation on the condition that they report daily to the police or were released for the purposes of exchange.[2917] Groups of detainees were transferred

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2906 KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1281; KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2916; D4307 (Witness statement of Mitar Rašević dated 2 February 2014), para. 13. *See also* Adjudicated Fact 835; P3349 (List of persons working at Srbinje Penal and Correctional Facility between April 1992 and October 1994); D2730 (Decision of SerBiH Presidency published in Official Gazette, 12 May 1992), pp. 1–2.

2907 *See* Adjudicated Facts 834, 833.

2908 Adjudicated Fact 840.

2909 KDZ239, T. 18910–18914 (15 September 2011); P3340 (Decision of Foča Executive Board, 26 April 1992); Radojica Mladenović, T. 36661 (5 April 2013).

2910 P6268 (Request of KP Dom Foča to Foča Crisis Staff, 20 May 1992); Radojica Mladenović, T. 36661–36662 (5 April 2013); P3349 (List of persons working at Srbinje Penal and Correctional Facility between April 1992 and October 1994).

2911 P3341 (Request by Foča's Tactical Group, 8 May 1992).

2912 P3342 (Decision of KP Dom Foča Temporary Warden, May 1992); Milorad Krnojelac, D2716 (Transcript from *Prosecutor v. Krnojelac*), T. 8168–8169 (testifying that this decision was based on the approval of Mladenović).

2913 D466 (Decision of Government of SerBiH on establishment of Commission for Inspection of Collection Centres and other facilities for prisoners, 9 August 1992), p. 2.

2914 D466 (Decision of Government of SerBiH on establishment of Commission for Inspection of Collection Centres and other facilities for prisoners, 9 August 1992), pp. 2–3.

2915 D3105 (Witness statement of Slobodan Avlijaš dated 9 March 2013), paras. 33–35.

2916 D2722 (Report of KP Dom Foča to RS Ministry of Justice, undated), pp. 16–17.

2917 D3318 (Foča Crisis Staff certificate of release, 26 April 1992); D4779 (List of POWs released from KP Dom, 12 July 1993); P3345 (List of people to be released from KP Dom Foča, 7 May 1992); KDZ239, T. 18918

from the KP Dom to other camps in BiH, including the Kula camp before eventually being exchanged.[2918] On at least one occasion, detainees were taken across a national border (to Montenegro) in these exchanges.[2919]

888. At its peak in the summer of 1992, there were about 500 to 600 detainees at the KP Dom.[2920] This number decreased from the autumn of 1992 until 1993 when about 200 to 300 detainees remained.[2921] The last detainees were only released from the facility in October 1994.[2922] However, given that the Indictment only alleges detention until at least 31 December 1992 at KP Dom, the Chamber will not make findings with respect to detention after this date.

(b) Conditions of detention

889. The detainees were forced to endure inadequate living conditions while being detained at the KP Dom, as a result of which numerous individuals have suffered lasting physical and psychological problems.[2923] Defence witness Rašević referring to KP Dom expressed regret for the "fate that befell all of these people" and acknowledged that "evil [...] was done to these

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(15 September 2011); P5540 (Discharge Letter of Foča Crisis Staff re the release of Dževad Dedović, 7 May 1992); D3105 (Witness statement of Slobodan Avlijaš dated 9 March 2013), para. 60; D1689 (List of men to be released from KP Dom Foča on 21 October 1992); P6206 (Order of Foča Tactical Group, 4 July 1993). *See also* KDZ379, P3332 (Transcript from *Prosecutor v. Krnojelac*), T. 3152, 3175–3176; Radojica Mlađenović, T. 36668–36669 (5 April 2013); Milorad Krnojelac, D2716 (Transcript from *Prosecutor v. Krnojelac*), T. 7928–7932. Avlijaš testified that one of these exchanges was done independently of the central authorities which did not have knowledge of events in Foča until December 1992. D3105 (Witness statement of Slobodan Avlijaš dated 9 March 2013), para. 60. However, the witness when cross-examined acknowledged that he was not in a position to know what kind of information was being reported by representatives of Foča to the Bosnian Serb leadership. Slobodan Avlijaš, T. 35150–35151 (11 March 2013); P6194 (SerBiH Government request to Foča Crisis Staff, 23 May 1992). In light of this qualification the Chamber does not rely on Avlijaš's assessment in this regard.

2918 Soniboj Škiljević, T. 36925 (10 April 2013), T. 36926–36927, 36929–36930 (10 April 2013) (private session); *see* Adjudicated Fact 876; KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1204, 1283; P3348 (ICRC Certificate re KDZ239, 1 July 1994) (under seal); P3350 (Certificate of BiH's State Commission for the Exchange of POWs, 11 November 1994) (under seal); KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2917–2918.

2919 *See* Adjudicated Fact 901. In August, a group of approximately 55 detainees were taken for exchange to Montenegro, but the bus was intercepted by a Bosnian Serb soldier who separated 20 younger men and took them away and the remaining 35 men were exchanged in Montenegro. The 20 younger men were not seen again.

2920 Adjudicated Fact 824; KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1218, 1225; KDZ239, T. 18935, (15 September 2011), T. 18946, 18973 (16 September 2011) (private session) (testifying that the number of detainees at KP Dom was the largest at the end of May and beginning of June 1992 and he estimated that there were between 600 and 650 detainees). KDZ017 counted a total of 570 detainees at KP Dom and during his detention this figure reached 752 and in his estimation more than 1,000 men were detained at some point in time at the facility. KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2893–2895, 2916; KDZ017, T. 19899–19900 (4 October 2011). *See also* P5545 (Report of Foča Penal and Correctional Facility, 11 July 1992), p. 3.

2921 *See* Adjudicated Fact 824.

2922 KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2893–2894, 2916. *See also* Adjudicated Fact 824; D4307 (Witness statement of Mitar Rašević dated 2 February 2014), para. 39.

2923 *See* Adjudicated Fact 841; KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2806, 2918–2919, 2931–2932.

people".[2924] Detainees were locked in their rooms except for meals and work duty.[2925] The detainees were deliberately housed in cramped conditions. Even though the KP Dom had the capacity to house more than the maximum number of non-Serbs detained at the facility, the detainees were crowded into a small number of rooms.[2926] Solitary confinement cells designed to hold one person were packed with up to 18 people at a time, making it impossible for the detainees to move around the cell, or to sleep lying down.[2927] Because of the overcrowding, not everyone had a bed or even a mattress, and there were insufficient blankets.[2928] Bedding was insufficient or non-existent.[2929] The only bed linen provided was that left-over from former convicts, and these items were never washed or changed throughout 1992.[2930]

890. Hygienic conditions were deplorable and washing facilities minimal.[2931] Detainees only occasionally were given soap to wash their clothes in cold water.[2932] Access to baths or showers, with no hot water, was irregular at best.[2933] There were insufficient hygienic products and

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2924 P6655 (Excerpt of Mitar Rašević's interview with OTP), p. 5; Mitar Rašević, T. 46768–46769 (11 February 2014).

2925 *See* Adjudicated Fact 844.

2926 *See* Adjudicated Facts 842, 844. Defence witnesses testified that overcrowding was only an issue during the first month after which almost every detainee had their own bed. D4307 (Witness statement of Mitar Rašević dated 2 February 2014), para. 17. The Chamber does not find Rašević's evidence in this regard to be credible. In reaching that conclusion the Chamber noted that the witness was evasive and contradicted by reference to his prior testimony. The witness was also very defensive about the conduct of his guards and the Chamber found his lack of knowledge about mistreatment at the facility to be incredible, especially since, as noted in para. 889, he acknowledged that "evil" was done to the detainees.

2927 Adjudicated Fact 843. Rašević also testified that the solitary confinement cells were small but contained a bed, toilet and sink and it was not possible for 18 people to be placed in these rooms and detainees were only placed in solitary confinement for misdemeanours. D4307 (Witness statement of Mitar Rašević dated 2 February 2014), paras. 8, 21–22. The Chamber does not find Rašević's evidence in this regard to be credible. In reaching that conclusion the Chamber refers to its earlier assessment in fn. 2926 regarding the credibility of Rašević's evidence.

2928 Adjudicated Fact 844; KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1212–1213; KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2805, 2813. Krnojelac testified that there was sufficient bedding and blankets and that he gave instructions for their use by detainees. Milorad Krnojelac, D2716 (Transcript from *Prosecutor v. Krnojelac*), T. 7669–7670. The Chamber does not find Krnojelac's evidence to be reliable in this regard. In reaching that conclusion the Chamber noted that in his prior testimony in his own case, Krnojelac's evidence was marked by evasiveness, contradictions, and attempts to minimise his own involvement.

2929 Adjudicated Fact 846; KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1212–1213.

2930 Adjudicated Fact 846.

2931 Adjudicated Fact 845.

2932 KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2979.

2933 Adjudicated Fact 845. Defence witnesses testified that water problems were fixed and measures were taken to allow for the heating of water to allow detainees to bathe. D4307 (Witness statement of Mitar Rašević dated 2 February 2014), para. 17; Milorad Krnojelac, D2716 (Transcript from *Prosecutor v. Krnojelac*), T. 7668–7669. The Chamber does not consider this evidence to be reliable. In reaching that conclusion, the Chamber notes the equivocal nature of these requests and the unreliability of evidence given by Krnojelac considering his interest in minimising his own responsibility for the conditions of detention at the facility as he claimed to have not actually entered the premises where people were detained. The Chamber also refers to its earlier assessment in fn. 2926 regarding the credibility of Rašević's evidence.

toiletries.[2934] Due to the poor hygienic conditions and since the detainees did not have an opportunity to bathe or change clothes there was a major problem with lice.[2935]

891. Non-Serb detainees were held in rooms with insufficient heating during the harsh winter of 1992, no heaters were placed in the rooms, windowpanes were left broken and clothes made from blankets to combat the cold were confiscated.[2936] Stoves and furnaces had been produced to heat the offices in the administration building, and there was sufficient raw material for such furnaces to have been provided for the non-Serb detainees.[2937]

892. Any attempts made by non-Serb detainees to improve their living conditions in the camp were punished with solitary confinement.[2938] Acts which resulted in beatings or periods in the isolation cells included efforts to get additional food or access to warm water, and attempts to communicate with each other, the guards, or the outside world.[2939]

893. The effect of the cold on the detainees was exacerbated by the fact that while they received two meals a day, the food was poor.[2940] A large number of the Bosnian Muslim detainees experienced severe weight loss and saw their medical condition deteriorate.[2941] While non-Serb detainees were fed starvation rations leading to severe weight loss and other health problems,[2942]

2934 Adjudicated Fact 845. The Chamber finds that hygienic conditions did improve to some extent by 1993 but the allegations with respect to KP Dom are limited to the end of 1992. KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2979.

2935 KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1227–1228. *See also* Milorad Krnojelac, D2716 (Transcript from *Prosecutor v. Krnojelac*), T. 7676; Adjudicated Fact 847.

2936 *See* Adjudicated Fact 848; KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1212–1213, 1226. *See also* Adjudicated Fact 850. The Chamber also received evidence that furnaces were only provided to non-Serb detainees by the ICRC in October 1993. Adjudicated Fact 849. However, given that this falls outside the period of alleged detention at KP Dom, the Chamber does not consider this to be of significance. For other evidence on the improvements of conditions after Krnojelac left the facility in 1993, *see* KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2910–2911, 2947. *See also* D4307 (Witness statement of Mitar Rašević dated 2 February 2014), para. 23.

2937 Adjudicated Fact 849. *See also* Adjudicated Fact 850. Mitar Rašević testified that the first winter was the worst, the heating did not work, there were not enough furnaces, and they were unable to supply firewood because of the war. D4307 (Witness statement of Mitar Rašević dated 2 February 2014), para. 19. The Chamber does not find Rašević's evidence in this regard to be reliable. In reaching that conclusion the Chamber refers to its earlier assessment in fn. 2926 regarding the credibility of Rašević's evidence.

2938 Adjudicated Fact 865.

2939 Adjudicated Fact 866; KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2805, 2810–2813, 2815–2816, 2979.

2940 KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1226; KDZ239, T. 18968 (16 September 2011).

2941 KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1226, 1299, 1287, 1311–1312; KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2805–2806 (testifying that he lost approximately 25 kilograms while in detention).

2942 *See* Adjudicated Fact 851.

Bosnian Serb detainees received army rations with extra meat and vegetables and did not suffer the extreme weight loss of non-Serb detainees.[2943]

894. Apart from a short period at the beginning of their detention at the KP Dom, Bosnian Muslim detainees were denied any contact with the outside world or with their families, and (for a long time) with the ICRC.[2944] By April 1992, detainees were not allowed to receive visits and therefore could not supplement their meagre food rations and hygienic supplies.[2945] From mid-July 1992, the conditions of detention deteriorated even further.[2946] On one occasion after Krnojelac's son was wounded in June or July 1992, the guards and staff at KP Dom were angry and as a result the detainees received the bare minimum of food.[2947] While there was a general shortage of food in Foča during the conflict, there was a deliberate policy to feed the non-Serb detainees barely enough for their survival while the Bosnian Serbs in the facility received normal meals.[2948] Left-over food from the Bosnian Serb detainees, if any, would occasionally be given to the non-Serb detainees.[2949]

2943 KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2952–2953; *see* Adjudicated Facts 852, 853. Defence evidence was adduced to suggest that (i) the military command provided for food for the detainees in general and there was no distinction made in the food prepared for Bosnian Muslim detainees; (ii) the Bosnian Serb authorities provided extra food and supplies when requested; and (iii) there were no complaints regarding lack of food. Milorad Krnojelac, D2716 (Transcript from *Prosecutor v. Krnojelac*), T. 7629–7631, 7633–7634, 7651–7652, 7664–7665, 7903–7904, 8096–8101; D2720 (Request from KP Dom Foča to Foča Red Cross, 21 October 1992); D2721 (Request from KP Dom Foča to Foča garrison, 3 March 1993); D2726 (Report of KP Dom Foča to RS Ministry of Finance and Ministry of Justice, 15 November 1992); D2727 (Request from KP Dom Foča to RS Ministry of Economy, 7 December 1992); D2735 (Request from KP Dom Foča to Foča Executive Board, 19 February 1993); D2736 (Request from KP Dom Foča to Foča Executive Board, 30 March 1993); D4309 (Letter from KP Dom to Foča Red Cross, 21 October 1992); D4310 (Letter from Milorad Krnojelac to Foča Garrison Military Post, 3 March 1993); D4311 (Order of Foča Tactical Group, date illegible); D3314 (Witness statement of Radojica Mlađenović dated 1 April 2013), para. 48; D4307 (Witness statement of Mitar Rašević dated 2 February 2014), para. 20; Mitar Rašević, T. 46757–46761, 46794–46795 (11 February 2014). While the Chamber accepts that some requests for supplies were made, this does not cast doubt about the credible evidence received as to the discrimination between the food received by Bosnian Muslim and Bosnian Serb detainees. In reaching that conclusion, the Chamber notes the equivocal nature of these requests and the unreliability of evidence given by Krnojelac considering his interest in minimising his own responsibility for the conditions of detention at the facility. The Chamber also notes that Rašević's evidence was highly qualified and he admitted that he did not know whether some people received more or less food when distributed. Mitar Rašević, T. 46794–46795 (11 February 2014).

2944 *See* Adjudicated Fact 827. Milorad Krnojelac testified that Bosnian Muslim detainees had visitors, that visitors were only prohibited for a few days when there was lice outbreak, and that it was the military command which authorised these visits. Milorad Krnojelac, D2716 (Transcript from *Prosecutor v. Krnojelac*), T. 7676, 8109. However, the Chamber does not consider Krnojelac evidence to be reliable in this regard given his interest in minimising his own responsibility for the conditions of detention at the facility.

2945 *See* Adjudicated Fact 851 *See also* Mitar Rašević, T. 46810 (11 February 2014).

2946 KDZ239, T. 18916 (15 September 2011).

2947 KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1270.

2948 *See* Adjudicated Fact 852; KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2799–2801, 2944-2945; KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1229.

2949 KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1229.

895. While the KP Dom had its own medical clinic and detainees had access to a physician,[2950] medical care was inadequate and medicine was in very short supply.[2951] A basic medical service was provided but those in need of urgent medical attention were left unattended or given insufficient treatment.[2952] At least one detainee died as a result of poor medical care.[2953] Detainees who were kept in isolation cells and solitary confinement were denied all access to medical care.[2954] Non-Serb detainees who arrived at the KP Dom with injuries sustained prior to or in the course of their arrest were not given access to medical treatment, nor were non-Serb detainees who were severely beaten during interrogations at the KP Dom.[2955] KDZ017 asked for medical treatment but was not taken to the clinic until he met with Rašević.[2956] The Chamber finds that while detainees had access to some basic medical treatment not all detainees were treated. Further, the treatment in many cases was inadequate.

896. The shortage of food, basic hygienic conditions, and medicine in KP Dom had a significant impact on detainees who were sick.[2957] The condition of the sick detainees, including those who had heart conditions, deteriorated while they were detained at KP Dom.[2958] Poor living conditions and lack of medication also contributed to detainees suffering multiple bouts of pneumonia.[2959] The authorities in the facility received complaints from detainees regarding the food, the poor

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2950 KDZ239, T. 18968 (16 September 2011); KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2949. *See also* Milorad Krnojelac, D2716 (Transcript from *Prosecutor v. Krnojelac*), T. 7665–7666.

2951 Adjudicated Fact 854; KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2949–2950. Krnojelac testified that (i) the medical facilities at KP Dom were adequate and detainees had regular access to doctors and nurses; (ii) there was no distinction between the treatment of Bosnian Serb and Bosnian Muslim detainees; and (iii) detainees were taken to hospital if necessary. Milorad Krnojelac, D2716 (Transcript from *Prosecutor v. Krnojelac*), T. 7665–7668, 8116. The Chamber does not find Krnojelac's evidence to be reliable given that he disclaimed knowledge of most matters related to detainees and then claimed that he knew about the provision of medical care. Krnojelac's evidence in his own case also demonstrated a clear interest in minimising his involvement and downplaying the poor conditions of detention at the facility.

2952 *See* Adjudicated Fact 854. *See also* KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1219, 1231, 1266.

2953 *See* Adjudicated Fact 854; KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2789–2792; KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1230. KD017 and KDZ239 testified about the death of Ešad Hadžić who died from internal bleeding after his medication finished and that threats were made by the guards who were asked to help. Veljko Marić testified that he did not believe any detainee died at the KP Dom because of lack of medical treatment but acknowledged that he did not know what was happening at the facility as he did not have occasion to see it. D3128 (Witness statement of Veljko Marić dated 16 March 2013), paras. 17–20; Veljko Marić, T. 35599–35601 (19 March 2013). In light of Marić's qualification that he did not always know what was happening at the facility, the Chamber does not consider that it can rely on his evidence in this regard.

2954 Adjudicated Fact 855.

2955 Adjudicated Fact 856.

2956 KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2817.

2957 KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2797–2798. The detainees identified included Hamdija Mandzo and Ismet Pasović.

2958 KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1220–1221.

2959 KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2805–2806.

living and hygienic conditions, and the deficient provision of medical care but claimed that nothing could be done due to the war conditions.[2960]

897. In July 1992, to prevent detainees from escaping, the inner compound of KP Dom was mined by a group of soldiers under the orders of Foča Crisis Staff member Milun Milanović who was accompanied by Krnojelac.[2961]

898. Whenever the ICRC arrived at KP Dom, a group of detainees, which included prominent men from Foča, was taken away and hidden in a cellar until the ICRC left.[2962] In October 1992, the ICRC demanded that it be allowed to have private conversations and examine prisoners at KP Dom without the presence of official organs from the facility, but this request was rejected until they were able to do the same for Serb prisoners in Goražde.[2963] Conditions in the facility would improve for a day or so after the ICRC visited.[2964] When a film crew accompanied by Rašević visited, the detainees were given meals which were "a bit more plentiful" and when another film crew visited, the detainees were ordered to clean all the premises in the facility in the days leading up to the visit.[2965]

(c) Mistreatment of detainees

899. On arrival, one group of detainees was met by a group of uniformed soldiers who cursed, kicked, and hit them with rifle butts.[2966] On entry into the KP Dom the detainees were searched and had their identity cards, money, jewellery and watches seized.[2967] Individuals or groups of armed soldiers were allowed into KP Dom during the first months of the detention of non-Serb

2960 KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1275, 1277, 1280; KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2915.

2961 KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2910, 2941. *See also* Milorad Krnojelac, D2716 (Transcript from *Prosecutor v. Krnojelac*), T. 8183–8184, 8186–8188. Krnojelac testified that the reason the mines were laid was to protect property and not to prevent detainees from escaping and that the order was simply given to him by Todović to sign. The Chamber notes contradictions in Krnojelac's evidence as to the reason why the mines were laid and who was responsible. The Chamber does not find his evidence in this regard to be credible.

2962 KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2897; KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1267–1268; KDZ239, T. 18992(16 September 2011). Mitar Rašević denied knowledge that detainees were hidden during ICRC visits. Milorad Krnojelac, D2716 (Transcript from *Prosecutor v. Krnojelac*), T. 7707–7708; Mitar Rašević, T. 46801–46802 (11 February 2014). However, the Chamber notes that when confronted with his prior statement Rašević acknowledged that detainees were taken away by the army before the ICRC visits but claimed the staff at the KP Dom were not involved. In light of this contradiction, the Chamber finds Rašević's evidence on this issue to be unreliable. Similarly the Chamber noted that Krnojelac attempted to distance himself from all knowledge of mistreatment of detainees or conditions of detention.

2963 P6080 (Report of Foča Military Post, 10 October 1992), pp. 1–2.

2964 KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2948.

2965 KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2804.

2966 KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2783–2786.

2967 KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2786.

civilians.[2968] The guards were also involved in the beating of non-Serb detainees.[2969] The MP was also allowed to enter the facility, remove detainees, and beat them.[2970]

900. From April until July 1992, beatings took place on a frequent and systematic basis.[2971] The guards called out the names of detainees on a list and took them to other rooms or buildings where they were beaten.[2972] Detainees were also regularly interrogated by guards, soldiers or police officers and would often be beaten or mistreated during this process.[2973] For example, eight detainees from the Marinkovići area in Foča were beaten and ill-treated after their arrival at the facility.[2974] They were taken out three or four days after their arrival to give statements and when they returned, they could not stand as they had been badly beaten "on the orders of the investigators".[2975] Detainees were punched, kicked, and beaten with batons.[2976] Some beatings

2968 Adjudicated Fact 859.

2969 Adjudicated Facts 857, 868, 877. KP Dom guards identified as involved in these beatings, included Dragomir Obrenovnić, Milenko Burilo, Zoran Matović, Vlatko Pljevaljčić, Predrag Stefanović, Jovo Savić, Radovan Vuković, Milovan Vuković, Milivoj Milić and Milenko Elčić. *See* Adjudicated Fact 858. Rašević testified he was not aware that these guards were involved in mistreating detainees and he was therefore not able to launch an investigation, all the more because there was no organised or systematic mistreatment. *See also* Mitar Rašević, T. 46766, 46788–46791, 46807 (11 February 2014); P6657 (Sketch of KP Dom marked by Mitar Rasević); D4307 (Witness statement of Mitar Rašević dated 2 February 2014), paras. 25–27, 30, 35. The Chamber does not find Rašević's evidence in this regard to be reliable. In reaching that conclusion the Chamber refers to its earlier assessment in fn. 2926 regarding the credibility of Rašević's evidence. The Chamber also notes that on cross-examination Rašević acknowledged that he had no information about the conduct of others during interrogations and detainees may not have dared to report it and that there was some mistreatment by military police during interrogations but that he took measures to stop night time interrogations unless ordered by the army commander. Mitar Rašević, T. 46766–46767 (11 February 2014); D4307 (Witness statement of Mitar Rašević dated 2 February 2014), para. 26; Mitar Rašević, T. 46792 (11 February 2014). Rašević himself testified that he intervened during the interrogation of a detainee after which the beating stopped and he saw that he was bleeding which is in conflict with his testimony that he never saw detainees being beaten. Mitar Rašević, T. 46796 (11 February 2014). In light of these contradictions and indicators of bias, the Chamber does not consider Rašević's evidence to be reliable in this regard.

2970 KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2956; KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1238, 1324; *see* Adjudicated Fact 868. *See also* Mitar Rašević, T. 46766–46767 (11 February 2014). Rašević himself testified he could not do his job efficiently in maintaining security over the facility because he was often away from the KP Dom and that there was some mistreatment. D4307 (Witness statement of Mitar Rašević dated 2 February 2014), para. 23; P6655 (Excerpt of Mitar Rasević's interview with OTP), p. 5; Mitar Rašević, T. 46768–46769 (11 February 2014). The Chamber does not find Rašević's evidence about his inability to maintain security in the facility seeking, to minimise his own involvement, to be reliable. In reaching that conclusion the Chamber refers to its earlier assessment in fn. 2926 regarding the credibility of Rašević's evidence.

2971 Adjudicated Fact 867.

2972 *See* Adjudicated Facts 858, 867, 878, 879; KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1235–1240, 1253, 1256; KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2830, 2836. *See also* KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1281, 1283 (who was not himself physically mistreated during his detention); KDZ379, P3332 (Transcript from *Prosecutor v. Krnojelac*), T. 3148–3150 [REDACTED]. Detainees who were severely beaten by guards of the KP Dom and military policemen, and who were then kept in solitary confinement for several days included Vahida Džemal, Enes Uzunović, Aziz Šahinović, and Elvedin Čedić. *See* Adjudicated Fact 868.

2973 *See* Adjudicated Facts 863, 878, 888.

2974 KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2820–2821. These men included men in their 60s and 70s.

2975 KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2822.

lasted for several hours[2977] and detainees were beaten all over their bodies, including on the soles of their feet with a baseball bat.[2978] Detainees were tied by chains and belts while they were beaten[2979] and in one case a detainee was cut on his neck and ear with a knife.[2980] Many were returned to their rooms with visible wounds and bruises resulting from the beating.[2981] Some were unable to walk, stand or talk for days after the beatings.[2982] Detainees were also beaten while lining up for lunch or while being taken back and forth through the compound.[2983] One of the detainees hanged himself in the premises of KP Dom.[2984] Apart from the physical effects of detention at KP Dom, detainees continued to suffer ongoing psychological effects which required psychiatric treatment.[2985]

2976 *See* Adjudicated Facts 860, 874; KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2807–2808; KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1209–1211. For example Emir Mandžo was restrained in a chair before being beaten and kicked until he fainted while KDZ017 was slapped and kicked in the chest and around the kidneys. Rašević testified that he visited detainees in solitary confinement on a daily basis, and was never told that the guards had beaten them. On cross-examination, he acknowledged that he did see injured people in the isolation cells but the detainees told him the injuries were not inflicted by the guards and if they had medical problems he would refer them to the nurse. When confronted with his prior testimony Rašević acknowledged that it was possible that the detainees told him that the military police officers beat them but he claimed to have reported it to the warden but that they did not have the power to enter and be present during interrogations by the military. In addition Rašević's suggestion that the guards were not involved in mistreatment of detainees is inconsistent with his evidence that he felt threatened even by his own guards because he treated Bosnian Muslims well. The Chamber finds that the contradictions in this regard cast doubt on the reliability of Rašević's evidence that guards were not involved in mistreatment. *See* D4307 (Witness statement of Mitar Rašević dated 2 February 2014), paras. 21, 31–32; Mitar Rašević, T. 46775–46776, 46804–46806 (11 February 2014); P6656 (Excerpt from Mitar Rašević's testimony before BiH State Court, 11 December 2007), p. 8.

2977 *See* Adjudicated Fact 870. Krnojelac testified that he never saw any detainees who had visible signs of beatings nor did he ever hear any moans, screams or cries of pain and that he was never told about any beating. Milorad Krnojelac, D2716 (Transcript from *Prosecutor v. Krnojelac*), T. 7677–7678. The Chamber notes that Krnojelac's evidence is directly contradicted by evidence that detainees met with him and complained about their treatment. KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1271–1280. In addition the Chamber does not consider Krnojelac's evidence to be credible in this regard given his evidence is marked by indicators that he was seeking to minimise his own involvement in the mistreatment at the facility.

2978 *See* Adjudicated Fact 871. Other detainees who in the summer of 1992 were called out and severely beaten by KP Dom guards or soldiers included Ramo Dženduši, Nail Hodžić, Emir Frašto, Husko or Husein Rikalo, Nurko Nisić, Esad Kiselica, Latif Hasanbegović, Aziz Hasković, Halim Seljanci, Kemo or Kemal Isanović, a young man by the last name of Čedić, and Emir Mandžo. *See* Adjudicated Facts 869, 870, 871, 872, 873, 874. Ekrem Zeković was beaten following his re-capture after escaping from the facility. Mitar Rašević, T. 46796–46797 (11 February 2014).

2979 KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1246.

2980 KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1247; KDZ239, T. 18993 (16 September 2011).

2981 Adjudicated Facts 864, 872; KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1237–1240, 1256; KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2826.

2982 *See* Adjudicated Facts 864, 871.

2983 *See* Adjudicated Fact 861; KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1264–1265; KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2889, 2891.

2984 KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2888; KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1233, 1252; Milorad Krnojelac, D2716 (Transcript from *Prosecutor v. Krnojelac*), T. 7678. The detainee was Juso Džamalja who was exhumed from an individual grave in 2001. P4853 (Updated Table 2 to the Report of Amor Mašović), p. 82.

2985 KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2919.

901. Detainees heard the groans and screams of those who were being beaten and physically abused and this lasted until mid-July 1992, thus creating fear among them.[2986] The beating began at dusk and would continue into the night and sometimes till daylight.[2987] When the beating stopped, victims were sometimes taken to an isolation cell.[2988] On one occasion in October 1991 when soldiers from outside the facility beat detainees and ordered them to lie on the ground, this was watched by Rašević and the guards did not intervene.[2989]

902. Detainees were forced to work while detained at KP Dom and were engaged in work at the farm, bakery, furniture factory, or in gardening and selling wood.[2990] Detainees were placed on lists to be taken under guard to work in hospitals, mines, hotels, and sometimes the MP would escort them to work.[2991] Todović, who was in charge of labour affairs, gave guards the list of work assignments to be carried out by the detainees.[2992] On a couple of occasions, a detainee who refused to work was beaten and taken to an isolation cell.[2993] However, some detainees were not required to work at the facility.[2994] Two detainees were ordered to drive vehicles to detect landmines.[2995]

2986 KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1235, 1264; *see* Adjudicated Facts 864, 869, 872, 880; KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2839–2840.

2987 KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1248; *see* Adjudicated Fact 880.

2988 Adjudicated Fact 881.

2989 KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2891–2892; *see* Adjudicated Fact 862. Rašević testified that he never saw this incident and that if he received information about it, it was only in verbal form otherwise it would have been documented. D4307 (Witness statement of Mitar Rašević dated 2 February 2014), para. 42. The Chamber does not find Rašević's evidence in this regard to be credible given his attempt to distance himself from mistreatment and knowledge of mistreatment of detainees.

2990 KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2896; KDZ239, T. 18992 (16 September 2011). Krnojelac testified that (i) some Bosnian Muslim detainees were taken out to do work but he was told that these detainees wanted to work voluntarily as they preferred this to spending time in the detention facility; (ii) they worked regular hours and received food; and (iii) he was not aware of detainees being used for trench digging on the frontline or used to search for mines. Milorad Krnojelac, D2716 (Transcript from *Prosecutor v. Krnojelac*), T. 7692–7696, 7698–7699, 7914. The Chamber does not find Krnojelac's evidence to be reliable in this regard, given that he qualifies this evidence based on what he was told. The Chamber notes that this is also contrary to his evidence relating to his lack of knowledge or involvement in affairs relating to detainees and also notes that Krnojelac acknowledged that some detainees were involved in working on his house which had burnt down during the conflict. Krnojelac was also unable to adequately explain why Bosnian Muslim detainees were engaged in the economic unit given that there was no reform element required for this category of detainees, *see* Milorad Krnojelac, D2716 (Transcript from *Prosecutor v. Krnojelac*), T. 7821–7822; D2730 (Decision of SerBiH Presidency published in Official Gazette, 12 May 1992), p. 3. In any event, the Chamber will only enter findings on the type of forced labour charged in the Indictment. *See* Indictment, para. 60(h).

2991 D4307 (Witness statement of Mitar Rašević dated 2 February 2014), para. 24.

2992 KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2911–2912.

2993 KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2915.

2994 KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1267.

2995 *See* Adjudicated Fact 875.

(d) Conclusion on conditions of detention and treatment of detainees

903. Based on the above, the Chamber finds that non-Serbs from multiple locations were brought to and detained at KP Dom Foča by Serb Forces from mid-April 1992 until at least 31 December 1992. The detainees were held in poor conditions. These included lack of space, inadequate bedding, poor sanitary conditions, insufficient heating, lack of food, and inadequate medical care. Detainees were subjected to regular beatings, and were forced to work at a number of locations. The Chamber finds that at least one detainee died as a result of the inadequate medical care at the facility.[2996]

(e) Scheduled Incident B.8.1

904. The Indictment refers to the killing of over 200 detainees at KP Dom Foča between June and December 1992.

905. In some instances after detainees had been taken out to be beaten, other detainees heard the sound of pistol shots, as well as the sound of vehicles moving.[2997]

906. Groups of detainees, generally young people, were taken out of the KP Dom by either regular police or MP and disappeared.[2998] This included one group consisting of 35 detainees, another group of 23 detainees,[2999] and a group of detainees suffering from untreated mental

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2996 This finding does not include the persons alleged to have been killed in Scheduled Incident B.8.1, which is discussed below. Further, witnesses also testified about the death of detainees after 31 December 1992 but this falls outside the alleged period of detention charged in the Indictment with respect to this facility. KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1230–1231, 1233–1235, 1313–1314; KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2824–2825.

2997 KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1248; KDZ239, T. 19000–19001 (16 September 2011); *see* Adjudicated Fact 881.

2998 KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1212, 1230, 1238–1243, 1245–1246, 1253–1255, 1256, 1259, 1314–1315; KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2790–2792, 2798, 2823, 2836–2837, 2862, 2889, 2956–2958. Krnojelac testified that he heard that Halim Konjo had committed suicide and that a commission came to carry out an investigation and that he was never told about or aware of detainees disappearing overnight. Milorad Krnojelac, D2716 (Transcript from *Prosecutor v. Krnojelac*), T. 8114–8115. The Chamber does not consider Krnojelac's evidence in this regard to be reliable given that he sought to minimise his involvement in the facility and distance himself from anything to do with detainees.

2999 KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1212, 1230, 1238–1243, 1245–1246, 1253–1255, 1256, 1259, 1314–1315; KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2790–2792, 2798, 2823, 2836–2837, 2862, 2889, 2956–2958. KDZ017 knew that these individuals were missing after having spoken to the relatives of some of them who told him that they were never seen alive again. *See* Adjudicated Fact 900. The group of 23 detainees who were taken out and disappeared included Ismet Pasović, Nurko Kušić, Hamdo Bićo (who was exhumed from an individual grave), Halim Konjo, Halid Konjo, three brothers named Rikalo, Karabegović, Adil Granov, Zulfo Veiz, Krunoslav Marinović, Asim Mezbur (who was exhumed from a mass grave), Hajro Sabanović, Dr. Aziz Torlak (who was brought to the facility by the Užice Corps), Esad Kiselica, and Ismet Deleut. P4853 (Updated Table 2 to the Report of Amor Mašović), pp. 80, 82; *see* Adjudicated Facts 889, 893.

conditions.[3000] When the detainees spoke to the guards about the disappearances, they would claim that they knew nothing and that others were making the decisions.[3001] Some of the detainees were called out from lists and taken out on the pretext that they were going to be exchanged, but these were not exchanges and with a few exceptions, they were not seen again.[3002] These disappearances were confirmed through contact with families, other detainees, or the ICRC.[3003] Witnesses testified that approximately 400 to 450 men "disappeared" in these exchanges. Only approximately 200 detainees who remained at KP Dom survived.[3004] For example, in September 1992, between 35 to 60 detainees were selected by KP Dom guards from a list and taken out of the facility in two groups but never returned and were never seen again.[3005]

907. Four groups, each consisting of nine detainees, were taken to the main building for interrogation.[3006] The first group of detainees was taken out three or four days after 12 June 1992

3000 KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2794, 2888; KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1218–1219 (testifying that some of the detainees with mental conditions who were detained separately started mutilating themselves). *See also* P3351 (Schedule C of List of Indictment against Milorad Krnojelac). Mujo Murguz, Ibrahim Ovcina, Babić were identified as having been in a group of detainees with mental conditions who disappeared and Omer Muježinović, Hakan Hajdarević, Edhem Bunda and "Culum" were detainees with mental conditions who were separated and detained separately.

3001 KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1260.

3002 KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1265; *see* Adjudicated Facts 877, 884, 900. Mitar Rašević, T. 46778, 46793 (11 February 2014); D4307 (Witness statement of Mitar Rašević dated 2 February 2014), paras. 32–35, 37–38; P6655 (Excerpt of Mitar Rašević's interview with OTP), e-court pp. 2–3. While Rašević stated that detainees were taken away for exchange according to lists provided by the army and he did not notice large groups of detainees going missing, he acknowledged on cross-examination that some detainees disappeared in these "exchanges" and sometimes that detainees were taken away without permission. The Chamber finds that Rašević's evidence only serves to confirm that some detainees did disappear in these apparent exchanges and that the Military Police was involved in taking away detainees but in light of the credibility assessment of Rašević in fn. 2926, the Chamber does not place any weight on his testimony that they were taken away without permission and that he did not notice large groups of detainees going missing.

3003 *See* Adjudicated Fact 900.

3004 KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2894–2895; KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1265–1266, 1315. Krnojelac testified that he was never told about any killings except for two suicides in the facility. Milorad Krnojelac, D2716 (Transcript from *Prosecutor v. Krnojelac*), T. 7677–7678. The Chamber does not consider Krnojelac's evidence to be credible in this regard. In reaching that conclusion the Chamber refers to its earlier assessment in fns. 2889, 2900, and 2928 regarding the credibility of Krnojelac. Radojica Mladenović testified that nobody from the military or civilian leadership asked or ordered that any crime be committed and they actually required compliance with international conventions and that it was possible that some paramilitary units did not comply and that any killings in Foča were isolated cases and the authorities tried to prevent them and carried out on-site investigations into specific cases. D3314 (Witness statement of Radojica Mladenović dated 1 April 2013), para. 40; Radojica Mladenović, T. 36612 (4 April 2013). The Chamber does not find this evidence or shifting of responsibility to be reliable. In reaching that conclusion the Chamber noted that Mladenović's evidence was marked by multiple contradictions and extreme evasiveness. In addition, the Chamber notes that when confronted with evidence of killings at KP Dom Foča, the witness qualified his answer and claimed that he was not a witness to what happened at the KP Dom. Radojica Mladenović, T. 36663–36664 (5 April 2013).

3005 *See* Adjudicated Facts 896, 897, 898. Two of those detainees, Murat Crneta and Halid Konjo were found in a mass grave. P4853 (Updated Table 2 to the Report of Amor Mašović), p. 82. Other detainees who were identified as having been taken out of the facility on other occasions and never returned included Mensud Pašović, Haso Selimović, Rasim Kajgana, Azim Mezbur. *See* Adjudicated Facts 892, 894, 890, 891.

3006 KDZ017, T. 19900 (4 October 2011). *See also* KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2828–2829.

and the last group was taken out towards the end of June 1992.[3007] The detainees of the first group were lined up and taken inside a building one by one. As each detainee was taken in, the sounds of beating and screaming were heard, followed by a single pistol shot.[3008] In a similar manner, the second,[3009] third[3010] and fourth group[3011] of detainees were taken out with an intervening period of a few days between each group. The sequence of events was the same for these groups as it was for each of the detainees in the first group, *viz.* nine detainees were taken out, the sound of beatings,

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3007 KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2831–2832, 2887, 2957, 2972; KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1249–1250, 1252. Detainees who were identified as having been taken out and disappeared included Kemo Dželilović and Munib Veiz. *See also* Adjudicated Fact 886.

3008 KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2837–2839, 2842, 2852, 2866, 2971, 2990; KDZ017, T. 19902 (4 October 2011); P3569 (Series of photographs of Foča), pp. 1, 3; *see* Adjudicated Facts 886, 899, 887 (which listed Kemo Dželilović, Halim Konjo, Mustafa Kuloglija, Mithat and Zaim Rikalo and Munib Veiz as being in the group of detaineed taken out and severely beaten by guards before shots were heard).

3009 KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2862, 2864–2865, 2875, 2956–2958; KDZ017, T. 19901–19904 (4 October 2011); KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1251, 1253, 1258. The detainees who were identified as having disappeared in this group included Ševal Šoro, Mate Ivancić (who was a Bosnian Croat), Zulfo Veiz, Ekrem Tulek, Refik Čankusić, and Salem Bičo. *See also* Adjudicated Fact 895 (referring to the disappearance of Ševal Šoro).

3010 KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2793–2796, 2798, 2821–2823, 2830–2833, 2862–2868, 2875–2879, 2883, 2885, 2888–2889, 2895–2896, 2956, 2958–2960; KDZ239, P3336 (Transcript from *Prosecutor v. Krnojelac*), T. 1220, 1240–1242, 1249–1250, 1252, 1255–1259, 1262; KDZ239, T. 18920–18921 (15 September 2011), T. 18979–18980 (16 September 2011). The names of individuals who these witnesses identified as having being taken out of KP Dom in groups and who disappeared included Džemal Vahida, Fuad Mandzo, Alija Altoka, Miralem Altoka, Nermin Hadžimusić (only identified by KDZ017), Adil Krajčin, Enes Uzunović, Enko Čedić, Adnan Pasalić (only identified by KDZ017), Adil Granov, Abdurahman Cankušić; Fuad Mandzo, Hamid Ramović, Džemal Vahida, Gordan Huković (a Bosnian Croat only identified by KDZ239), Zaim Rikalo, Husein Rikalo, Mithat Rikalo, Seval Šoro, Mate Ivancić, Zulfo Veiz; Ekrem Tulek, Kemal Tulek (Rašević also testified that Tulek went missing. Mitar Rašević, T. 46788 (11 February 2014)), Refik Čankušić, Zulfo Veiz, Munib Veiz, Zaim Čedić (only identified by KDZ017), Edhem Bunda, Culum FNU (only identified by KDZ017), Elmedin Džanko, Eldin Džanko, Ismet Deleut (only identified by KDZ017), Gradisic FNU (only identified by KDZ239), Hajdarević FNU (KDZ017 identified him as Hakan Hajdarević), Latif Hasanbegović (only identified by KDZ017), Azid Hasković (only identified by KDZ017), Nail Hodžić (only identified by KDZ017), Abdulah Kamerić (who was exhumed from a mass grave. P4853 (Updated Table 2 to the Report of Amor Mašović), p. 80), Omer Mujezinović (only identified by KDZ017), Samir Mujezinović (only identified by KDZ239), Mujo Murguz (only identified by KDZ017), Ibrahim Ovcina (only identified by KDZ017) (the Chamber notes that an Ibro Ovcina is listed in Mašović's table but his name is not listed by Mašović as associated with Scheduled Incident B.8.1 even though the name is listed in Appendix G of the Prosecution Final Brief. P4853 (Updated Table 2 to the Report of Amor Mašović), p. 80), Ismet Pašović (only identified by KDZ017), Halim Seljanci (only identified by KDZ017), Mirsad Subašić (only identified by KDZ239). *See also* Adjudicated Fact 885 (which lists the names of 26 detainees who were killed by KP Dom guards or members of the military who came from outside of the facility). Of those on the list Mašović identified that Abdurahman Cankušić, Salem Bičo, Halim Konjo were exhumed from an individual graves, while Adil Krajčin, Fuad Mandžo, Ekrem Tulek, Kemal Tulek were exhumed from mass graves. P4853 (Updated Table 2 to the Report of Amor Mašović), pp. 81–83, 107.

3011 KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2864–2866, 2868, 2877, 2883, 2886–2887, 2960; KDZ017, T. 19904 (4 October 2011). KDZ017 could identify Ismet Karahasnović (who was exhumed from a mass grave. P4853 (Updated Table 2 to the Report of Amor Mašović), p. 80). The Chamber notes that this name is not listed as a Schedule B.8.1 victim on Mašović's table), Suad Islambasić, Zaim Čedić, Ismet Pačo (who was exhumed from a mass grave. P4853 (Updated Table 2 to the Report of Amor Mašović), p. 80), Mehmed Sofradzija (who was exhumed from a mass grave. P4853 (Updated Table 2 to the Report of Amor Mašović), p. 83. The Chamber notes that this name is not listed as a Scheduled Incident B.8.1 victim on Mašović's table), Hasan Džano, Ramo Dženduši, Alija Dželil, Rasim Kajgana in this group. The Chamber notes that the Prosecution lists both Ramo Džendusic and Ramo Djendušić as separate victims of Scheduled Incident B.8.1. Prosecution Final Brief, Appendix G. However, the Chamber is not satisfied that the evidence cited supports that these are two different victims.

followed by a single shot.[3012] None of those taken away in groups as described above returned or were seen alive again.[3013]

908. During and after the beating of detainees, guards of the KP Dom were seen carrying blankets into the administration building and removing what appeared to be bodies in those blankets.[3014] A vehicle also left the facility and returned 10 to 15 minutes later and was cleaned by men in green-grey uniforms.[3015] Detainees who were sent to clean, saw blood and bloodied instruments in the rooms where the beatings occurred.[3016]

909. The Chamber took judicial notice of the exhumation of 62 male bodies from a mass grave on Maluša Mountain at a site called Jama Piljak.[3017] However, with the exception of one body which had a name card indicating that the individual was last seen at the KP Dom, the Chamber has insufficient evidence to link these bodies with this scheduled incident.[3018] Mašović's evidence regarding the exhumation of bodies from mass or individual graves corroborates the evidence of witnesses who identified 16 individuals who were taken from the facility and disappeared and whose names also appear on Mašović's list of exhumed bodies.[3019]

910. In assessing the overall number of persons killed at KP Dom Foča, the Chamber has considered the (i) witness testimony that between 400 and 450 detainees were taken from KP Dom Foča for purported exchanges but disappeared; (ii) witness testimony that multiple groups of

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3012 KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2838, 2883, 2886; KDZ017, T. 19903–19904 (4 October 2011) (testifying that he was told by a detainee that bodies were transferred to banks of the Drina and buried by stones); *see* Adjudicated Fact 887. Rašević testified that he never saw any bodies being moved from the KP Dom and that to his knowledge nobody was ever killed at the KP Dom but he acknowledged that he was not aware of whether there was mistreatment during interrogations or whether people were killed outside the facility. In light of these qualifications, the Chamber does not attribute any weight to Rašević's evidence on this issue. *See* D4307 (Witness statement of Mitar Rašević dated 2 February 2014), paras. 31, 35; Mitar Rašević, T. 46783–46785 (11 February 2014)

3013 KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2858, 2866, 2886. KDZ017 having contacted the families of Nurko Nišić, Halim Konjo, Ešad Kiselića, Salem Bičo, Adil Granov (from the third group) was told that they were never seen alive again. Mašović identified that Salem Bičo was exhumed from an individual grave, while Ramo Đendušić, Alija Dželil were exhumed from mass graves. P4853 (Updated Table 2 to the Report of Amor Mašović), pp. 81–82, 107. *See* Adjudicated Facts 887, 899. Mašović as a member of the State Commission of BiH received information about prisoners being killed in camps in municipalities including Foča. P4850 (Witness statement of Amor Mašović dated 23 March 2012), para. 54. *See also* P3346 (Order of Foča's Crisis Staff, 9 May 1992); KDZ239, T. 18920–18921 (15 September 2011); KDZ239, T. 18979–18981 (16 September 2011).

3014 *See* Adjudicated Facts 882, 887.

3015 *See* Adjudicated Fact 887.

3016 *See* Adjudicated Fact 883; KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2858, 2973.

3017 P4876 (Sarajevo Cantonal Court record of exhumation of Piljak mass grave in Foča, 2001). *See also* Adjudicated Facts 2402, 2403

3018 P4850 (Witness statement of Amor Mašović dated 23 March 2012), Annex A, pp. 2–3.

3019 P4853 (Updated Table 2 to the Report of Amor Mašović), pp. 81–82, 107. Mašović identifies the names of 159 individuals who went missing from KP Dom Foča who were exhumed from mass graves or individual graves. However, the Chamber is not satisfied that in the absence of further evidence it can rely on Mašović's evidence to link the exhumed bodies to Scheduled Incident B.8.1.

detainees were taken out of the facility and shot; (iii) exhumation records which confirm that some of the identified individuals who went missing from KP Dom Foča were exhumed from mass graves or individuals graves.

911. The Chamber therefore finds that, over 200 detainees, as alleged were killed at KP Dom Foča by Serb Forces between June and December 1992.

(3) Scheduled Detention Facility C.10.4

912. The Prosecution refers to the use of worker's huts at Buk Bijela as a detention facility in July 1992.[3020]

913. Some women from the village of Mješaja/Trošanj were taken by Serb soldiers to a detention centre at Buk Bijela, where Gojko Janković was in charge.[3021] There, Serb soldiers repeatedly raped Muslim women and girls.[3022] Girls, women, and some elderly men who were at Buk Bijela were transported by bus to Foča and kept in the Foča High School.[3023] During this transfer, some Bosnian Muslim women tried to complain to the police, including the police chief Dragan Gagović, but no action was taken.[3024]

(4) Scheduled Detention Facilities C.10.5 and C.10.7

914. The Prosecution refers to the use of the Partizan Hall[3025] and Srednja škola – Foča High School[3026] as detention facilities during 1992.

915. The Muslim civilians held at the Partizan Sports Hall and Foča High School were kept in unhygienic conditions, without hot water, and were provided with insufficient food.[3027] Their freedom of movement was curtailed; they were not allowed to go to any other territory or to go back to their houses.[3028] They were guarded and lived in an atmosphere of intimidation.[3029] All

3020 The Indictment refers to the use of this detention facility in both June and July 1992, as per the Prosecution's 73 *bis* Submission, Appendix B, p. 27. However, the Prosecution now limits the allegations with respect to this facility to July 1992. Prosecution Final Brief, Appendix B, fn. 231.

3021 Adjudicated Fact 2407.

3022 *See* Adjudicated Fact 787.

3023 Adjudicated Fact 788.

3024 *See* Adjudicated Facts 789, 790. A woman who tried to escape and sought refuge with the police was hit by a policeman with a rifle butt.

3025 Indictment, Scheduled Detention Facility C.10.5.

3026 Indictment, Scheduled Detention Facility C.10.7.

3027 *See* Adjudicated Fact 813. *See also* KDZ239, T. 18946–18947 (15 September 2011).

3028 Adjudicated Fact 813.

this was done in full view, in complete knowledge and sometimes with the direct involvement of the local authorities, particularly the police forces.[3030]

916. Mitar Šipčić, a member of the Foča Crisis Staff,[3031] was in charge of the guards at the Foča High School.[3032] Guards worked in shifts to prevent the detainees from escaping, but they did not prevent soldiers from entering the facility.[3033] Soldiers and policemen would come constantly, sometimes several times a day; they would point at women and girls or call them by their names, take them out and rape them.[3034] The women had no choice but to obey those men and those who tried to resist were beaten in front of the other women.[3035] At Foča High School, the girls and women were generally taken for a few hours and returned, sometimes overnight, and some of them were taken away every day.[3036] After about 10 to 15 days, most of the women from Foča High School were transferred to the Partizan Hall.[3037]

917. The Partizan Hall was guarded by police officers.[3038] At Partizan Hall, some women were taken out of the facility on multiple occasions and raped by soldiers.[3039] One woman estimated that during the 40 days of detention at both Foča High School and Partizan Hall, she was raped approximately 150 times.[3040] The guards at Partizan Hall and Foča High School did not try to prevent soldiers from entering.[3041] The chief of Foča police, Dragan Gagović, was seen at Foča High School and Partizan Hall.[3042] Gagović, was one of the men who came to detention facilities,

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3029 Adjudicated Fact 813. Mitar Rašević testified that the Partizan Hall was a reception centre from where people could be transported in the direction they wanted to go. Mitar Rašević, T. 46815–46816 (11 February 2014). The Chamber does not consider this evidence to be reliable. In reaching that conclusion the Chamber noted that the witness was evasive and contradicted by reference to his prior testimony.

3030 Adjudicated Fact 813.

3031 P3333 (Official Gazette of Serbian Municipality of Foča, 17 September 1992), p. 40.

3032 *See* Adjudicated Fact 2409.

3033 *See*Adjudicated Facts 791, 796.

3034 *See* Adjudicated Facts 792, 787.

3035 Adjudicated Fact 792.

3036 Adjudicated Fact 793.

3037 Adjudicated Fact 793.

3038 Adjudicated Fact 2408.

3039 *See* Adjudicated Facts 794, 787. *See also* KDZ239, T. 18946–18947 (16 September 2011); P90 (Witness statement of KDZ216 dated 8 June 1998), p. 14 (under seal); KDZ216, P69 (Transcript from *Prosecutor v. Kunarac*), T. 3370–3371 (under seal). The witness testified that it was "generally known that soldiers were coming [to Partizan] and taking them away and forcing them to have sexual relations with them". *See also* D3314 (Witness statement of Radojica Mlađenović dated 1 April 2013), para. 49 who acknowledged that "disgraceful and disgusting things" were committed in this facility. However, the Chamber does not find Mlađenović's unsubstantiated assertion that the perpetrators were processed and punished or that the Bosnian Serb authorities resolved the problem at the facility to be credible. In reaching that conclusion the Chamber also noted that Mlađenović's evidence was marked by multiple contradictions and extreme evasiveness.

3040 *See* Adjudicated Fact 794.

3041 *See* Adjudicated Fact 796.

3042 *See* Adjudicated Fact 795. Milutin Vujičić who was engaged as a guard at the Partizan Hall in late April or early May 1992, testified that (i) guards were ordered to strictly guard the facility and to prevent anyone from being taken out of the facility particularly at night; (ii) it was recommended that civilians go to the Partizan Hall

including Partizan Hall and the Foča High School, to take women out and rape them.[3043] On 23 October 1992, a group of women and children who had been detained for a month at Partizan Hall, were transported by bus to Goražde.[3044]

(5) Scheduled Detention Facility C.10.2 and other evidence of rape and other acts of sexual violence during and after the take-over of Foča

918. The Indictment refers to the use of Karaman's house in Miljevina as a detention facility at least between August and October 1992.

919. Dragoljub Kunarac's unit also known as the Zaga Detachment received orders from the Foča Tactical Group.[3045] Other members of this group included Dragomir "Gaga" Vuković, and Jagos Kontić.[3046] Kunarac removed many Bosnian Muslim women and girls from various detention centres, including the Partizan Hall.[3047]

920. The girls and women, who were selected by Kunarac or by his men in August 1992, were systematically taken to the soldiers' base in a house in Ulica Osmana Đikića where girls and women were repeatedly raped by Kunarac's men and Kunarac himself during the night.[3048] Some women were gang-raped in the same house by soldiers while another woman was taken to a separate room by "Gaga" who ordered her to have sex with a 16 year old boy.[3049] Kunarac was fully aware that the women were raped by other soldiers.[3050] Some of the women were taken out

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for their own safety; (iii) women were allowed to leave facilities during the day and were guarded at night; and (iv) nobody was taken away from the facility while he was at the facility. D2767 (Witness statement of Milutin Vujičić dated 14 January 2013), para. 11; Milutin Vujičić, T. 32095–32096, 32131–32132 (17 January 2013). The Chamber does not find Vujičić's evidence to be of much significance given that he was only at the facility for four days and he did not know who took over the guarding of the facility or what happened after he left. The Chamber finds that his evidence that those who took over the facility also had to obey the order which he received is pure speculation and has no basis or foundation.

3043 *See* Adjudicated Facts 814, 795. Mlađenović expressed his view that he did not believe that Gagović would have acted in this way. Radojica Mlađenović, T. 36651 (5 April 2013). The Chamber does not consider this evidence to be of much weight given that it is simply the witness's opinion but does note that Mlađenović did acknowledge that crimes did occur.

3044 *See* Adjudicated Fact 915.

3045 P3354 (Order of Foča Tactical Group, 7 July 1992), p. 3. *See also* Radojica Mlađenović, T. 36649 (5 April 2013).

3046 *See* Adjudicated Fact 799.

3047 *See* Adjudicated Facts 800, 797, 808, 811. *See also* KDZ216, P69 (Transcript from *Prosecutor v. Kunarac*), T. 3376, 3439–3440 (under seal).

3048 *See* Adjudicated Facts 801, 797, 808. Radojica Mlađenović testified that this house was never a headquarters or base for any unit of the regular army. D3314 (Witness statement of Radojica Mlađenović dated 1 April 2013), para. 53; Radojica Mlađenović, T. 36647–36648 (5 April 2013). However, the Chamber does not find this evidence to be reliable. In reaching that conclusion the Chamber noted that Mlađenović's evidence was marked by multiple contradictions and extreme evasiveness.

3049 *See* Adjudicated Fact 812.

3050 Adjudicated Fact 811.

and raped in an abandoned house in Trnovače by Kunarac and another soldier.[3051] Kunarac also took a girl from the Kalinovik High School, and raped her in a house in an area known as Aladža.[3052]

921. Some of the women from Partizan Hall and Kalinovik High School were at some point moved to different houses and apartments where they continued to be raped and mistreated.[3053]

922. Girls under the age of 20 from the village of Partizan were detained in an apartment which was under the control of Zaga and his men.[3054] Zaga's men raped the girls and women in the apartment in front of each other.[3055] Some girls were raped by several of Zaga's men at the same time and this was watched by Zaga.[3056] Ranko Radulović, who was from Montenegro under the command of Zaga, also violently raped a 16 year old girl.[3057] One victim was taken to the basement, stripped, threatened with a knife and then raped by one of Zaga's men.[3058] The girls who had been raped heard that they had to be given to Pero Elez and were taken to Karaman's house in Miljevina.[3059] At Karaman's house, soldiers had easy access to women and girls whom they raped.[3060] Radovan Stanković was in charge at the Karaman's house.[3061] On 3 August 1992, Kunarac went to Ulica Osmana Đikića where he took four women, and drove them to Miljevina.[3062] There, the women and girls were handed over to soldiers who brought them to Karaman's house where they were constantly raped.[3063] Some women were detained at Karaman's house for several months to over a year.[3064] Girls who were brought to Karaman's house were "divided between the men, like property", with Pero Elez deciding which girl went with which soldier.[3065] There were

3051 *See* Adjudicated Fact 809.

3052 *See* Adjduciated Facts 804, 805, 806.

3053 Adjudicated Fact 803; [REDACTED].

3054 [REDACTED].

3055 [REDACTED].

3056 [REDACTED].

3057 [REDACTED].

3058 [REDACTED].

3059 [REDACTED].

3060 *See* Adjudicated Fact 803; [REDACTED].

3061 *See* Adjudicated Fact 2406. Mlađenović testified that while Stanković was convicted by the court of BiH for crimes committed in Karaman's house, rather than being punished he remained in the VRS as late as April 1995 when the Accused appointed him commander of a special police unit. Radojica Mlađenović, T. 36653 (5 April 2013); P6267 (Radovan Karadžić's Order, 7 April 1995), pp. 1–2. The Chamber does not accept Mlađenović's speculative evidence that the Accused did not know Stanković otherwise he would have "eliminated" him. The Chamber does not rely on the conviction by the BiH court for the purposes of factual findings in this case.

3062 *See* Adjudicated Fact 810.

3063 *See* Adjudicated Fact 810. *See also* Adjudicated Facts 815, 816, 817, 818, 819, 821.

3064 [REDACTED]. *See* Adjudicated Fact 820.

3065 [REDACTED].

about five or six women in Karaman's house who cooked and cleaned for the soldiers.[3066] The women did not feel free to leave the house due to the presence of many soldiers.[3067] Women were also taken to a house in Trnovaca and raped openly by soldiers including Zaga.[3068]

923. Considering the above, the Chamber finds that women and girls were brought to, detained and subjected to acts of sexual violence by members of Serb Forces at multiple locations in Foča, including at Scheduled Detention Facilities C.10.2, C.10.4, C.10.5 and C.10.7.

(F) Scheduled Incident D.10

924. The Indictment refers to the destruction of two mosques in Foča at least between April and August 1992.[3069]

925. Several mosques in Foča town and municipality were burned or otherwise destroyed.[3070] Bosnian Serb fire brigades stood by and watched as mosques burned.[3071] The Aladža mosque dating from 1555 and under UNESCO protection was blown up and the rubble was removed from the site by the end of the war.[3072] In August 1992, KDZ216 heard a huge detonation at night and she was told that this was the mosque being destroyed.[3073] The blast broke the windows of the house and KDZ216 heard that it was "Zaga again".[3074] KDZ216 later saw that the mosque was demolished.[3075]

926. Riedlmayer reported that the Aladža mosque was completely destroyed.[3076] It was destroyed by explosives, and only traces of the foundations remained and the site had been levelled by a bulldozer with all building materials removed but the adjacent buildings were only lightly

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3066 [REDACTED].

3067 [REDACTED].

3068 [REDACTED]. The Chamber notes that Stanić praised a number of commanders who were involved in the war in Foča including Gojko Janković and there was proposal to honour Janković for his contribution to the war. P6081 (Video clips re interview and speech of Miroslav Stanić, with transcript); P6082 (Proposal of Foča Tactical Group, 13 August 1993), p. 1.

3069 These are the Aladža mosque and the Jeleč mosque.

3070 Adjudicated Fact 908. *See also* KDZ379, T. 18837 (15 September 2011) (who was told that the mosques in Foča were shelled and that most mosques were either destroyed or had their minarets destroyed).

3071 *See* Adjudicated Fact 913; P90 (Witness statement of KDZ216 dated 8 June 1998), pp. 6, 12 (under seal); Milorad Krnojelac, D2716 (Transcript from *Prosecutor v. Krnojelac*), T. 7887; KDZ216, P69 (Transcript from *Prosecutor v. Kunarac*), T. 3368 (under seal).

3072 Adjudicated Fact 911; András Riedlmayer, T. 22541 (9 December 2011).

3073 P90 (Witness statement of KDZ216 dated 8 June 1998), p. 6 (under seal); KDZ216, P69 (Transcript from *Prosecutor v. Kunarac*), T. 3344, 3400–3401 (under seal).

3074 P90 (Witness statement of KDZ216 dated 8 June 1998), p. 6 (under seal); KDZ216, P69 (Transcript from *Prosecutor v. Kunarac*), T. 3344, 3400–3401 (under seal).

3075 KDZ216, P69 (Transcript from *Prosecutor v. Kunarac*), T. 3422 (under seal).

damaged.[3077] Since the end of the conflict, the site of the Aladža mosque was used as a parking lot for buses and littered with rubbish. The house adjacent to the mosque site was burned and fragments of the razed mosque were found dumped in the Cehotina river and buried under rubble and refuse at sites near the Drina river.[3078] The mosque in Jeleč was burned and its minaret destroyed and only parts of the perimeter walls and rubble remained at the end of the war.[3079]

927. Vujičić acknowledged that Serb Forces attacked the mosques but claimed that they were attacked because Bosnian Muslims, including snipers, were fighting from the mosques which were also used to store weapons and for training.[3080] However, the Chamber notes that when Vujičić was challenged on cross-examination and presented with Riedlemayer's report which suggested that the Aladža mosque was destroyed in August 1992 and was razed to the ground when there was no fighting, Vujičić's answers were evasive and unconvincing.[3081] In addition Vujičić's evidence was marked by evasiveness and other indicators which undermined his credibility. The Chamber therefore does not consider his evidence to be reliable with respect to the reason why the Serb Forces attacked the mosques in Foča.

928. Considering the above evidence the Chamber finds that Serb Forces destroyed the Aladža mosque and the Jeleč mosque between April and August 1992.

(G) Movement of the population from Foča

929. Following the attack on Foča in April 1992, Bosnian Muslims left their homes and made their way through the surrounding woods and neighbouring villages searching for shelter.[3082] Many

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3076 P4069 (Cultural destruction database), record 133; P4070 (Attachment to the expert report of András J. Riedlmayer, entitled "Destruction of Cultural Heritage in BiH" prepared for the Karadžić case, formatted records), pp. 127–134; P4071 (Slide images of damaged religious sites in BiH), p. 12.

3077 P4069 (Cultural destruction database), record 133; P4070 (Attachment to the expert report of András J. Riedlmayer, entitled "Destruction of Cultural Heritage in BiH" prepared for the Karadžić case, formatted records), pp. 127–131.

3078 P4069 (Cultural destruction database), record 133; P4070 (Attachment to the expert report of András J. Riedlmayer, entitled "Destruction of Cultural Heritage in BiH" prepared for the Karadžić case, formatted records), pp. 127–131.

3079 Adjudicated Fact 912; P4069 (Cultural destruction database), record 156; P4070 (Attachment to the expert report of András J. Riedlmayer, entitled "Destruction of Cultural Heritage in BiH" prepared for the Karadžić case, formatted records), pp. 132–134. Riedlmayer also reported on damage to other cultural monuments and sacred sites in Foča however, these sites are not charged in Schedule D of the Indictment. P4069 (Cultural destruction database), records 131–165.

3080 D2767 (Witness statement of Milutin Vujičić dated 14 January 2013), paras. 22, 24; Milutin Vujičić, T. 32123 (17 January 2013); Trifko Pljevaljčić, T. 32296–32297, 32304, 32357 (21 January 2013); D3314 (Witness statement of Radojica Mlađenović dated 1 April 2013), para. 37.

3081 Milutin Vujičić, T. 32123 (17 January 2013).

3082 D299 (ABiH Supreme Command Staff Special Report, 17 July 1993), pp. 2–3.

left out of fear for their safety after Serb Forces took over parts of Foča where they lived.[3083] In order to leave they had to arrange for certificates from the local police and sign a form transferring their property to the "Bosnian-Serb Republic".[3084]

930. Following the fall of Foča, a large number of civilians moved from Foča towards Ustikolina and a group of between 300 to 500 people consisting almost exclusively of Bosnian Muslims sought shelter in the JNA depot.[3085] However, Pero Mihajlović who was the SDS representative in Ustikolina, instructed the personnel at the JNA depot that they should not receive Bosnian Muslims and if they continued to house Bosnian Muslims at the compound "he would send people who were paid to cleanse that area".[3086] On the night of 25 April 1992 there were clashes in the vicinity of the depot after which most of the Bosnian Muslims left towards Goražde before Serb Forces captured the depot.[3087]

931. In May 1992, buses were organised to take civilians out of Foča.[3088] The Chamber finds that some Bosnian Muslims did request to leave the municipality after which the Bosnian Serb authorities arranged for their transportation out of the municipality.[3089] However, the Chamber also finds that even if Bosnian Muslims signed documents which indicated that they wished to leave,

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3083 *See* Adjudicated Fact 2410; KDZ017, P3568 (Transcript from *Prosecutor v. Krnojelac*), T. 2770, 2773–2774. The Chamber also received evidence of both Bosnian Muslims and Bosnian Serbs leaving Foča before the outbreak of hostilities, but does not consider this evidence to be relevant to the charges in the Indictment. *See* Adjudicated Facts 733, 734, 735; Trifko Pljevaljčić, T. 32286, 32324 (21 January 2013). *See also* KDZ017, T. 19893 (4 October 2011); Momir Bulatović, T. 34569–34571 (1 March 2013).

3084 *See* Adjudicated Fact 2410. Radojica Mladenović testified that no statements were signed by Bosnian Muslims and that they would leave their property to friends or neighbours for protection. D3314 (Witness statement of Radojica Mladenović dated 1 April 2013), para. 51. *See also* Radojica Mladenović, T. 36616, 36698 (5 April 2013). However, the Chamber does not consider this to be reliable evidence. In reaching that conclusion, the Chamber noted that Mladenović was contradicted and evasive on a number of occasions during his testimony. Similarly the Chamber does not accept the speculative and unsubstantiated evidence that it was Bosnian Muslim propaganda about the threat faced by the Bosnian Muslim population which caused panic and prompted Bosnian Muslims to leave the municipality. D3314 (Witness statement of Radojica Mladenović dated 1 April 2013), para. 34; Radojica Mladenović, T. 36693 (5 April 2013); Veljko Marić, T. 35625 (19 March 2013).

3085 KDZ379, P3332 (Transcript from *Prosecutor v. Krnojelac*), T. 3103–3104, 3108, 3160–3161 (testifying that there were between 300 and 500 people who sought shelter); KDZ379, T. 18855, 18871–18872, 18874, 18896–18897 (15 September 2011); D3065 (Witness statement of Aleksandar Vasiljević dated 26 February 2013), para. 189 (referring to 200 "Muslim refugees"); Aleksandar Vasiljević, T. 34703–34704, 34706–34707 (4 March 2013), 34705–34706 (4 March 2013) (private session).

3086 KDZ379, P3332 (Transcript from *Prosecutor v. Krnojelac*), T. 3107–3108.

3087 KDZ379, P3332 (Transcript from *Prosecutor v. Krnojelac*), T. 3104, 3109–3111, 3114; KDZ379, T. 18877, 18879–18881 (15 September 2011) (testifying that approximately 50 women, children, and the disabled or sick who could not leave remained when the depot was taken over by Serb Forces). *See also* Adjudicated Fact 757. The Chamber also received contrasting evidence about whether or not there were armed members of the SDA in this group of Bosnian Muslims and the reason why Serb Forces took control of the depot. However, the Chamber does not consider that this affects the predominantly civilian character of the Bosnian Muslims who had taken shelter in the depot. *See* D1683 (Report of JNA 744th Logistics Base, 27 April 1992), pp. 1–2 (under seal); KDZ379, T. 18878, 18883 (15 September 2011).

3088 *See* Adjudicated Fact 914. *See also* Milorad Krnojelac, D2716 (Transcript from *Prosecutor v. Krnojelac*), T. 7889.

this was a product of pressures put on them and the surrounding circumstances in the municipality, including attacks against Bosnian Muslims and their homes.[3090]

932. Defence witnesses testified that Bosnian Muslims who left by convoy left voluntarily, that they were not expelled, and did not flee from the Serb Forces. In addition, according to these witnesses, the Bosnian Muslims who remained were given shelter and the civilian authorities treated them fairly, in the same way as Bosnian Serb citizens, and did not confiscate their property.[3091] However, the Chamber does not consider this evidence to be reliable in light of the other evidence received as to the surrounding circumstances in Foča. The Chamber also notes that Pljevaljčić was challenged on cross-examination and it was suggested that his evidence about whether the people left voluntarily was hearsay.[3092] While Pljevaljčić adhered to the content of his evidence, the Chamber considers his evidence to be purely speculative and does not rely on his assessment as to the voluntariness of these departures. Similarly the Chamber does not consider Vujičić's evidence pertaining to the voluntariness of the departure of Bosnian Muslims and the treatment of those who remained to be credible. In reaching that conclusion, the Chamber noted that Vujičić's evidence was marked by evasiveness and indicators that he was trying to mislead the Chamber and lacked forthrightness. In addition, there were contradictions in his evidence which on the one hand suggested that Bosnian Muslims left voluntarily and on the other that the municipality became almost exclusively Serb after the break-out of clashes. While the Chamber received evidence which suggested that Bosnian Serb authorities issued a public statement inviting those who had left Foča to return, it does not have sufficient detail as to the circumstances or timing of this invitation for it to be considered of any significance.[3093]

933. At the session of the Bosnian Serb Assembly held from 24 to 26 July 1992, greetings were extended to "liberated Foča".[3094] At this same session Vojo Kuprešanin spoke about the danger of losing Foča which would allow the establishment of the "green transversal".[3095] In August 1992, the remaining Bosnian Muslims in Foča, mostly women and children, were taken to Montenegro[3096]

3089 P2642 (Report of Foča War Commission, 18 June 1992), p. 1; Radojica Mlađenović, T. 36697 (5 April 2013).

3090 *See also* Colm Doyle, T. 2946, 2951–2952 (28 May 2010); Colm Doyle, P918 (Transcript from *Prosecutor v. S. Milošević*), T. 25281–25282.

3091 Trifko Pljevaljčić, T. 32303–32304, 32315–32317, 32319–32320, 32343–32346, 32352–32353 (21 January 2013); D2767 (Witness statement of Milutin Vujičić dated 14 January 2013), paras. 8, 16, 30, 32; Milutin Vujičić, T. 32134–32135, 32142 (17 January 2013). *See also* P6080 (Report of Foča Military Post, 10 October 1992).

3092 Trifko Pljevaljčić, T. 32346 (21 January 2013).

3093 KDZ379, T. 18874 (15 September 2011).

3094 D92 (Transcript of 17th session of SerBiH Assembly, 24-26 July 1992), p. 5.

3095 D92 (Transcript of 17th session of SerBiH Assembly, 24-26 July 1992), p. 41.

3096 *See* Adjudicated Fact 914. *See also* Milorad Krnojelac, D2716 (Transcript from *Prosecutor v. Krnojelac*), T. 7889–7890.

and by mid-August 1992 there were almost no Bosnian Muslims in Foča.[3097] In April and May 1993, Petko Čančar reported to the Bosnian Serb Assembly that not a single Bosnian Muslim was in Foča, that every part of the municipality was controlled by Bosnian Serbs, and that there was "only one people" living in Foča and "one religion" being practised there.[3098]

934. Having considered the totality of the evidence and assessed the circumstances in which departures occurred, the Chamber finds that Bosnian Muslims were forced to leave Foča.

v. Rogatica

(A) Charges

935. Under Count 3, the Prosecution alleges that persecution, a crime against humanity, was committed in Rogatica as part of the objective to permanently remove Bosnian Muslims and/or Bosnian Croats from the Municipalities.[3099] Acts of persecution alleged to have been committed in Rogatica by Serb Forces and Bosnian Serb Political and Governmental Organs include killings related to detention facilities and killings committed during, and deaths resulting from, cruel and inhumane treatment at scheduled detention facilities.[3100] The Prosecution also characterises these killings as extermination, a crime against humanity, under Count 4; murder, a crime against humanity, under Count 5; and as murder, a violation of the laws or customs of war, under Count 6.[3101]

936. Other acts of persecution alleged to have been committed by Serb Forces and Bosnian Serb Political and Governmental Organs include (i) torture, beatings, and physical and psychological abuse, during and after the take-over and in scheduled detention facilities, as cruel or inhumane treatment;[3102] (ii) rape and other acts of sexual violence, during and after the take-over and in

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3097 P90 (Witness statement of KDZ216 dated 8 June 1998), p. 12 (under seal); KDZ216, P69 (Transcript from *Prosecutor v. Kunarac*), T. 3367–3368 (under seal); P502 (Video clip of a man and destroyed houses); P1480 (Ratko Mladić's notebook, 10–30 September 1992), p. 66. *See also* Milorad Krnojelac, D2716 (Transcript from *Prosecutor v. Krnojelac*), T. 7889–7890; Adjudicated Fact 917 (which suggested that Foča had become an almost purely Serb town by the end of 1995).

3098 P1371 (Transcript of 30th session of RS Assembly, 5-6 May 1993), p. 78; P1367 (Transcript of 26th session of RS Assembly, 2 April 1993), p. 25. *See also* D4002 (Letter from BiH MUP to Vasvija Vidović, 4 July 1995), p. 24 (reporting that no non-Serbs lived in Foča). After the war, Foča was referred to as Srbinje. KDZ379, T. 18831–18832 (15 September 2011).

3099 Indictment, paras. 48–49.

3100 Indictment, para. 60(a)(ii). The acts of murder and extermination in Rogatica are restricted to killings related to detention facilities, including those resulting from cruel and inhumane treatment. *See* Scheduled Incidents B.16.1 and B.16.2. The Chamber notes that a scheduled incident pertaining to killings which allegedly occurred during and after the take-over of Rogatica was withdrawn from the Indictment. Rule 73 *bis* Decision, Schedule B, p. 65.

3101 Indictment, para. 63(b).

3102 Indictment, para. 60(b). *See* Scheduled Detention Facilities C.21.1, C.21.2, C.21.3.

scheduled detention facilities, as cruel and inhumane treatment;[3103] (iii) the establishment and perpetuation of inhumane living conditions in detention facilities in Rogatica, including the failure to provide adequate accommodation, shelter, food, water, medical care, or hygienic sanitation facilities, as cruel or inhumane treatment;[3104] (iv) forcible transfer or deportation of Bosnian Muslims and Bosnian Croats from their homes;[3105] (v) unlawful detention in scheduled detention facilities;[3106] (vi) forced labour at frontlines and the use of Bosnian Muslims and Bosnian Croats as human shields;[3107] (vii) the appropriation or plunder of property, during and after the take-over, during arrests and detention and in the course of or following acts of deportation or forcible transfer;[3108] (viii) the wanton destruction of private property including homes, business premises, and public property including cultural monuments and sacred sites;[3109] and (ix) the imposition and maintenance of restrictive and discriminatory measures.[3110]

937. Under Counts 7 and 8, the Prosecution alleges deportation and inhumane acts (forcible transfer), respectively, as crimes against humanity.[3111] In this regard, the Prosecution alleges that, by the end of 1992, Serb Forces and Bosnian Serb Political and Governmental Organs had forcibly displaced Bosnian Muslims and Bosnian Croats from areas in Rogatica in which they were lawfully present.[3112] It is alleged that from March 1992 restrictive and discriminatory measures, arbitrary arrest and detention, harassment, torture, rape and other acts of sexual violence, killing, destruction of houses, cultural monuments and sacred sites, as well as the threat of further such acts caused Bosnian Muslims and Bosnian Croats to flee in fear while others were physically driven out.[3113]

(B) Lead-up

938. Rogatica is a municipality in eastern BiH located between the municipalities of Sarajevo to the west, Višegrad to the east, Goražde to the south, and Srebrenica to the northeast.[3114] Main road

3103 Indictment, para. 60(c). *See* Scheduled Detention Facilities C.21.1, C.21.2, C.21.3.
3104 Indictment, para. 60(d). *See* Scheduled Detention Facilities C.21.1, C.21.2, C.21.3.
3105 Indictment, para. 60(f).
3106 Indictment, para. 60(g). *See* Scheduled Detention Facilities C.21.1, C.21.2, C.21.3.
3107 Indictment, para. 60(h).
3108 Indictment, para. 60(i).
3109 Indictment, para. 60(j). *See* Scheduled Incident D.18.
3110 Indictment, para. 60(k). The restrictive and discriminatory measures alleged include the denial of freedom of movement; the removal from positions of authority; the invasion of privacy through arbitrary searches of homes; unlawful arrest and/or the denial of the right to judicial process; and/or the denial of equal access to public services.
3111 Indictment, paras. 68–75.
3112 Indictment, paras. 69, 72.
3113 Indictment, para. 71.
3114 D484 (Map of BiH).

connections from Serbia to Sarajevo traversed Rogatica.[3115] Prior to the war, the majority of the population in Rogatica was Bosnian Muslim, making up approximately 60% of the population, while Bosnian Serbs accounted for approximately 38% of the population with a few other nationalities making up the remainder.[3116] In Rogatica town Bosnian Muslims constituted 64% of the population while 33% were Bosnian Serbs with very few Bosnian Croats.[3117]

939. Inter-ethnic conflict arose in Rogatica following the creation of national parties.[3118] In Rogatica, the SDA and the SDS were formed in the first half of 1990 and in early September 1990 respectively.[3119] Sveto Veselinović was elected president of the SDS in Rogatica and was also the president of the SDS Romanija Regional Board.[3120] The SDA won the most seats in the 1990 elections;[3121] however, an agreement was reached in 1991 between the SDA and SDS as to how specific posts in the municipality should be filled.[3122] A multi-party government was formed under which Adil Lutvić, a Bosnian Muslim, was elected President of the municipality and the President of the Executive Board was a Bosnian Serb named Mile Ujić.[3123] Tomislav Batinić was elected Vice President of the Municipal Assembly.[3124] Ismet Osmanović, a Bosnian Muslim, became Chief

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3115 P3279 (Witness statement of KDZ606 dated 1 September 2011), para. 4 (under seal). *See also* D232 (Directive 1, 6 June 1992), p. 4.

3116 P4994 (Addendum to Ewa Tabeau's expert report entitled "Ethnic Composition in Internally Displaced Persons and Refugees from 27 Municipalities of BiH 1991 to 1997", 3 February 2009), pp. 21, 31, 34, 37, 40; P3405 (Witness statement of KDZ051 dated 17 September 2011), para. 3; D2930 (Witness statement of Tomislav Batinić dated 11 February 2013), para. 5; P3289 (Witness statement of KDZ607 dated 1 September 2011), para. 4 (under seal); P3279 (Witness statement of KDZ606 dated 1 September 2011), para. 5 (under seal); D2351 (Witness statement of Stevan Veljović dated 19 October 2012), para. 6; Elvir Pašić, P59 (Transcript from *Prosecutor v. Tadić*), T. 838. *See also* P3281 (Map of Rogatica showing ethnic composition); P2829 (Map of Rogatica municipality marked by Asim Džambasović); Momčilo Mandić, T. 5299 (16 July 2010).

3117 D2351 (Witness statement of Stevan Veljović dated 19 October 2012), para. 6. *See also* P2828 (Witness statement of Asim Džambasović dated 18 June 2011), para. 12; P3405 (Witness statement of KDZ051 dated 17 September 2011), paras. 3–4.

3118 D2930 (Witness statement of Tomislav Batinić dated 11 February 2013), para. 3.

3119 D3038 (Witness statement of Novica Andrić dated 23 February 2013), para. 3; D2930 (Witness statement of Tomislav Batinić dated 11 February 2013), para. 4; D2950 (Witness statement of Sveto Veselinović dated 15 February 2013), para. 3.

3120 D2950 (Witness statement of Sveto Veselinović dated 15 February 2013), paras. 3, 9; D2958 (Press statement of SDS Romanija Regional Board, 11 May 1991); P3405 (Witness statement of KDZ051 dated 17 September 2011), para. 5; P3289 (Witness statement of KDZ607 dated 1 September 2011), para. 5 (under seal); P3279 (Witness statement of KDZ606 dated 1 September 2011), paras. 8, 10–11 (under seal). Other senior members of the SDS included Veljko Bojović, Rajko Kušić, Tomo Pavlović, Dušan Planojević and Mile Ujić. P3405 (Witness statement of KDZ051 dated 17 September 2011), para. 5.

3121 P3289 (Witness statement of KDZ607 dated 1 September 2011), para. 5 (under seal). *See also* Elvir Pašić, P59 (Transcript from *Prosecutor v. Tadić*), T. 837–838, 890–891; Momčilo Mandić, T. 5299 (16 July 2010); P2829 (Map of Rogatica municipality marked by Asim Džambasović); P3405 (Witness statement of KDZ051 dated 17 September 2011), paras. 3–4.

3122 D2957 (Minutes of meeting in Rogatica, 4 January 1991); D2950 (Witness statement of Sveto Veselinović dated 15 February 2013), para. 5; Sveto Veselinović, T. 33873–33874 (18 February 2013).

3123 P3405 (Witness statement of KDZ051 dated 17 September 2011), para. 8; P3289 (Witness statement of KDZ607 dated 1 September 2011), para. 5 (under seal); D2930 (Witness statement of Tomislav Batinić dated 11 February 2013), para. 6; D2909 (Witness statement of Mile Ujić dated 9 February 2013), para. 4; P6104 (Record of interview with Mile Ujić, 6 June 2004), p. 2. *See also* Sveto Veselinović, T. 33874 (18 February 2013).

3124 D2930 (Witness statement of Tomislav Batinić dated 11 February 2013), para. 6.

of the SJB, the Commander of the SJB was Ramiz Alajbegović, and the deputy Chief of the SJB was a Bosnian Serb, Mladen Vasiljević.[3125]

940. Disagreements arose between the SDS and the SDA about the division of functions and there were protests that the SDA had violated the inter-party agreement on the division of power.[3126] A joint government continued to function until as late as mid-1991; however, co-operation deteriorated after the SDA municipal leadership started supporting the secession of BiH.[3127] Police, coffee shops, restaurants, bars, businesses, and clubs became divided along ethnic lines.[3128]

941. In mid-1991, during political rallies that were held and attended by thousands, Bosnian Serbs delivered nationalist speeches.[3129] This sentiment was reflected in the speeches of SDS officials who said that the time had come for the Serbian people to unite and create an "integral state", that they would not allow the secession of BiH, that Serbs and Muslims could no longer live together, and that they wanted to "create a Serbian state, once and for all".[3130] Veselinović stated that the Bosnian Serbs were "ready and [...] 1941 will never be repeated".[3131] These rallies and speeches created insecurity amongst the Bosnian Muslim population.[3132] Inflammatory statements were also made by Bosnian Muslim leaders.[3133]

3125 P3405 (Witness statement of KDZ051 dated 17 September 2011), para. 8; P3289 (Witness statement of KDZ607 dated 1 September 2011), para. 5 (under seal); D2909 (Witness statement of Mile Ujić dated 9 February 2013), para. 12.

3126 D2950 (Witness statement of Sveto Veselinović dated 15 February 2013), para. 7; Sveto Veselinović, T. 33875 (18 February 2013); D2909 (Witness statement of Mile Ujić dated 9 February 2013), para. 12; D2951 (Article entitled "Barricades in Front of the Municipal Assembly"). *See also* P3279 (Witness statement of KDZ606 dated 1 September 2011), para. 9 (under seal); KDZ606, T. 18292–18293 (5 September 2011) (closed session).

3127 D2950 (Witness statement of Sveto Veselinović dated 15 February 2013), paras. 8–9; Sveto Veselinović, T. 33875 (18 February 2013).

3128 P3405 (Witness statement of KDZ051 dated 17 September 2011), paras. 4, 7; KDZ051, T. 19367–19368 (22 September 2011); D2930 (Witness statement of Tomislav Batinić dated 11 February 2013), para. 8. *See also* D3031 (Witness statement of Milovan Lelek dated 23 February 2013), para. 6; D2909 (Witness statement of Mile Ujić dated 9 February 2013), para. 13.

3129 P3279 (Witness statement of KDZ606 dated 1 September 2011), paras. 14, 18–19 (under seal). Sveto Veselinović stated that the rhetoric at the majority of pre-election gatherings was not inflammatory and that the need for maximum co-operation between the SDS, the SDA, and other parties was stressed. D2950 (Witness statement of Sveto Veselinović dated 15 February 2013), para. 3. The Chamber finds that Veselinović's evidence that the majority of pre-election gatherings were not inflammatory is not inconsistent with inter-ethnic hatred being fueled at some rallies.

3130 P3279 (Witness statement of KDZ606 dated 1 September 2011), paras. 15–16, 18 (under seal); P3409 (Video footage of statement by Serbian Mayor of Rogatica); KDZ051, T. 19360 (22 September 2011). *See also* P3286 (Witness statement of Armin Baždar dated 23 January 1999), p. 2.

3131 D2953 (Article from Politika entitled "SDA Causing Crisis"), p. 1; D2950 (Witness statement of Sveto Veselinović dated 15 February 2013), para. 9; Sveto Veselinović, T. 33901–33902 (18 February 2013).

3132 P3279 (Witness statement of KDZ606 dated 1 September 2011), paras. 17, 19 (under seal).

3133 D2909 (Witness statement of Mile Ujić dated 9 February 2013), paras. 15–16; D2950 (Witness statement of Sveto Veselinović dated 15 February 2013), para. 9; D2952 (SDS Romanija Regional Board communiqué, 6 May 1991); D2958 (Press statement of SDS Romanija Regional Board, 11 May 1991); Sveto Veselinović, T.

942. Inter-ethnic relations further deteriorated when war broke out in Croatia and Bosnian Muslims refused to fight in the TO but went to Croatia for training.[3134] At a gathering at a stadium in Rogatica, JNA officers made an announcement that Bosnian Muslim reservists were no longer needed and that Bosnian Muslims who did not want to fight in Croatia were not to come back.[3135] From January to February 1992, members of the SDS travelled to Bosnian Serb villages and informed the Bosnian Serbs that there was "a Muslim threat" and they should be prepared to protect themselves; this encouraged Serb nationalism.[3136]

(1) Militarisation of Rogatica

943. As early as 1990 the weapons stored in the TO headquarters in Rogatica were moved to the barracks in Han Pijesak and placed under the control of the JNA.[3137] Towards the end of 1991, there was an increased presence of JNA troops in Rogatica.[3138] From this time, the 1st Mountain Battalion of the JNA was deployed to Bosnian Serb areas of Rogatica. At night, they armed local Bosnian Serbs with the assistance of the Bosnian Serb political and military officials.[3139] Bosnian Serbs also started organising village guards at night in the second half of 1991.[3140]

33876 (18 February 2013); Mile Ujić, T. 33440–33441 (12 February 2013). The Chamber also received evidence about increasing Bosnian Muslim nationalism after the referendum on the secession of BiH. D3038 (Witness statement of Novica Andrić dated 23 February 2013), para. 5; D2930 (Witness statement of Tomislav Batinić dated 11 February 2013), para. 4; D2351 (Witness statement of Stevan Veljović dated 19 October 2012), para. 8. *See also* D1374 (Report of JNA 4th Corps command, 30 October 1991).

3134 P3405 (Witness statement of KDZ051 dated 17 September 2011), para. 10; P3279 (Witness statement of KDZ606 dated 1 September 2011), para. 6 (under seal); P127 (Witness statement of Alija Isaković dated 22 January 1999), pp. 2–3; D2909 (Witness statement of Mile Ujić dated 9 February 2013), para. 20; D3031 (Witness statement of Milovan Lelek dated 23 February 2013), para. 5. *See also* P3286 (Witness statement of Armin Baždar dated 23 January 1999), p. 2 (testifying that relations between Bosnian Serbs and Bosnian Muslims further deteriorated in March 1992).

3135 P3405 (Witness statement of KDZ051 dated 17 September 2011), para. 10; KDZ051, T. 19375–19376 (22 September 2011).

3136 P3279 (Witness statement of KDZ606 dated 1 September 2011), para. 21 (under seal).

3137 P3279 (Witness statement of KDZ606 dated 1 September 2011), para. 22 (under seal); KDZ606, T. 18302 (5 September 2011) (closed session) (confirming that these weapons were moved by the previous government before the elections); D3038 (Witness statement of Novica Andrić dated 23 February 2013), paras. 7–8.

3138 Elvir Pašić, P59 (Transcript from *Prosecutor v. Tadić*), T. 844.

3139 P2828 (Witness statement of Asim Džambasović dated 18 June 2011), paras. 39, 43, 46–47, 49, 53; P3404 (Witness statement of KDZ051 dated 17 September 2011), paras. 17–18 (under seal); P3405 (Witness statement of KDZ051 dated 17 September 2011), paras. 19–22; P128 (Alija Isaković's statement to BiH authorities, 30 March 1993), p. 2; P3279 (Witness statement of KDZ606 dated 1 September 2011), paras. 23, 25–28 (under seal); KDZ606, T. 18311–18312 (5 September 2011) (closed session); P3281 (Map of Rogatica showing ethnic composition). Džambasović stated that the removal and distribution of JNA weapons was "very well planned and organised by senior Serb political and military officials" given the normal strict controls on the distribution of JNA weapons and ammunition. P2828 (Witness statement of Asim Džambasović dated 18 June 2011), paras. 46, 49, 53; P2831 (Diary of Asim Džambasović), pp. 10, 27. In support of the observation that this was organised, Džambasović testified that the JNA had powerful security and military judicial structures which "would not tolerate such weapons diversions" and yet despite the serious transgressions the headquarters, security organs and military prosecutors did nothing. P2828 (Witness statement of Asim Džambasović dated 18 June 2011), para. 53–54; P2831 (Diary of Asim Džambasović), pp. 10, 18, 27–28; P3286 (Witness statement of Armin Baždar dated 23 January 1999, p. 3; P2830 (Report of 1st Podrinje Light Infantry Brigade, 25 February

944. Members of the SDS were also involved in transporting weapons to local communes, where they were distributed to surrounding villages.[3141] This distribution of weapons continued in the spring of 1992,[3142] and local Bosnian Serbs also started wearing military uniforms.[3143] Mladen Vasiljević was involved in these arming operations[3144] as was Rajko Kušić who was a member of the SDS Main Board.[3145]

945. The SDA was also involved in arming the Bosnian Muslim population and in forming Bosnian Muslim units from late 1990.[3146] There was also a mobilisation of the police reserve

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1993), pp. 1, 3. *See also* P1383 (Transcript of 36th session of RS Assembly, 30-31 December 1993), p. 164; P5844 (Intercept of conversation between Jovan Tintor and Ratko Adžić, 14 October 1991), p. 2; D4002 (Letter from BiH MUP to Vasvija Vidović, 4 July 1995), p. 28.

3140 D3038 (Witness statement of Novica Andrić dated 23 February 2013), para. 6. *See also* D2930 (Witness statement of Tomislav Batinić dated 11 February 2013), para. 14; D2950 (Witness statement of Sveto Veselinović dated 15 February 2013), para. 12.

3141 P3279 (Witness statement of KDZ606 dated 1 September 2011), paras. 31–32 (under seal).

3142 Elvir Pašić, P59 (Transcript from *Prosecutor v. Tadić*), T. 848–850; Adjudicated Fact 1972; P127 (Witness statement of Alija Isaković dated 22 January 1999), p. 2. Defence witnesses testified that the JNA did not arm Bosnian Serbs in Rogatica and only supplied weapons to those who joined the JNA. D3038 (Witness statement of Novica Andrić dated 23 February 2013), para. 8; D2930 (Witness statement of Tomislav Batinić dated 11 February 2013), para. 17; Sveto Veselinović, T. 33898–33899 (18 February 2013). *See also* D3031 (Witness statement of Milovan Lelek dated 23 February 2013), para. 15. However, the Chamber does not find this evidence to be reliable. In reaching that conclusion, the Chamber found that the evidence of Andrić was marked by evasiveness and indicators that he was not completely forthright in his testimony in this regard. With respect to Batinić, the Chamber noted that he simply stated that he did not know about the arming of Bosnian Serbs by the JNA and claimed that given his position he "would probably have known if something like that had happened". D2930 (Witness statement of Tomislav Batinić dated 11 February 2013), para. 17. The Chamber finds this to be purely speculative and is not convinced that it can rely on this evidence. With respect to Veselinović, the Chamber noted conflicting statements which undermined the reliability of his evidence on this issue.

3143 P3286 (Witness statement of Armin Baždar dated 23 January 1999), p. 2.

3144 P3279 (Witness statement of KDZ606 dated 1 September 2011), paras. 31–33 (under seal). Other members of the SDS identified by KDZ606 as involved in the arming of Bosnian Serbs included Radan Bojović, Miloš Rajak, and Mićo Andrić.

3145 Elvir Pašić, P59 (Transcript from *Prosecutor v. Tadić*), T. 849–850. Kušić was responsible for contact with the JNA and was "heavily involved" in the effort to arm local Bosnian Serbs. P2828 (Witness statement of Asim Džambasović dated 18 June 2011), paras. 28, 39. *See also* P3408 (List of members of SDS' Main Board), p. 2 (which confirms that Kušić was a member of the SDS Main Board).

3146 D2909 (Witness statement of Mile Ujić dated 9 February 2013), paras. 10–11, 17, 30; D3038 (Witness statement of Novica Andrić dated 23 February 2013), para. 4; D3031 (Witness statement of Milovan Lelek dated 23 February 2013), paras. 6–7; Milovan Lelek, T. 34374 (27 February 2013); D2950 (Witness statement of Sveto Veselinović dated 15 February 2013), paras. 11, 21; P2832 (Article from Srpska Vojska article entitled "They Saved Serbian Land", 15 July 1993), p. 2; D2351 (Witness statement of Stevan Veljović dated 19 October 2012), paras. 4–5, 35; P3267 (Witness statement of Šefik Hurko dated 1 September 2011), para. 2 (stating that Bosnian Muslim villages organised night watches but were poorly armed). *But see* Asim Džambasović, T. 15156 (22 June 2011); P3405 (Witness statement of KDZ051 dated 17 September 2011), para. 23; P127 (Witness statement of Alija Isaković dated 22 January 1999), p. 2; KDZ051, T. 19388–19390 (22 September 2011); Elvir Pašić, P59 (Transcript from *Prosecutor v. Tadić*), T. 859–860, 884; P3279 (Witness statement of KDZ606 dated 1 September 2011), para. 57 (under seal).

which primarily included Bosnian Muslims.[3147] The Chamber also received evidence about actions by Bosnian Muslims, including attacks against Bosnian Serbs.[3148]

946. There was a close relationship between the Bosnian Serb officers in the 216th Mountain Brigade of the JNA and members of the SDS leadership. The latter would often come to the brigade's barracks and meet its Commander Dragomir Milošević.[3149] As Chief of Staff of the 216th Mountain Brigade, Asim Džambasović discussed these visits and irregularities relating to the control of weapons with Dragomir Milošević and the Commander of the 4th Corps of the JNA, but no action was taken.[3150] As early as January 1992 Bosnian Serbs started refusing to take orders from non-Serb officers in the JNA.[3151]

947. In March 1992, volunteers were mobilised but given the Bosnian Muslim boycott of the mobilisation, Bosnian Serbs became predominant in the JNA.[3152] Following this mobilisation, two Bosnian Serb battalions of the 216th Mountain Brigade were formed and members of the SDS assisted in this mobilisation.[3153] A Bosnian Serb TO was formed in March 1992 after the Rogatica

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3147 D2930 (Witness statement of Tomislav Batinić dated 11 February 2013), paras. 11–12; Tomislav Batinić, T. 33676 (14 February 2013); D2909 (Witness statement of Mile Ujić dated 9 February 2013), paras. 12.

3148 D2909 (Witness statement of Mile Ujić dated 9 February 2013), paras. 17, 30–31; D2351 (Witness statement of Stevan Veljović dated 19 October 2012), para. 9; P2832 (Article from Srpska Vojska entitled "They Saved Serbian Land", 15 July 1993), p. 3; Milovan Lelek, T. 34429–34430 (27 February 2013). KDZ606 testified that Kušić had feigned attacks against Bosnian Serb villages and used that as pretext to enter these villages and instil fear about attacks by Bosnian Muslim paramilitaries which created support to conduct clearing operations in the area. P3279 (Witness statement of KDZ606 dated 1 September 2011), para. 57 (under seal). However, the Chamber finds this evidence to be too speculative and will not rely on it in this regard.

3149 P2828 (Witness statement of Asim Džambasović dated 18 June 2011), paras. 2, 76–78, 80; Asim Džambasović, T. 15156–15157, 15168–15169 (22 June 2011). The SDS leaders who visited Dragomir Milošević between January and March 1992 included Rajko Dukić. Adjudicated Fact 1974.

3150 Asim Džambasović, T. 15157 (22 June 2011); P2828 (Witness statement of Asim Džambasović dated 18 June 2011), paras. 53–54, 90–91; P2831 (Diary of Asim Džambasović), pp. 21, 28.

3151 P2828 (Witness statement of Asim Džambasović dated 18 June 2011), para. 91; P2831 (Diary of Asim Džambasović), pp. 4, 8, 21. *See also* Asim Džambasović, T. 15178 (22 June 2011).

3152 P2828 (Witness statement of Asim Džambasović dated 18 June 2011), paras. 55–56; P2831 (Diary of Asim Džambasović), p. 22. *See also* D2930 (Witness statement of Tomislav Batinić dated 11 February 2013), para. 7; Tomislav Batinić, T. 33676 (14 February 2013); D2351 (Witness statement of Stevan Veljović dated 19 October 2012), para. 10; D2950 (Witness statement of Sveto Veselinović dated 15 February 2013), para. 10; D2954 (SDS Rogatica Municipal Board information, undated); Sveto Veselinović, T. 33898, 33900 (18 February 2013), T. 45093–45094 (16 December 2013); D2909 (Witness statement of Mile Ujić dated 9 February 2013), para. 8; D2953 (Article from Politika entitled "SDA Causing Crisis"); P127 (Witness statement of Alija Isaković dated 22 January 1999), p. 3; Dragomir Milošević, T. 32495–32497 (23 January 2013). The Chamber received evidence about attempts by Bosnian Muslims to move conscript files to prevent disciplinary action against those who failed to respond to the call-up for mobilisation but finds this to be of limited relevance. *See* D2930 (Witness statement of Tomislav Batinić dated 11 February 2013), paras. 9–10; D2909 (Witness statement of Mile Ujić dated 9 February 2013), para. 37.

3153 *See* Adjudicated Fact 1971; P3270 (Letter to SRBiH Presidency, Government and Ministry of National Defence re formation of Serb forces in Rogatica, not dated), p. 2; KDZ606, T. 18257–18258 (2 September 2011) (closed session) (indicating that this document reflected the situation in Rogatica). *See also* D2930 (Witness statement of Tomislav Batinić dated 11 February 2013), para. 7; D2950 (Witness statement of Sveto Veselinović dated 15 February 2013), para. 10.

TO split by agreement into Bosnian Muslim and Bosnian Serb parts.[3154] The Bosnian Serb TO had access to weapons from the former Rogatica TO[3155] and was subsequently integrated into the Army of the SerBiH pursuant to a decision of the Presidency of SerBiH on 19 May 1992.[3156] In March 1992, volunteers arrived from Serbia in military and civilian vehicles, and were housed, fed, and supplied in the JNA barracks.[3157] In the spring of 1992, there was an increase in JNA equipment such as artillery, canons, tanks, armed vehicles, and columns of infantry passing through Rogatica.[3158]

948. Kušić was described as the "commander of all military matters in Rogatica".[3159] In late February or early March 1992 a military formation was organised in the predominantly Bosnian Serb village of Borike under the command of Kušić[3160] who had close connections with both the Accused and Krajišnik.[3161] Even though Kušić's unit was not formally listed in the JNA records it operated under the auspices of Dragomir Milošević[3162] and was formed within the 1st Battalion, which was commanded by Radomir Furtula.[3163]

3154 Milovan Lelek, T. 34373–34374 (27 February 2013).

3155 D3038 (Witness statement of Novica Andrić dated 23 February 2013), para. 7.

3156 P2835 (Report of Rogatica Crisis Staff, April–June 1992), pp. 6–7. *See also* D3031 (Witness statement of Milovan Lelek dated 23 February 2013), paras. 9–10.

3157 P2828 (Witness statement of Asim Džambasović dated 18 June 2011), para. 72; P2831 (Diary of Asim Džambasović), p. 34. Džambasović testified that the term 'volunteer' was used to describe groups of people from Serbia and Vojvodina, who came through the municipality. P2828 (Witness statement of Asim Džambasović dated 18 June 2011), para. 72. *See also* P6104 (Record of interview with Mile Ujić, 6 June 2004), p. 5.

3158 Elvir Pašić, P59 (Transcript from *Prosecutor v. Tadić*), T. 844–845, 891 (testifying that the soldiers wore the grey olive uniforms). *See also* P3289 (Witness statement of KDZ607 dated 1 September 2011), para. 8 (under seal).

3159 P3267 (Witness statement of Šefik Hurko dated 1 September 2011), para. 53; P3279 (Witness statement of KDZ606 dated 1 September 2011), para. 7 (under seal). *See also* P2828 (Witness statement of Asim Džambasović dated 18 June 2011), para. 66.

3160 P2834 (Report of 1st Podrinje Light Infantry Brigade, 18 December 1994), p. 1 (indicating that this military formation was formed on 24 February 1992); Asim Džambasović, T. 15152–15153 (22 June 2011), T. 15296 (23 June 2011); P3279 (Witness statement of KDZ606 dated 1 September 2011), paras. 7, 63 (under seal); P128 (Alija Isaković's statement to BiH authorities, 30 March 1993), p. 2; D568 (Speech of Dragomir Milošević, 30 March 1996), p. 2; KDZ606, T. 18255–18258 (2 September 2011) (closed session); KDZ051, T. 19356 (22 September 2011). Džambasović confirmed that this report was generally consistent with his knowledge on the issue, but that he thought the unit had been formed on 4 March 1992. P2828 (Witness statement of Asim Džambasović dated 18 June 2011), paras. 56, 58, 66, 121; Asim Džambasović, T. 15154 (22 June 2011); Elvir Pašić, P59 (Transcript from *Prosecutor v. Tadić*), T. 846–847. *See also* Adjudicated Fact 1973. Džambasović marked the location of Borike on P2829 (Map of Rogatica municipality marked by Asim Džambasović). The unit also operated in the predominantly Bosnian Serb village of Gučevo. Elvir Pašić, P59 (Transcript from *Prosecutor v. Tadić*), T. 846–847. *See also* P3279 (Witness statement of KDZ606 dated 1 September 2011), para. 63 (under seal).

3161 P1154 (Witness statement of KDZ088 dated 27–29 April 2010), pp. 158–159 (under seal). As mentioned above, Kušić was also a member of the SDS Main Board. P3408 (List of members of the SDS' Main Board), p. 2.

3162 P3279 (Witness statement of KDZ606 dated 1 September 2011), para. 49 (under seal); P2831 (Diary of Asim Džambasović), p. 27; *see* Adjudicated Fact 1973. *See also* Sveto Veselinović, T. 33912 (18 February 2013).

3163 P2828 (Witness statement of Asim Džambasović dated 18 June 2011), paras. 56, 58. *See also* P3405 (Witness statement of KDZ051 dated 17 September 2011), para. 26; KDZ606, T. 18257–18258 (2 September 2011)

949. In April 1992, Kušić stated that "he and the JNA had to defend Serbian people and Serbian land".[3164] At first Kušić's unit consisted of approximately 40 to 50 men, described as "SDS activists".[3165] Members of this unit wore camouflage uniforms and carried automatic weapons, and included members of the reserve police.[3166] Kušić's unit was initially known as the Rogatica Brigade and, when the VRS was formed, it became part of the SRK.[3167] On 22 May 1992, the Command of the SRK issued an order which acknowledged the formation of the Rogatica Brigade under the command of Kušić and provided for its restructure.[3168] Kušić was able to arm the Rogatica Brigade from JNA weaponry of the 1st Battalion.[3169] The Rogatica Brigade consisted of three infantry battalions and smaller support units for communications, logistics, medical care, and MP.[3170] Kušić also formed units in Seljani, Mesići and Pešurići, which included SDS supporters and individuals brought from Serbia, including the White Eagles.[3171] Later, when the Drina Corps was formed in November 1992, the Rogatica Brigade became the 1st Podrinje Light Infantry Brigade of the Drina Corps.[3172]

(closed session); P3289 (Witness statement of KDZ607 dated 1 September 2011), para. 8 (under seal); D4002 (Letter from BiH MUP to Vasvija Vidović, 4 July 1995), p. 28.

3164 P3405 (Witness statement of KDZ051 dated 17 September 2011), para. 25.

3165 P2830 (Report of 1st Podrinje Light Infantry Brigade, 25 February 1993), p. 2; *see* Adjudicated Facts 2494, 2500; P3279 (Witness statement of KDZ606 dated 1 September 2011), para. 53 (under seal); P3270 (Letter to SRBiH Presidency, Government and Ministry of National Defence re formation of Serb forces in Rogatica, not dated), p. 2 (indicating that "30 armed Serbs" were brought to Borike); KDZ606, T. 18257–18258 (2 September 2011) (closed session) (indicating that P3270 reflected the situation in Rogatica).

3166 *See* Adjudicated Fact 2500. The insignia of this unit stated "With the trust in God, Freedom or Death" and members had a skull and the word SDS written on their caps. P3405 (Witness statement of KDZ051 dated 17 September 2011), para. 24. *See also* D2930 (Witness statement of Tomislav Batinić dated 11 February 2013), para. 14; Tomislav Batinić, T. 33676 (14 February 2013); D3031 (Witness statement of Milovan Lelek dated 23 February 2013), para. 7; Milovan Lelek, T. 34373–34375 (27 February 2013); D2950 (Witness statement of Sveto Veselinović dated 15 February 2013), para. 13; Sveto Veselinović, T. 33877, 33896 (18 February 2013); P2828 (Witness statement of Asim Džambasović dated 18 June 2011), para. 119 (referring to P2830 (Report of 1st Podrinje Light Infantry Brigade, 25 February 1993), p. 2).

3167 P2834 (Report of 1st Podrinje Light Infantry Brigade, 18 December 1994), p. 1; P2830 (Report of 1st Podrinje Light Infantry Brigade, 25 February 1993), pp. 4, 15; D308 (SRK Order, 22 May 1992), p. 2; P2835 (Report of Rogatica Crisis Staff, April – June 1992), pp. 6–7. *See also* D3031 (Witness statement of Milovan Lelek dated 23 February 2013), para. 15. The Chamber shall thus refer to the Rogatica Brigade up until 1 November 1992.

3168 P1505 (SRK Order, 22 May 1992), e-court pp. 1–2.

3169 P2828 (Witness statement of Asim Džambasović dated 18 June 2011), para. 65; Sveto Veselinović, T. 33912 (18 February 2013).

3170 D3031 (Witness statement of Milovan Lelek dated 23 February 2013), para. 16. By June 1992, the Rogatica Brigade grew to over 1,400 men who were trained for combat, wore uniforms and carried automatic weapons and had also formed one intervention company. P5485 (Report of Rogatica Brigade, 15 June 1992). By December 1992 the strength of the 1st Podrinje Light Infantry Brigade was reported to be in excess of 2,700. P2955 (Report of the Drina Corps, 17 December 1992), p. 6.

3171 P3279 (Witness statement of KDZ606 dated 1 September 2011), paras. 40, 54, 63 (under seal); KDZ606, T. 18313 (5 September 2011) (closed session).

3172 P2834 (Report of 1st Podrinje Light Infantry Brigade, 18 December 1994), p. 1.

950. Members of the Rogatica Brigade mistreated and terrorised the Bosnian Muslim population and conducted patrols on roads.[3173] They also entered villages and fired weapons into the air in order to threaten Bosnian Muslims.[3174] In addition there were incidents of shooting at Bosnian Muslim houses and mosques which, together with the arming of the Bosnian Serbs, intimidated local Bosnian Muslims.[3175] Members of the Rogatica Brigade also entered villages, sang nationalist songs, carried out searches of Bosnian Muslims, and seized vehicles.[3176] Bosnian Serb soldiers also harassed Bosnian Muslims by making derogatory remarks.[3177] Džambasović complained on a number of occasions to higher commanders about these incidents, but no action was taken, and he was actually warned by Furtula that he should not enforce discipline.[3178] With time, Džambasović was progressively stripped of his duties and authority; on 6 April 1992, he was told that his safety could not be guaranteed and he left the JNA.[3179]

951. The presence of the Rogatica Brigade forced the Bosnian Muslim police to withdraw from Borike and caused further anxiety amongst the Bosnian Muslim population.[3180] The Bosnian Serb police and the Rogatica Brigade also engaged in looting from Bosnian Muslims.[3181] The Accused, as President of the Presidency of the SerBiH, was informed in March 1992 that due to the actions of the Rogatica Brigade, Bosnian Muslims sought protection from the Rogatica SJB.[3182]

952. On 23 March 1992, a Bosnian Muslim was stopped and maltreated by a group of four armed persons in camouflage uniforms. These men were under the leadership of Kušić.[3183] Following

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3173 P3405 (Witness statement of KDZ051 dated 17 September 2011), paras. 14, 24; P2828 (Witness statement of Asim Džambasović dated 18 June 2011), para. 66. *See also* P2831 (Diary of Asim Džambasović), p. 27.

3174 *See* Adjudicated Fact 2500. *See also* P3270 (Letter to SRBiH Presidency, Government and Ministry of National Defence re formation of Serb forces in Rogatica, undated), p. 2.

3175 P127 (Witness statement of Alija Isaković dated 22 January 1999), p. 2. Volunteers also showed the three-finger Serb sign and shot in the direction of Bosnian Muslims. P2828 (Witness statement of Asim Džambasović dated 18 June 2011), para. 72.

3176 P2828 (Witness statement of Asim Džambasović dated 18 June 2011), paras. 67–68.

3177 P2828 (Witness statement of Asim Džambasović dated 18 June 2011), para. 43.

3178 P2828 (Witness statement of Asim Džambasović dated 18 June 2011), paras. 43–45.

3179 P2828 (Witness statement of Asim Džambasović dated 18 June 2011), paras. 82, 113.

3180 P3270 (Letter to SRBiH Presidency, Government and Ministry of National Defence re formation of Serb forces in Rogatica, not dated), p. 2; KDZ606 testified that this document reflected the situation in Rogatica. KDZ606, T. 18255–18258 (2 September 2011) (closed session); P3279 (Witness statement of KDZ606 dated 1 September 2011), paras. 65, 74 (under seal); P3269 (Report of SRBiH MUP re BiH security situation on 6-7 March 1992), p. 3.

3181 P127 (Witness statement of Alija Isaković dated 22 January 1999), p. 3; P3407 (Report on the work of the Rogatica Municipal Assembly and Executive Board from July 1992 to September 1993), pp. 31–32. *See also* P2828 (Witness statement of Asim Džambasović dated 18 June 2011), para. 66 (stating that Dragomir Milošević did not do anything to stop this).

3182 P3269 (Report of SRBiH MUP re BiH security situation on 6-7 March 1992), p. 3; KDZ606, T. 18255–18256 (2 September 2011) (closed session); P3279 (Witness statement of KDZ606 dated 1 September 2011), para. 65 (under seal).

3183 P2838 (SerBiH MUP Bulletin on daily events, 24 March 1992), p. 2; P2828 (Witness statement of Asim Džambasović dated 18 June 2011), para. 118.

this incident, Bosnian Muslims set up barricades in Rogatica and demanded the withdrawal of the Rogatica Brigade.[3184] On 24 March 1992, the Bosnian Serbs also erected barricades.[3185] Serb Forces sealed off the town of Rogatica using armoured vehicles and tanks, blocked all roads, prevented the movement of the Bosnian Muslim population and cut their phone lines and utilities.[3186] The Rogatica Brigade manned the check-points at the entrance to most Bosnian Serb villages and Bosnian Muslims who tried to pass through the check-points faced difficulties.[3187] The erection of barricades on both sides and the media in BiH contributed to the instillation of fear and anxiety in the population.[3188]

953. From the latter half of May 1992, the citizens of Rogatica could no longer receive BiH television and were thus limited to Serbian-based television and radio broadcasts.[3189] Certain broadcasts emphasised that Bosnian Serbs who were threatened in BiH should join together, mobilise and join the Army of the SerBiH.[3190] These calls to mobilise were made "in the name of the Serb Republic and the presidency" and the Accused.[3191]

(2) Creation of Bosnian Serb Institutions

954. As discussed above,[3192] the SAO Romanija (comprising the municipalities of Pale, Sokolac, Han Pijesak and Rogatica) was unilaterally proclaimed in September 1991 with the assistance of

3184 P2838 (SerBiH MUP Bulletin on daily events, 24 March 1992), p. 2; D2930 (Witness statement of Tomislav Batinić dated 11 February 2013), para. 15. *See also* D2909 (Witness statement of Mile Ujić dated 9 February 2013), para. 17.

3185 P3271 (Report of Rogatica's Executive Board, 24 March 1992), p. 1; KDZ606, T. 18259–18262 (2 September 2011) (closed session); P3279 (Witness statement of KDZ606 dated 1 September 2011), para.75 (under seal); P128 (Alija Isaković's statement to BiH authorities, 30 March 1993), p. 2; D2930 (Witness statement of Tomislav Batinić dated 11 February 2013), para. 15. *See also* KDZ607, T. 18495–18497 (6 September 2011). For location of the roadblocks, *see* D2912 (Map of Rogatica). *But see* P2828 (Witness statement of Asim Džambasović dated 18 June 2011), para. 68 (according to whom it is not clear who set up the barricades first). The Chamber also received evidence that roadblocks had already been established by Bosnian Serbs in mid-1991 after the formation of Bosnian Muslim paramilitary units. D2909 (Witness statement of Mile Ujić dated 9 February 2013), para. 17.

3186 P3279 (Witness statement of KDZ606 dated 1 September 2011), para. 45 (under seal).

3187 Elvir Pašić, P59 (Transcript from *Prosecutor v. Tadić*), T. 846–848; P2838 (SerBiH MUP Bulletin on daily events, 24 March 1992), p. 2; P2828 (Witness statement of Asim Džambasović dated 18 June 2011), para. 118 (indicating that the information in the MUP bulletin is consistent with the information he possessed at the time).

3188 D2930 (Witness statement of Tomislav Batinić dated 11 February 2013), para. 15. *See also* KDZ051, T. 19381, 19383 (22 September 2011). The Chamber also received evidence about attacks against Bosnian Serbs. D2909 (Witness statement of Mile Ujić dated 9 February 2013), paras. 18–19, 30.

3189 Elvir Pašić, P59 (Transcript from *Prosecutor v. Tadić*), T. 856.

3190 Elvir Pašić, P59 (Transcript from *Prosecutor v. Tadić*), T. 856.

3191 Elvir Pašić, P59 (Transcript from *Prosecutor v. Tadić*), T. 856.

3192 *See* political structures section para. 130.

the SDS.[3193] Mile Ujić was nominated as the representative from Rogatica.[3194] Ujić was also the President of the SDS Executive Board in Rogatica.[3195]

955. The Assembly of the Serb Municipality of Rogatica was established in on December 1991[3196] in accordance with the Variant A/B Instructions.[3197] At the inaugural session of the Rogatica Serb Municipal Assembly held on 26 December 1991, Batinić, an SDS leader, was proclaimed President of the municipality.[3198]

956. Towards the end of 1991, following a request of the SDS Main Board, an SDS Crisis Staff was formed in Rogatica to monitor the situation and inform the party leadership "if there was a dramatic turn of events".[3199] The Rogatica Crisis Staff was established at a session of the SDS Main Board on 8 April 1992 and Milorad Sokolović was appointed its president.[3200] The Rogatica Crisis Staff was composed of Bosnian Serb members of the joint municipal organs and included

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3193 Elvir Pašić, P59 (Transcript from *Prosecutor v. Tadić*), T. 892, 896 (testifying that Rogatica was included in the SAO Romanija even though it was ethnically mixed); *see* Adjudicated Fact 1923; D2930 (Witness statement of Tomislav Batinić dated 11 February 2013), para. 13.

3194 D2930 (Witness statement of Tomislav Batinić dated 11 February 2013), para. 13.

3195 P2828 (Witness statement of Asim Džambasović dated 18 June 2011), para. 79.

3196 P3407 (Report on the work of the Rogatica Municipal Assembly and Executive Board from July 1992 to September 1993), e-court p. 5; *see* Adjudicated Fact 2498; D2930 (Witness statement of Tomislav Batinić dated 11 February 2013), para. 14. *See also* P3289 (Witness statement of KDZ607 dated 1 September 2011), para. 6 (under seal); KDZ607, T. 18493 (6 September 2011); Elvir Pašić, P59 (Transcript from *Prosecutor v. Tadić*), T. 855. The Rogatica Serb Municipal Assembly was composed of all Serb Council Members who were elected at the multi-party elections and following the instructions of the SDS Main Board, it also included the presidents of the SDS local boards from the municipality. P3407 (Report on the work of the Rogatica Municipal Assembly and Executive Board from July 1992 to September 1993), e-court p. 5.

3197 P5 (SDS Instructions for Organisation of Organs of the Serbian People in BiH, 19 December 1991), p. 7; P3407 (Report on the work of the Rogatica Municipal Assembly and Executive Board from July 1992 to September 1993), e-court p. 5; Tomislav Batinić, T. 33669–33670 (14 February 2013).

3198 P3407 (Report on the work of the Rogatica Municipal Assembly and Executive Board, from July 1992 to September 1993), e-court p. 8; P2828 (Witness statement of Asim Džambasović dated 18 June 2011), para. 79; P3279 (Witness statement of KDZ606 dated 1 September 2011), para. 12 (under seal); D2930 (Witness statement of Tomislav Batinić dated 11 February 2013), paras. 14, 19. *See also* KDZ051, T. 19357–19358 (22 September 2011). Batinić testified that while the Serb assembly was formed it never started functioning and only existed on paper and faced difficulties due to the absence of communication with the Presidency and the SDS Main Board. D2930 (Witness statement of Tomislav Batinić dated 11 February 2013), para. 14; Tomislav Batinić, T. 33670–33671–33672, 33712–33713 (14 February 2013). However, the Chamber does not consider this evidence to be reliable. In reaching that conclusion the Chamber noted that Batinić was contradicted on cross-examination about his evidence that there were no assembly sessions but then claimed that it only sat twice. Tomislav Batinić, T. 33671–33673 (14 February 2013).

3199 D2950 (Witness statement of Sveto Veselinović dated 15 February 2013), para. 13; Sveto Veselinović, T. 33877 (18 February 2013).

3200 Sveto Veselinović, T. 33877 (18 February 2013); P2828 (Witness statement of Asim Džambasović dated 18 June 2011), para. 122; P3279 (Witness statement of KDZ606 dated 1 September 2011), para. 13 (under seal); Mile Ujić, T. 33450–33451 (12 February 2013); P2835 (Report of Rogatica Crisis Staff, April–June 1992), pp. 1–2; P3289 (Witness statement of KDZ607 dated 1 September 2011), para. 7 (under seal).

prominent Bosnian Serbs who were not members of the SDS.[3201] As such, it was an expansion of the SDS Crisis Staff.[3202]

957. The Rogatica Crisis Staff operated from the beginning of the war and was authorised to adopt decisions falling under the jurisdiction of the Rogatica Serb Municipal Assembly.[3203] The Rogatica Crisis Staff was tasked with co-ordinating the work of all municipal administrative organs during a state of war or when under threat of imminent war.[3204] The Rogatica Crisis Staff had direct oral and written contact with the Presidency and ministries of the SerBiH, the Bosnian Serb Government, the army, and the police.[3205] There was co-operation between the Rogatica Crisis Staff and the Bosnian Serb TO, and later with the VRS.[3206] In August 1992, the Executive Board was formed and the Crisis Staff ceased to exist.[3207]

958. On 24 March 1992 approximately 3,000 armed Serb soldiers under the leadership of Kušić threatened to open fire on the town of Rogatica unless the municipality and the SJB were divided along ethnic lines that night.[3208] These soldiers wore different uniforms, including the uniforms of

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3201 D2950 (Witness statement of Sveto Veselinović dated 15 February 2013), para. 13; Sveto Veselinović, T. 33877 (18 February 2013); *see* Adjudicated Fact 2497. *See also* Elvir Pašić, P59 (Transcript from *Prosecutor v. Tadić*), T. 855, 894 (testifying that prominent Bosnian Serb citizens were members of the Crisis Staff).

3202 Tomislav Batinić, T. 33673–33674, 33712–33713 (14 February 2013).

3203 P2835 (Report of Rogatica Crisis Staff, April–June 1992), p. 3–4; P3407 (Report on the work of the Rogatica Municipal Assembly and Executive Board from July 1992 to September 1993), e-court p. 5. *See also* D2930 (Witness statement of Tomislav Batinić dated 11 February 2013), paras. 18, 26–27; D2950 (Witness statement of Sveto Veselinović dated 15 February 2013), paras. 15, 17; Sveto Veselinović, T. 33881, 33892 (18 February 2013) (testifying that the Crisis Staff made all significant decisions during the war).

3204 P2835 (Report of Rogatica Crisis Staff, April–June 1992), p. 3–4. *See also* D2930 (Witness statement of Tomislav Batinić dated 11 February 2013), para. 18.

3205 P2835 (Report of Rogatica Crisis Staff, April–June 1992), pp. 5–6. Defence witnesses testified that there was no contact with the leadership in Pale between April and June 1992. D2909 (Witness statement of Mile Ujić dated 9 February 2013), para. 39. *See also* Tomislav Batinić, T. 33677 (14 February 2013). However, the Chamber does not find this evidence to be of much weight given that the witness's evidence was qualified by what was known to him. In addition when challenged on cross-examination Ujić acknowledged that it would have been the President of the Crisis Staff who had contact if any, and he did not know whether there was such contact. Mile Ujić, T. 33451 (12 February 2013). The Accused also cited to the loss of electricity in Rogatica for five months as a factor which exacerbated the problems with communication. Defence Final Brief, para. 2950, referring to D2909 (Witness statement of Mile Ujić dated 9 February 2013), para. 35; D2930 (Witness statement of Tomislav Batinić dated 11 February 2013), para. 25; Sveto Veselinović, T. 33912 (18 February 2013). The Chamber does not consider that the evidence presented supports the conclusion that communication problems were exacerbated by this loss of electricity particularly in light of the other evidence received regarding communication between municipal and higher authorities.

3206 P2835 (Report of Rogatica Crisis Staff, April–June 1992), pp. 6–7.

3207 D2930 (Witness statement of Tomislav Batinić dated 11 February 2013), paras. 26–27; D2950 (Witness statement of Sveto Veselinović dated 15 February 2013), para. 15; D2961 (Decision of Rogatica Executive Board, 30 June 1992); Sveto Veselinović, T. 33881 (18 February 2013).

3208 P3271 (Report of Rogatica's Executive Board, 24 March 1992); KDZ606, T. 18261 (2 September 2011) (closed session); P3279 (Witness statement of KDZ606 dated 1 September 2011), para. 75 (under seal); P6105 (Notice of resignation, 25 March 1992), p. 1. Mile Ujić testified that both Bosnian Serb and Bosnian Muslim troops threatened to attack the town if it was not divided. Mile Ujić, T. 33451–33452 (12 February 2013). However, the Chamber does not find this evidence to be reliable. In reaching that conclusion the Chamber noted that when Ujić was shown a document where he wrote to the Accused only about the threat of the Serb TO to attack

the JNA, the TO, and included paramilitary formations from Serbia such as the White Eagles.[3209] The town was blocked from all sides and there was sporadic firing which continued until morning when it eased.[3210] The Deputy Prime Ministers and the Bosnian Serb MUP were informed about the developments and were immediately requested to come to the municipality in order to reach a negotiated solution to the conflict.[3211] Džambasović, along with the commander of the JNA 4th Corps, General Đurđevac, and Dragomir Milošević went to Rogatica and after speaking to both sides, secured the removal of most of the barricades.[3212]

959. In April and May 1992, the Rogatica Crisis Staff was involved in negotiations with the Bosnian Muslim leadership, and formed commissions for the demarcation of territory and division of power within the municipality.[3213] In these negotiations even communes with mixed populations were delineated as Serb territories with the agreement from the Bosnian Muslims who sought to avoid conflict.[3214] During negotiations, the SDS representatives said they would report to the Main Board of the SDS in Pale.[3215]

960. Some reserve police officers who had been brought into the SJB by the SDS insisted that it was impossible to work together with Bosnian Muslims, that there could be no co-existence and that the Bosnian Serbs would get their own institutions.[3216] These police officers threatened to join the JNA, which they said would be on their side, and stated that if the Bosnian Muslims offered resistance they would have no chance and would be expelled.[3217] SDS representatives sought to divide the SJB and the TO and by March 1992, Bosnian Muslim representatives agreed to this

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the town, he avoided answering the question directly. The Chamber also noted that his evidence was marked by contradictions and evasiveness and could not rely on his testimony in this regard.

3209 KDZ606, T. 18261 (2 September 2011) (closed session); P3279 (Witness statement of KDZ606 dated 1 September 2011), para. 75 (under seal).

3210 P3272 (Report of Rogatica Monitoring and Early Warning Center, 25 March 1992), p. 1. [REDACTED].

3211 P3271 (Report of Rogatica's Executive Board, 24 March 1992). *See also* P3279 (Witness statement of KDZ606 dated 1 September 2011), para. 75 (under seal).

3212 P2828 (Witness statement of Asim Džambasović dated 18 June 2011), para. 68; Asim Džambasović, T. 15176 (22 June 2011); P3279 (Witness statement of KDZ606 dated 1 September 2011), paras. 46–47, 49, 52 (under seal); [REDACTED].

3213 P2835 (Report of Rogatica Crisis Staff, April – June 1992), p. 2; KDZ606, T. 18264–18266 (2 September 2011) (closed session); P3279 (Witness statement of KDZ606 dated 1 September 2011), para. 71 (under seal); D2950 (Witness statement of Sveto Veselinović dated 15 February 2013), para. 14. The Chamber received Defence evidence that the Bosnian Serb authorities wanted to avoid the conflicts which had already broken out in the neighbouring municipalities and continued with negotiations until 22 May 1992. Mile Ujić, T. 33438–33439 (12 February 2013). *See also* KDZ606, T. 18317 (5 September 2011) (closed session).

3214 KDZ606, T. 18267–18268 (2 September 2011) (closed session) referring to P3273 (Map of Rogatica municipality); P3279 (Witness statement of KDZ606 dated 1 September 2011), para. 81 (under seal).

3215 P3279 (Witness statement of KDZ606 dated 1 September 2011), para. 84 (under seal).

3216 P3279 (Witness statement of KDZ606 dated 1 September 2011), para. 73 (under seal).

3217 P3279 (Witness statement of KDZ606 dated 1 September 2011), para. 73 (under seal). While the witness testified that these police officers claimed that this was the position taken by the Main Board of the SDS, the Chamber is not convinced that they would be in a position to know this information. P3279 (Witness statement of KDZ606 dated 1 September 2011), para. 73 (under seal).

partition.[3218] The division of the police was implemented by Mladen Vasiljević in accordance with orders from the SAO Romanija and with orders issued by the Serb Municipality of Rogatica, and the Rogatica Crisis Staff.[3219]

961. The SJB in Rogatica was divided along ethnic lines in April 1992, with the Bosnian Serbs forming their own SJB and moving into a different building.[3220] The Bosnian Muslim police remained in the same premises.[3221] The Bosnian Serb police also made changes to their uniform including the use of Cyrillic script and adding a reference to the SDS on their insignia.[3222] Vasiljević became commander of the Bosnian Serb SJB in Rogatica.[3223]

962. Kušić wanted to attack Rogatica and this brought him into conflict with the Bosnian Serb civilian authorities; as a consequence, as representatives of the civilian authorities, Veselinović, Ujić, and Batinić, tendered their joint resignation to the Accused on 25 March 1992.[3224] Bosnian Serbs were alarmed by these resignations and left the city centre out of fear, a new government was

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3218 *See* Adjudicated Fact 2495; P3279 (Witness statement of KDZ606 dated 1 September 2011), paras. 72, 77 (under seal). *See also* D3038 (Witness statement of Novica Andrić dated 23 February 2013), para. 6; Milovan Lelek, T. 34373–34374 (27 February 2013). Defence witnesses testified that both Bosnian Serbs and Bosnian Muslims realised that the division of the municipality was the best solution in order to avoid an armed conflict and that this division was consensual. D2930 (Witness statement of Tomislav Batinić dated 11 February 2013), para. 16; Milovan Lelek, T. 34375 (27 February 2013); D2950 (Witness statement of Sveto Veselinović dated 15 February 2013), para. 12. *See also* D2909 (Witness statement of Mile Ujić dated 9 February 2013), para. 21; Mile Ujić, T. 33437 (12 February 2013); P6104 (Record of interview with Mile Ujić, 6 June 2004), p. 2; P128 (Alija Isaković's statement to BiH authorities, 30 March 1993), p. 2. However, the Chamber finds that the consensual nature of the division is undermined by credible evidence that during these negotiations, Bosnian Muslim negotiators agreed to the division of the municipality in order to avoid war and to gain time to prevent an attack and that Bosnian Muslims were intimidated and from late 1991, Kušić threatened that if Bosnian Muslims did not agree to the division of the territory they would have no future in the area and would be attacked if they did not leave or pledge loyalty to the Bosnian Serb authorities. [REDACTED].

3219 Elvir Pašić, P59 (Transcript from *Prosecutor v. Tadić*), T. 852–855, 893. Pašić left duty as police officer on the day the police was divided out of fear of being a Muslim in the regular police force "in a town where there were a number of armed Serbs". Elvir Pašić, P59 (Transcript from *Prosecutor v. Tadić*), T. 854–855, 881, 893.

3220 Elvir Pašić, P59 (Transcript from *Prosecutor v. Tadić*), T. 853–854; Adjudicated Fact 2496; P3279 (Witness statement of KDZ606 dated 1 September 2011), para. 73 (under seal); P3405 (Witness statement of KDZ051 dated 17 September 2011), para. 9; P2761 (RS MUP report on work for period April to December 1992), p. 7; D2930 (Witness statement of Tomislav Batinić dated 11 February 2013), para. 20; D2909 (Witness statement of Mile Ujić dated 9 February 2013), para. 23; P6104 (Record of interview with Mile Ujić, 6 June 2004), pp. 2–3. *See also* KDZ607, T. 18494 (6 September 2011); KDZ051, T. 19373–19374 (22 September 2011).

3221 D2930 (Witness statement of Tomislav Batinić dated 11 February 2013), para. 20. *See also* D2909 (Witness statement of Mile Ujić dated 9 February 2013), para. 23.

3222 P3405 (Witness statement of KDZ051 dated 17 September 2011), para. 9; Elvir Pašić, P59 (Transcript from *Prosecutor v. Tadić*), T. 853–854.

3223 P3279 (Witness statement of KDZ606 dated 1 September 2011) (under seal), para. 9; KDZ606, T. 18292 (5 September 2011) (closed session).

3224 D2930 (Witness statement of Tomislav Batinić dated 11 February 2013), para. 16; Tomislav Batinić, T. 33674–33678 (14 February 2013); Sveto Veselinović, T. 33878, 33892 (18 February 2013); P6105 (Notice of resignation, 25 March 1992), p. 1; Mile Ujić, T. 33456 (12 February 2013). *See also* P2832 (Article from Srpska Vojska entitled "They Saved Serbian Land", 15 July 1993), p. 3.

formed with the agreement of Kušić and the appointments were confirmed by a Municipal Board meeting of the SDS.[3225]

963. In negotiations between Bosnian Serb and Bosnian Muslim representatives at the beginning of May 1992, local SDS leaders, including Batinić and Milorad Sokolović, demanded that control of the whole municipality be handed over to the SDS.[3226] Bosnian Muslim representatives objected to this demand.[3227] On 2 May 1992, an agreement on the division of Rogatica into Serb and Muslim municipalities was reached and adopted at a joint session of the Municipal Assembly.[3228] This agreement did not cover Rogatica town and such a decision was never adopted given the events which unfolded in the municipality.[3229] On 18 May 1992, the Rogatica Serb Municipal Assembly abrogated the original agreement on the division of the municipality alleging that the Bosnian Muslim side had avoided attempts to implement that agreement.[3230] This occurred one day after the Accused, Mladić, and Krajišnik held a meeting with representatives of municipalities, including Rogatica, and discussed the creation of a Bosnian Serb state in BiH, stating that the time had come for the demarcation of areas between the national groups.[3231]

964. The Rogatica Crisis Staff, in agreement with the TO command, adopted a decision which provided for inhabitants of Bosnian Muslim settlements to hand over their weapons after which their safety and security would be guaranteed.[3232] Kušić and the SDS issued ultimatums to Bosnian

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3225 D2950 (Witness statement of Sveto Veselinović dated 15 February 2013), para. 14; Sveto Veselinović, T. 33878 (18 February 2013).

3226 P3279 (Witness statement of KDZ606 dated 1 September 2011), paras. 79–80 (under seal). *See also* Adjudicated Fact 2502.

3227 P3279 (Witness statement of KDZ606 dated 1 September 2011), para. 88 (under seal). *See also* Adjudicated Fact 2502.

3228 P2835 (Report of Rogatica Crisis Staff, April – June 1992), p. 2; KDZ606, T. 18264 (2 September 2011) (closed session); D2930 (Witness statement of Tomislav Batinić dated 11 February 2013), para. 16; D2909 (Witness statement of Mile Ujić dated 9 February 2013), para. 22; Mile Ujić, T. 33437 (12 February 2013); P6104 (Record of interview with Mile Ujić, 6 June 2004), p. 3. *See also* Sveto Veselinović, T. 45112–45113 (16 December 2013). Ujić testified that the division of the municipality was designed to ensure the Bosnian Serbs and Bosnian Muslims could live next to one another and they did not have a plan of expelling Bosnian Muslims. Mile Ujić, T. 33439 (12 February 2013). However, the Chamber does not consider that Ujić's evidence to be reliable in this regard. In reaching that conclusion the Chamber noted that the witness's testimony was marked by inconsistencies, contradictions, and evasiveness.

3229 P2835 (Report of Rogatica Crisis Staff, April–June 1992), p. 2; D2930 (Witness statement of Tomislav Batinić dated 11 February 2013), para. 16; D2909 (Witness statement of Mile Ujić dated 9 February 2013), para. 22.

3230 P2835 (Report of Rogatica Crisis Staff, April–June 1992), p. 3.

3231 P1477 (Ratko Mladić's notebook, 14 February–28 May 1992), pp. 349–351; P6254 (Article from TANJUG entitled "Serb Leaders Promote Ethnic Demarcation", 17 May 1992).

3232 D2909 (Witness statement of Mile Ujić dated 9 February 2013), paras. 27, 30; P3279 (Witness statement of KDZ606 dated 1 September 2011), paras. 66–68, 70, 80, 88 (under seal) (stating that Milorad Sokolović offered to bring in the Užice Corps to take control of Rogatica and provide security for the Bosnian Muslim population if they handed over power and weapons but this was not accepted). Bosnian Muslim representatives did not believe these assurances as they had been receiving media reports of events which had been unfolding in other areas in BiH and feared that they would face the same fate in Rogatica. P3279 (Witness statement of KDZ606 dated 1 September 2011), paras. 77, 80 (under seal). *See also* KDZ606, T. 18318 (5 September 2011) (closed session).

Muslim villages to hand over any weapons and express loyalty in return for their safety and security.[3233] Those who did not comply were threatened with expulsion, arrest or the "worst consequences".[3234] Following these ultimatums, people in some villages handed over weapons.[3235] Batinić observed that "enormous pressure" was being exerted by the SDS Main Board and military command to "get the job done".[3236] The final ultimatum from Bosnian Serb representatives was made after 10 May 1992 and called on all people to pledge loyalty to the SDS and return all weapons or face the possibility of operations in Rogatica municipality.[3237] On 19 May 1992, the Bosnian Muslim village of Kukavice was disarmed which led the Bosnian Muslim population to withdraw from the village.[3238] In some villages, Bosnian Muslims were told that they may come under attack which prompted them to hide in the woods.[3239]

(C) Take-over of Rogatica

965. The killing of Dražen Mihajlović in an ambush on 22 May 1992 and the refusal of the Bosnian Muslim forces to return his body resulted in clashes.[3240] Following this incident, both Bosnian Serbs and Bosnian Muslims moved their families out of the town as did the Bosnian Muslim leadership to areas where they were a majority.[3241] In addition, the Rogatica Crisis Staff was expanded to approximately 15 people and Sokolović was elected President.[3242]

3233 P3279 (Witness statement of KDZ606 dated 1 September 2011), paras. 66,–68, 70, 80 (under seal); D2909 (Witness statement of Mile Ujić dated 9 February 2013), para. 27.

3234 P3279 (Witness statement of KDZ606 dated 1 September 2011), para. 70 (under seal); *see* Adjudicated Fact 2499. *See also* P3279 (Witness statement of KDZ606 dated 1 September 2011), paras. 55, 85 (under seal).

3235 P3279 (Witness statement of KDZ606 dated 1 September 2011), paras. 66–68 (under seal). *See also* D2909 (Witness statement of Mile Ujić dated 9 February 2013), para. 32.

3236 [REDACTED].

3237 P3279 (Witness statement of KDZ606 dated 1 September 2011), para. 86 (under seal).

3238 P3279 (Witness statement of KDZ606 dated 1 September 2011), para. 89 (under seal). The Chamber also received evidence that in the lead-up to the attack on Rogatica, several Bosnian Muslims were killed in the nearby villages, which caused panic amongst the Bosnian Muslim population. P3405 (Witness statement of KDZ051 dated 17 September 2011), para. 13; KDZ051, T. 19385–19386 (22 September 2011). The Chamber notes that these that these killings are not charged pursuant to Schedules A or B of the Indictment. *See* fn. 13.

3239 P3267 (Witness statement of Šefik Hurko dated 1 September 2011), para. 3.

3240 D2930 (Witness statement of Tomislav Batinić dated 11 February 2013), para. 23; Tomislav Batinić, T. 33680, 33696–33698 (14 February 2013); D3031 (Witness statement of Milovan Lelek dated 23 February 2013), para. 14; Milovan Lelek, T. 34383 (27 February 2013); D2909 (Witness statement of Mile Ujić dated 9 February 2013), para. 24; Mile Ujić, T. 33437–33439, 33459 (12 February 2013). *See also* D2351 (Witness statement of Stevan Veljović dated 19 October 2012), para. 9; D2950 (Witness statement of Sveto Veselinović dated 15 February 2013), para. 15 (stating that after this attack negotiations between the parties were suspended); Sveto Veselinović, T. 33904, 33910–33911 (18 February 2013), T. 45104 (16 December 2013); D2965 (Rogatica Brigade report, 29 May 1992).

3241 D2909 (Witness statement of Mile Ujić dated 9 February 2013), para. 25.

3242 D2950 (Witness statement of Sveto Veselinović dated 15 February 2013), para. 14; D2959 (Decision of Rogatica Crisis Staff, 24 May 1992); Sveto Veselinović, T. 33879 (18 February 2013). Veselinović was also appointed as a member of the Rogatica Crisis Staff. D2950 (Witness statement of Sveto Veselinović dated 15 February 2013), para. 14.

966. The town of Rogatica was in a valley and was surrounded by artillery positions manned by Bosnian Serbs; a road was built approximately a month before the attack, which encircled the town and allowed for artillery and weapons to be transported.[3243]

967. The town of Rogatica was attacked on or about 22 May 1992 for seven continuous days by artillery, anti-aircraft, and infantry weapons, with the artillery primarily hitting the centre of town and Bosnian Muslim neighbourhoods, while Bosnian Serb areas of the town were not shelled.[3244] A large part of the town centre was destroyed in this attack.[3245] By the date of the attack, the Bosnian Serb population had left Muslim-majority areas and moved to Serb parts of the town and Bosnian Serb women and children had been evacuated to Serbia.[3246]

968. The shelling began at noon and came from the direction of surrounding hills and villages.[3247] On the first day, the shelling lasted three or four hours, which forced Bosnian Muslims to take shelter in their cellars and in neighbouring houses when their houses were damaged.[3248] The first attack consisted of mortars, anti-aircraft guns, tanks, artillery and heavy machine guns.[3249] There were clashes with Bosnian Muslim forces, which put up armed resistance in the town in the days following the first shelling.[3250] As discussed above, the town had been blockaded.[3251]

3243 P3405 (Witness statement of KDZ051 dated 17 September 2011), paras. 27–28. According to KDZ051 the closest artillery position was 50 to 60 metres from his house and he could recognise the people manning the weapons from the closest positions as his Serb neighbours and former classmates. P3405 (Witness statement of KDZ051 dated 17 September 2011), para. 28.

3244 Elvir Pašić, P59 (Transcript from *Prosecutor v. Tadić*), T. 857, 887, 889; P3405 (Witness statement of KDZ051 dated 17 September 2011), paras. 30, 33–34; KDZ606, T. 18269 (2 September 2011) (closed session); P3279 (Witness statement of KDZ606 dated 1 September 2011), para. 90 (under seal); P128 (Alija Isaković's statement to BiH authorities, 30 March 1993), pp. 2–3.

3245 Elvir Pašić, P59 (Transcript from *Prosecutor v. Tadić*), T. 885.

3246 Elvir Pašić, P59 (Transcript from *Prosecutor v. Tadić*), T. 889; P3405 (Witness statement of KDZ051 dated 17 September 2011), para. 29; KDZ051, T. 19363 (22 September 2011).

3247 P3405 (Witness statement of KDZ051 dated 17 September 2011), para. 30. The Chamber does not consider that the Accused's challenge to KDZ051's evidence about identifying the direction of fire succeeded in casting doubt as to the veracity of his evidence on this point. KDZ051, T. 19393 (22 September 2011).

3248 P3405 (Witness statement of KDZ051 dated 17 September 2011), paras. 32–33; P127 (Witness statement of Alija Isaković dated 22 January 1999), p. 4; P128 (Alija Isaković's statement to BiH authorities, 30 March 1993), p. 3.

3249 P127 (Witness statement of Alija Isaković dated 22 January 1999), p. 3.

3250 P3279 (Witness statement of KDZ606 dated 1 September 2011), para. 95 (under seal); D2930 (Witness statement of Tomislav Batinić dated 11 February 2013), para. 25; D3037 (Rogatica Brigade report, 9 June 1992), p. 2; Milovan Lelek, T. 34436–34437 (27 February 2013); D2965 (Rogatica Brigade report, 29 May 1992). *See also* Sveto Veselinović, T. 33883, 33885–33886, 33912 (18 February 2013); D2909 (Witness statement of Mile Ujić dated 9 February 2013), para. 35; D2950 (Witness statement of Sveto Veselinović dated 15 February 2013), para. 18; D2966 (Rogatica Brigade report, 23 June 1992); P3414 (Report of the Rogatica Brigade, 11 June 1992), pp. 1–2; P5485 (Report of Rogatica Brigade, 15 June 1992) (reporting that there was no significant enemy activity); D2963 (Video footage of Rogatica). *But see* KDZ051, T. 19394–19396 (22 September 2011) (testifying that the population of Rogatica was completely unarmed).

3251 *See* para. 958.

Following the clashes on 22 May 1992, Serb Forces took control of some areas of the town while the larger part of the town remained under Bosnian Muslim control.[3252]

969. After Rogatica was shelled, members of the 5th Užice Corps were posted in Mesići and a group of 300 Arkan's men and White Eagles was posted in Borike, ready to start operations as soon as Kušić so ordered.[3253] Šešelj's men were also involved in the attack on Rogatica and had arrived at the JNA barracks a few weeks before the attack.[3254] Members of the active and reserve police were also involved in this operation.[3255] All armed groups which arrived in Rogatica were placed under the command of the Rogatica Brigade.[3256]

970. In the days following the initial attack on Rogatica, Serb Forces entered the town, going from street to street; tanks and APCs would come to the town on a daily basis and fire at the mosques, at Bosnian Muslim houses and into the cellars where Bosnian Muslims were hiding.[3257] Serb Forces also threw hand grenades before making forceful entry into houses, firing automatic weapons as they did so, ordering out groups of Bosnian Muslims who were in hiding, and detaining them.[3258] Serb Forces also sprayed chemicals into buildings and fired incendiary rounds which ignited the chemicals; this forced Bosnian Muslims out of the cellars.[3259] Men were separated from the women and forced to lie down as they were kicked and beaten by the soldiers who demanded

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3252 D2909 (Witness statement of Mile Ujić dated 9 February 2013), para. 24; D3031 (Witness statement of Milovan Lelek dated 23 February 2013), para. 14; D2912 (Map of Rogatica); Sveto Veselinović, T. 33911 (18 February 2013) (testifying that Rogatica was actually taken over by Bosnian Muslims).

3253 [REDACTED].

3254 P127 (Witness statement of Alija Isaković dated 22 January 1999), p. 5.

3255 P3275 (Report of Rogatica SJB, 14 August 1992), p. 1. [REDACTED].

3256 P3275 (Report of Rogatica SJB, 14 August 1992), p. 1. Batinić testified that paramilitaries did not stay long in Rogatica because "no one accepted them". D2930 (Witness statement of Tomislav Batinić dated 11 February 2013), para. 31. The Chamber does not consider that Batinić's evidence is reliable in this regard given that in his own testimony he claimed to have never seen or had contact with paramilitaries.

3257 P127 (Witness statement of Alija Isaković dated 22 January 1999), p. 4; Elvir Pašić, P59 (Transcript from *Prosecutor v. Tadić*), T. 857–858; P3405 (Witness statement of KDZ051 dated 17 September 2011), para. 36; KDZ051, T. 19363–19364 (22 September 2011).

3258 P3405 (Witness statement of KDZ051 dated 17 September 2011), paras. 37–38; Elvir Pašić, P59 (Transcript from *Prosecutor v. Tadić*), T. 860–863. Pašić testified that he could recognise the voices and/or faces of the men who ordered the group of Bosnian Muslims out of the shelter even though some were wearing masks and they were Serbs in olive green and light and dark blue camouflage uniforms. One of the men identified was Vlado Marković who was previously an active duty policeman in Rogatica. Elvir Pašić, P59 (Transcript from *Prosecutor v. Tadić*), T. 862–864; P3291 (List of policemen working at Rogatica SJB in May 1992), p. 1. The Chamber received evidence about the killing of Bosnian Muslims during and after the take-over of Rogatica. P3405 (Witness statement of KDZ051 dated 17 September 2011), paras. 35, 42, 79–82; P3410 (List of bodies exhumed in Višegrad during 2000-2001); D2950 (Witness statement of Sveto Veselinović dated 15 February 2013), para. 20; KDZ051, T. 19405–19406 (22 September 2011); P3279 (Witness statement of KDZ606 dated 1 September 2011) (under seal), paras. 98, 101; P127 (Witness statement of Alija Isaković dated 22 January 1999), p. 3; P128 (Alija Isaković's statement to BiH authorities, 30 March 1993), pp. 3–4; P3283 (List of Bosnian Muslim civilians killed in Rogatica). The Chamber notes that the Prosecution cites to these killings and the bodies found in the streets of Rogatica in its Final Brief. Prosecution Final Brief, Appendix A, Rogatica, para. 14. However, the Chamber notes that there are no killings charged in Schedule A of the Indictment with respect to Rogatica.

that they hand over any weapons.[3260] Serb Forces entered the town and used flame throwers to set houses on fire; this process continued house by house, until large parts of the town were destroyed and Bosnian Muslim houses were burned.[3261] This pattern continued until Serb Forces took full control of the town.[3262] By the end of July 1992, Rogatica was under the control of the Rogatica Brigade.[3263] Many Bosnian Muslims fled and took refuge in the square.[3264]

971. The take-over of Rogatica was planned and executed by the SRK and Mladić was informed of it.[3265] The Main Staff issued a directive which gave the corps commanders "a broad opportunity for self-initiative" and directed them to "establish lines", leaving it to the "corps commander, the commanders of brigades, and lower-ranking units, to make corrections in the lines of defence"; Rogatica was taken because it "was deep within the territory that was under the control of the Serbs".[3266]

(D) Attacks on surrounding villages

972. On or about 22 May 1992 and the following days, many of the Bosnian Muslim villages in Rogatica Municipality were attacked and came under fire.[3267] For example, the Bosnian Muslim

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3259 P127 (Witness statement of Alija Isaković dated 22 January 1999), p. 4.

3260 Elvir Pašić, P59 (Transcript from *Prosecutor v. Tadić*), T. 861, 863 (testifying that during this process one soldier threatened to kill him and held a knife to his throat; the soldiers also threw a grenade into a shelter which injured a man when he refused to leave).

3261 P3405 (Witness statement of KDZ051 dated 17 September 2011), paras. 37–38; P3289 (Witness statement of KDZ607 dated 1 September 2011), para. 59 (under seal); P3404 (Witness statement of KDZ051 dated 17 September 2011), para. 40 (under seal); P3411 (Photograph of KDZ051's house) (under seal). *See also* Elvir Pašić, P59 (Transcript from *Prosecutor v. Tadić*), T. 866 (testifying that he heard that one third of the town consisting of the predominantly Bosnian Muslim areas was burned down).

3262 P3405 (Witness statement of KDZ051 dated 17 September 2011), para. 36; KDZ051, T. 19363–19364 (22 September 2011).

3263 P3407 (Report on the work of the Rogatica Municipal Assembly and Executive Board from July 1992 to September 1993), p. 14.

3264 P3405 (Witness statement of KDZ051 dated 17 September 2011), para. 42; KDZ051, T. 19405–19406 (22 September 2011).

3265 [REDACTED]. Hurko testified that Furtula commanded the attack on Rogatica. P3267 (Witness statement of Šefik Hurko dated 1 September 2011), para. 56. However, it is not clear to the Chamber on what basis the witness knew who commanded the attack and therefore the Chamber will not rely on this evidence to make a finding in this regard.

3266 [REDACTED].

3267 P3267 (Witness statement of Šefik Hurko dated 1 September 2011), para. 5; Šefik Hurko, T. 18223 (2 September 2011); P3279 (Witness statement of KDZ606 dated 1 September 2011), paras. 90–91 (under seal). *See also* D4002 (Letter from BiH MUP to Vasvija Vidović, 4 July 1995), pp. 27–28; David Harland, T. 2118 (7 May 2010). The Chamber also received evidence that the village of Živaljevina was shelled as early as 12 or 13 May 1992. *See* Adjudicated Fact 2503. However, the Chamber has no evidence as to who carried out this shelling and is therefore not satisfied that it can make a finding in this regard. Lelek testified that Serb Forces did not fire at a populated area and that they were seeking to liberate the road to retrieve Mihajlović's body. Milovan Lelek, T. 34384, 34400–34401, 34403, 34433–34435 (27 February 2013). The Chamber does not find this evidence to be reliable. In reaching that conclusion the Chamber found that Lelek's evidence was marked by contradictions and indicators that he was misleading the Chamber.

village of Mađer, which is six kilometres from Rogatica,[3268] came under heavy small arms fire from the surrounding hills.[3269] The surrounding villages of Kovalj, Vragolovi, Kopljevići, Orahovo, Šljedovići, and Čubrići were also attacked.[3270] Following these attacks, Bosnian Muslims started leaving their villages out of fear,[3271] with some escaping to Žepa and Kozići.[3272]

973. Two or three days after the shelling of the villages, infantry attacks were also launched against some of these villages.[3273] Kušić reported to the "Supreme Command" of the SerBiH that on 22 May 1992 villages in Rogatica which were described as "enemy strongholds" were attacked and that the enemy was "crushed with losses and casualties".[3274] Villages from which weapons had been handed over were not shelled.[3275] On 23 May 1992, Kušić ordered units to hold positions and to conduct "*čišćenje*" or "mopping up" operations in villages with mixed populations,[3276] and for all units "to carry out destruction of personnel without hesitation" and "to open fire from all available weapons".[3277]

974. When Bosnian Muslim representatives asked that the attacks against Bosnian Muslim settlements be stopped, they were told that the only way to stop the attacks was if weapons were surrendered by a set deadline.[3278] Following these discussions the attacks intensified and Bosnian

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3268 Šefik Hurko, T. 18223 (2 September 2011).

3269 P3267 (Witness statement of Šefik Hurko dated 1 September 2011), para. 3; Šefik Hurko, T. 18344 (5 September 2011).

3270 Šefik Hurko, T. 18223 (2 September 2011); Šefik Hurko, T. 18344 (5 September 2011).

3271 P3289 (Witness statement of KDZ607 dated 1 September 2011), para. 11 (under seal).

3272 KDZ606, T. 18271 (2 September 2011) (closed session); P3279 (Witness statement of KDZ606 dated 1 September 2011), paras. 91–92 (under seal). KDZ606 also testified about the killing of villagers during these attacks. The Chamber notes that these killings are not charged pursuant to Schedules A or B of the Indictment. *See* fn. 13.

3273 P3279 (Witness statement of KDZ606 dated 1 September 2011), para. 92 (under seal).

3274 P3265 (Report of Rogatica Batallion, 23 May 1992), p. 1. [REDACTED]; D3031 (Witness statement of Milovan Lelek dated 23 February 2013), para. 14. *See also* Mile Ujić, T. 33460 (12 February 2013); Sveto Veselinović, T. 45106–45107 (16 December 2013) (testifying that the army attacked villages with Bosnian Muslim forces); P2832 (Article from Srpska Vojska entitled "They Saved Serbian Land", 15 July 1993), p. 3. Prosecution witnesses disputed this report and testified that there were no enemy strongholds in these villages but that there were only civilians there; nonetheless, they acknowledged that there were some armed civilians who were defending their homes. P3267 (Witness statement of Šefik Hurko dated 1 September 2011), para. 4; Šefik Hurko, T. 18224 (2 September 2011), T. 18343–18344, 18358 (5 September 2011); KDZ606, T. 18270 (2 September 2011) (closed session) (testifying that there were also individual members of the reserve police forces in these villages); P3405 (Witness statement of KDZ051 dated 17 September 2011), paras. 31, 38–39; P3289 (Witness statement of KDZ607 dated 1 September 2011), para. 59 (under seal). The Chamber, having regard to the totality of the circumstances, in particular the length of time it took for Serb Forces to take over Rogatica, does not consider the evidence that there was no armed resistance to be credible.

3275 [REDACTED].

3276 [REDACTED].

3277 P3274 (Order of Rajko Kušić, 23 May 1992), p. 1. [REDACTED].

3278 P3279 (Witness statement of KDZ606 dated 1 September 2011), para. 97 (under seal). Defence witnesses testified that (i) villages were only attacked following provocations and attacks against Bosnian Serb villages; (ii) were considered military targets if there was fire coming from them; (iii) Bosnian Muslim villages were first asked to surrender their weapons, and it was only when they refused that they were attacked and taken over by Serb Forces; (iv) villagers were warned about the possible attack and only a very small number of people

Muslim homes were burnt down in villages including Bjelogorci, Pašić Kula, Šljedovići, Ovlagije, Seljani, Živaljevići, Kovanj, Lepenica, Kramer, Tičijak, Mala Žepa, and Biljino Polje.[3279]

975. There was a Bosnian Muslim minority in the village of Seljani, where the local recreation hall was converted into barracks used by local Bosnian Serbs and members of the White Eagles.[3280] Bosnian Muslim houses were targeted by infantry fire.[3281] During the shelling, Armin Baždar and his family took shelter in the woods; his father was told by a Bosnian Serb friend that Bosnian Muslim men and women had been arrested and that Bosnian Muslim men had been taken in the direction of Pješevica.[3282] There were no military facilities in the village.[3283]

976. In the few days following the attack on Seljani, Serb Forces wearing camouflage uniforms, red berets, and SDS insignia and carrying automatic weapons went from house to house and ordered Bosnian Muslims to move in together to allow for greater control of the Bosnian Muslim population.[3284] As a result, four or five families numbering about 20 people were living together; Serb Forces patrolled the area and kept them "under control".[3285] Until August 1992, they were "placed under a sort of house arrest", were not allowed to go to work or buy food, and could only

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remained in specific villages. D2909 (Witness statement of Mile Ujić dated 9 February 2013), para. 30; Mile Ujić, T. 33461, 33466–33467 (12 February 2013); D3038 (Witness statement of Novica Andrić dated 23 February 2013), para. 9; D3031 (Witness statement of Milovan Lelek dated 23 February 2013), paras. 6, 14. While the Chamber accepts that there had been requests for villages to disarm prior to attacks by Serb Forces, the Chamber does not consider the remainder of this evidence to be reliable. In reaching that conclusion the Chamber notes that evidence of the relevant witnesses was marked by inconsistencies, contradictions, and evasiveness and indicators that some were not forthright in their testimony in this regard.

3279 P128 (Alija Isaković's statement to BiH authorities, 30 March 1993), p. 3; P3279 (Witness statement of KDZ606 dated 1 September 2011), para. 97 (under seal); P3286 (Witness statement of Armin Baždar dated 23 January 1999), p. 3; Armin Baždar, T. 18381 (5 September 2011); P3267 (Witness statement of Šefik Hurko dated 1 September 2011), para. 55 (stating that he overheard soldiers saying that the attacks on some villages were led by Mile Ujić). The Chamber also received evidence about the killing of civilians during these attacks but these that these killings are not charged pursuant to Schedules A or B of the Indictment. *See* fn. 13. *See* P3279 (Witness statement of KDZ606 dated 1 September 2011), para. 97 (under seal); P3289 (Witness statement of KDZ607 dated 1 September 2011), para. 11 (under seal); P128 (Alija Isaković's statement to BiH authorities, 30 March 1993), p. 3; P3283 (List of Bosnian Muslim civilians killed in Rogatica). *See* Prosecution Final Brief, Appendix A, Rogatica, para. 14.

3280 P3286 (Witness statement of Armin Baždar dated 23 January 1999), p. 3.

3281 P3286 (Witness statement of Armin Baždar dated 23 January 1999), p. 3 (further testifying that a Bosnian Muslim was killed in the attack); Armin Baždar, T. 18381 (5 September 2011). The Chamber notes that these killings are not charged pursuant to Schedules A or B of the Indictment. *See* fn. 13. Lelek testified that the village of Seljani was a majority Bosnian Serb village and that it was not attacked. Milovan Lelek, T. 34428 (27 February 2013). While the Chamber accepts that Seljani had a majority Bosnian Serb population, the Chamber is not satisfied that Lelek's evidence that the village was not attacked is reliable. In reaching this conclusion the Chamber had regard to the credible testimony of Baždar about the attack against the village and also considered that Lelek's evidence was marked by contradictions and indicators that he was misleading the Chamber.

3282 P3286 (Witness statement of Armin Baždar dated 23 January 1999), p. 3.

3283 P3286 (Witness statement of Armin Baždar dated 23 January 1999), p. 3.

3284 P3286 (Witness statement of Armin Baždar dated 23 January 1999), p. 3.

3285 P3286 (Witness statement of Armin Baždar dated 23 January 1999), p. 4; Armin Baždar, T. 18392 (5 September 2011).

tend to their animals.[3286] White Eagles were seen in the village and from their accents were identified as being from Serbia.[3287] Some Bosnian Muslim houses were set on fire between May and August 1992.[3288]

977. The villages of Kramer Selo, Kozarde, Dobrašina and Borovsko were shelled on 2 August 1992 by Serb Forces, which prompted Bosnian Muslims to flee.[3289]

(E) Events after the take-over of Rogatica

978. Veselinović entered Rogatica five or six days after the take-over of the town and headed a commission which was formed by the Rogatica Crisis Staff to accommodate and help refugees and to ensure the safety and security of abandoned properties.[3290] The commission took measures to regulate unauthorised movement into abandoned homes. However, groups of Serb refugees arrived in August 1992, and after Plavšić arrived in Rogatica and asked refugees to be accommodated in the town, people moved into abandoned homes and took away household items.[3291]

979. On 1 August 1992, Kušić as commander of the Rogatica Brigade issued an order to combat the illegal use and destruction of "war booty" and required the submission of criminal reports against individuals who failed to respect the order.[3292] At a Rogatica Serb Municipal Assembly meeting on 19 August 1992, the further distribution of these abandoned homes as temporary

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3286 P3286 (Witness statement of Armin Baždar dated 23 January 1999), p. 4; Armin Baždar, T. 18392–18393 (5 September 2011).

3287 P3286 (Witness statement of Armin Baždar dated 23 January 1999), p. 3; Armin Baždar, T. 18393–18394 (5 September 2011).

3288 P3286 (Witness statement of Armin Baždar dated 23 January 1999), p. 4.

3289 P3289 (Witness statement of KDZ607 dated 1 September 2011), paras. 12, 55 (under seal); KDZ607, T. 18493 (6 September 2011); P3292 (SRK Command report, 3 August 1992), p. 1; Mile Ujić, T. 33466–33467 (12 February 2013); D2909 (Witness statement of Mile Ujić dated 9 February 2013), para. 30. While the Chamber received evidence about killings at Kramer Selo. P3289 (Witness statement of KDZ607 dated 1 September 2011), para. 55 (under seal); KDZ607, T. 18510 (7 September 2011); P3283 (List of Bosnian Muslim civilians killed in Rogatica), pp. 3–4. The Chamber notes that these that these killings are not charged pursuant to Schedules A or B of the Indictment. *See* fn. 13.

3290 D2950 (Witness statement of Sveto Veselinović dated 15 February 2013), paras. 15–16; D2960 (Decision of Rogatica Crisis Staff, 30 May 1992); D2962 (Decision of Rogatica Executive Board, 11 July 1992); D2956 (Report of Rogatica Executive Board, April 1993); Sveto Veselinović, T. 33880, 33882–33884 (18 February 2013).

3291 D2950 (Witness statement of Sveto Veselinović dated 15 February 2013), para. 16; D2956 (Report of Rogatica Executive Board, April 1993); Sveto Veselinović, T. 33887–33889 (18 February 2013). *See also* P3407 (Report on the work of the Rogatica Municipal Assembly and Executive Board, from July 1992 to September 1993), e-court p. 27; D2964 (Video footage of refugees in Rogatica).

3292 P3282 (Order of SRK, 1 August 1992), pp. 1–2.

accommodation was prohibited.[3293] The Executive Board also took measures to address the unauthorised use of abandoned homes.[3294]

980. On 23 November 1992, Batinić wrote a letter to the SJB in Rogatica requesting their full engagement in ensuring public law and order to create conditions for the normal life and work of the organs of authority, including the prevention of misappropriation of property, unlawful seizure of apartments, and businesses and the personal safety of citizens.[3295]

(F) Detention facilities in Rogatica

(1) Scheduled Detention Facility C.21.1

981. The Indictment refers to the use of the Veljko Vlahović Secondary School as a detention facility at least between 1 May and 31 September 1992.[3296]

(a) Arrival of detainees and control over detention facility

982. The Veljko Vlahović Secondary School was located in the Bosnian Serb part of Rogatica.[3297] After the shelling of Rogatica, which started on 22 May 1992, Bosnian Muslims were detained at the school for periods of up to three and a half months.[3298] In the first month the school held approximately 400 people, and of this group, only 70 to 90 were men.[3299] Thereafter, many new detainees arrived at the school and the number of people held grew to 1,100.[3300] All the detainees in the school were Bosnian Muslims except for two Bosnian Serb women who were married to Bosnian Muslims and one Bosnian Serb family whose sons did not want to fight in the army.[3301]

3293 P3407 (Report on the work of the Rogatica Municipal Assembly and Executive Board from July 1992 to September 1993), e-court pp. 28, 31–32. *See also* P3282 (Order of SRK, 1 August 1992), pp. 1–2.

3294 D2930 (Witness statement of Tomislav Batinić dated 11 February 2013), para. 27. *See also* P3407 (Report on the work of the Rogatica Municipal Assembly and Executive Board from July 1992 to September 1993), e-court pp. 11–12, 14, 17–18, 24, 31–32; KDZ051, T. 19357–19358 (22 September 2011).

3295 D2930 (Witness statement of Tomislav Batinić dated 11 February 2013), paras. 27–28; D2931 (Warning of Rogatica Municipal Assembly, 23 November 1992); Tomislav Batinić, T. 33684 (14 February 2013).

3296 The Indictment originally referred to detention until at least 31 August 1992 but this period was extended to at least September 1992. *See* Prosecution Rule 73 *bis* Submission, Appendix B, p. 65

3297 P3405 (Witness statement of KDZ051 dated 17 September 2011), paras. 52–53; P3412 (Two photographs of Veljko Vlahović secondary school); P6157 (Map of Rogatica).

3298 *See* Adjudicated Facts 2506, 2508, 2510. *See also* P3405 (Witness statement of KDZ051 dated 17 September 2011), para. 41; P3283 (List of Bosnian Muslim civilians killed in Rogatica), p. 12–20; P3286 (Witness statement of Armin Baždar dated 23 January 1999), p. 4; D2914 (Response of 1st Podrinje Light Infantry Brigade, 30 November 1992).

3299 P3405 (Witness statement of KDZ051 dated 17 September 2011), para. 65.

3300 P3405 (Witness statement of KDZ051 dated 17 September 2011), para. 65.

3301 P3405 (Witness statement of KDZ051 dated 17 September 2011), paras. 54, 58.

983. A few days following the attack on Rogatica on 22 May 1992, loudspeakers were used to order the Bosnian Muslim population of the town to gather in the central square, where a group of armed Bosnian Serb soldiers demanded that they sign loyalty oaths or surrender documents to the Bosnian Serb authorities and move to the school for their personal security.[3302] The group of soldiers included a captain wearing a regular JNA uniform and seven or eight other uniformed persons wearing camouflage uniforms[3303] Following these announcements at least 200 to 300 unarmed Bosnian Muslims gathered in the town square.[3304]

984. Živojin Novaković, a VRS soldier, was told that the Veljko Vlahović Secondary School was too small to accommodate this large group of people and was asked to release the Bosnian Muslims since the Serb Forces already had control of the town.[3305] After making a radio call, Novaković said that this was not possible and that "the town would be cleansed", that the Bosnian Muslims would all have to proceed to the school, that "anyone found in the town would be killed", and that he had received an order that all Bosnian Muslims should be taken to the school.[3306] Novaković told the Bosnian Muslims that they would only have to stay a few days in the school until the situation calmed down and that they all had to go to there "to avoid the cleansing".[3307]

985. Following this, Bosnian Serb police and soldiers in olive-green camouflage uniform entered homes and removed those who did not comply with the orders to go to the school.[3308] During this process men were beaten[3309] and Bosnian Muslims, including women and children who had been

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3302 Elvir Pašić, P59 (Transcript from *Prosecutor v. Tadić*), T. 858–860, 884, 896; P3405 (Witness statement of KDZ051 dated 17 September 2011), paras. 43, 50; P3279 (Witness statement of KDZ606 dated 1 September 2011), para. 42 (under seal) (stating that Rajko Kušić himself used a megaphone and called on the people to surrender before they were taken to the Veljko Vlahović Secondary School); P127 (Witness statement of Alija Isaković dated 22 January 1999), p. 4; P128 (Alija Isaković's statement to BiH authorities, 30 March 1993), p. 3 (identifying Žika Novaković as one of the people who used a megaphone to call on the Bosnian Muslims to come out). *See also* Adjudicated Fact 2504.

3303 Elvir Pašić, P59 (Transcript from *Prosecutor v. Tadić*), T. 859–860, 884; P3405 (Witness statement of KDZ051 dated 17 September 2011), paras. 43, 46 (stating that Živojin Novaković who represented the VRS called upon the Bosnian Muslims to surrender and proceed to the school). *See also* Adjudicated Fact 2504.

3304 P3405 (Witness statement of KDZ051 dated 17 September 2011), para. 64. The Chamber received other evidence that between 2,000 and 3,000 Bosnian Muslims gathered in the town square. *See also* KDZ051, T. 19404 (22 September 2011); Adjudicated Fact 2504; D2909 (Witness statement of Mile Ujić dated 9 February 2013), para. 40. However, the Chamber does not find this figure to be consistent with the evidence regarding the initial number of Bosnian Muslims who were gathered and detained at the Veljko Vlahović Secondary School.

3305 P3405 (Witness statement of KDZ051 dated 17 September 2011), para. 46; KDZ051, T. 19404 (22 September 2011).

3306 P3405 (Witness statement of KDZ051 dated 17 September 2011), para. 46. *See also* Adjudicated Fact 2504.

3307 P3405 (Witness statement of KDZ051 dated 17 September 2011), para. 46; KDZ051, T. 19404–19405 (22 September 2011).

3308 *See* Adjudicated Fact 2505.

3309 *See* Adjudicated Fact 2505.

captured in shelters, were taken to the school and detained there for a few days.[3310] At the beginning of June 1992, 200 to 300 people surrendered at the school when the area they were in was shelled.[3311] Upon their arrival, they discovered that there were already 100 people at the school and that two detainees were drawing up a list of detainees.[3312] On 11 June 1992, the command of the Rogatica Brigade reported that large numbers of Bosnian Muslim civilians were arriving every day and were "finding shelter" in the school.[3313] The Chamber finds that the reference to Bosnian Muslim civilians seeking "shelter" at the school is a mischaracterisation and that those who were at the facility were detained there.[3314] In early August 1992, local Bosnian Serb soldiers continued to enter Bosnian Muslim houses and transfer groups of Bosnian Muslims to

3310 Elvir Pašić, P59 (Transcript from *Prosecutor v. Tadić*), T. 864 (testifying that apart from two Muslim families, he also knew one Serb family and "one from a mixed marriage" who were already present at the school).

3311 P3405 (Witness statement of KDZ051 dated 17 September 2011), paras. 48–49.

3312 P3405 (Witness statement of KDZ051 dated 17 September 2011), para. 51.

3313 P3414 (Report of the Rogatica Brigade, 11 June 1992), p. 1. The Rogatica Brigade also reported to the command of the SRK on 15 June 1992 that a large number of Bosnian Muslims (mainly women and children) were arriving in the town daily and they were being moved to the secondary school. P5485 (Report of Rogatica Brigade, 15 June 1992).

3314 P3405 (Witness statement of KDZ051 dated 17 September 2011), para. 39; KDZ051, T. 19397–19398 (22 September 2011). Defence witnesses testified that (i) no more than 200 to 250 people passed through the school until August 1992; (ii) the people in the school were not treated as detainees; (iii) the people were not brought to the school by force and the Bosnian Muslim population who stayed behind in the town and expressed loyalty and were not willing to fight were asked to move to the school; (iv) the school was a shelter or a safe house used to protect people from murder and mistreatment which could accommodate 1,100 people; (v) the school was used as a collection centre until August 1992 when the people were asked whether they wanted to remain in Rogatica or whether they wanted to change their place of residence after which they were sent to their desired location; (vi) the civilian authorities asked the Brigade to act in accordance with international conventions; (vii) after Rogatica was "liberated" at the end of July 1992, the Bosnian Muslims at the school were able to go to their houses and take things that were left there, but they did not dare to go when there was still fighting because of the Bosnian Muslim forces; and (viii) the civilian police was at the school and would prevent anyone from entering the compound and mistreating the civilian population. Milovan Lelek, T. 34384–34390, 34428–34429 (27 February 2013); D3035 (Rogatica Brigade combat report, 12 June 1992); D2909 (Witness statement of Mile Ujić dated 9 February 2013), paras. 25, 27, 41–43; Mile Ujić, T. 33461–33462, 33465, 33468, 33476–33480 (12 February 2013); D2914 (Response of 1st Podrinje Light Infantry Brigade, 30 November 1992), p. 1; D3038 (Witness statement of Novica Andrić dated 23 February 2013), para. 16; D2950 (Witness statement of Sveto Veselinović dated 15 February 2013), para. 18; D2930 (Witness statement of Tomislav Batinić dated 11 February 2013), paras. 24–25, 31; Tomislav Batinić, T. 33682–33684, 33702–33703 (14 February 2013). However, the Chamber does not find this evidence to be credible considering the reliable first-hand accounts of detainees. In reaching this conclusion the Chamber noted that the evidence of the relevant witnesses was marked by inconsistencies, contradictions, evasiveness and indicators that some were not forthright in their testimony. More specifically the Chamber observed that it was not clear how Lelek could testify about these issues given that in his own admission he never entered the facility during the relevant period. Milovan Lelek, T. 34389 (27 February 2013). The Chamber also found that Lelek's evidence was marked by contradictions and indicators that he was misleading the Chamber. The Chamber also noted inconsistencies in the evidence of Ujić with respect to the school and cannot rely on his evidence in this regard. The Chamber also noted that Batinić side-stepped questions with respect to the school and does not find his evidence to be reliable in this regard.

the school.[3315] In mid-August 1992, Serb Forces entered the village of Mađer and Bosnian Muslims were arrested and taken to detention facilities, including the school.[3316]

986. The guards at the school included Bosnian Serb police, paramilitaries, and soldiers.[3317] The school operated under Kušić's command.[3318] Kušić visited the school on a number of occasions and the detainees had to address him as "Vojvoda".[3319] Kušić taunted some of the young male detainees that he would mobilise them to "defend Serbdom".[3320] During one of his visits, Kušić addressed approximately 200 detainees and told them they were not co-operating sufficiently, that he was facing a deadline from Pale, and that he was "running late with the cleansing of Rogatica", which could cause problems when he was required to report to the leadership in Pale.[3321]

987. The paramilitaries in the school included a man nicknamed "Noka" who was one of Arkan's men, and others who spoke the Ekavian dialect.[3322] The Rogatica SJB reported in August 1992 that there were problems with the treatment of those at the school and that neither the military nor the civilian authorities wanted to take responsibility.[3323] The detainees were not free to leave, as guards were posted on the perimeter of the school compound and soldiers manned a sniper's nest near the building.[3324] The doors of the school were "fastened with a thick chain" and the detainees had been

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3315 P3286 (Witness statement of Armin Baždar dated 23 January 1999), p. 4; Armin Baždar, T. 18394 (5 September 2011).

3316 P3267 (Witness statement of Šefik Hurko dated 1 September 2011), paras. 6–7, 14 (stating that on his arrival he was detained with 35 to 40 Bosnian Muslim men, women and children); Šefik Hurko, T. 18226 (2 September 2011), T. 18347–18350, 18356 (5 September 2011) (testifying that he was not part of any military unit but instead was part of a work platoon that was digging trenches and roads and that on the certificate he received at the end of the war he was categorised as a civilian victim of the war). *See also* P3266 (Report of 2nd Romanija Motorised Brigade, 15 August 1992) (reporting on combat operations in the vicinity of Mađer on the day).

3317 P3405 (Witness statement of KDZ051 dated 17 September 2011), paras. 54, 56; *see* Adjudicated Fact 2508. This included Bosnian Serb soldiers wearing camouflage uniforms and SDS insignia. P3286 (Witness statement of Armin Baždar dated 23 January 1999), p. 4; Armin Baždar, T. 18382, 18393–18394 (5 September 2011).

3318 P3405 (Witness statement of KDZ051 dated 17 September 2011), paras. 56, 62, 68, 89; P3279 (Witness statement of KDZ606 dated 1 September 2011), para. 42 (under seal).

3319 P3405 (Witness statement of KDZ051 dated 17 September 2011), para. 89; KDZ051, T. 19358, 19402 (22 September 2011)

3320 P3405 (Witness statement of KDZ051 dated 17 September 2011), para. 89; KDZ051, T. 19415–19416 (22 September 2011).

3321 P3405 (Witness statement of KDZ051 dated 17 September 2011), paras. 90–91; KDZ051, T. 19415 (22 September 2011).

3322 P3405 (Witness statement of KDZ051 dated 17 September 2011), para. 56. While KDZ051 also testified that these persons were under the direct control of Kušić and that the regular police and military worked together with the paramilitaries it is not clear on what basis the witness reached this conclusion. P3405 (Witness statement of KDZ051 dated 17 September 2011), para. 56. The Chamber is not satisfied that it can rely on this evidence alone to make a finding in this regard.

3323 P3275 (Report of Rogatica SJB, 14 August 1992), p. 1.

3324 P3405 (Witness statement of KDZ051 dated 17 September 2011), para. 54. *See also* Adjudicated Fact 2507. Lelek disputed this Adjudicated Fact. Milovan Lelek, T. 34390–34391 (27 February 2013). However, the Chamber does not find this evidence to be reliable given that Lelek acknowledged that he had not entered the school and never talked to any Bosnian Muslims who had been at the school even though he gave evidence about conditions in the facility. He was also confronted with a prior statement where he denied any knowledge

warned that the whole area around the school had been mined in the event that anyone tried to escape through a window.[3325] Nobody could enter the school unless the soldiers or paramilitaries brought them in.[3326]

988. Batinić visited the school once, and when asked by a detainee what would happen to them, he said that it was too late, that everything would be destroyed, and that all the detainees would be killed.[3327]

(b) Conditions of detention and treatment of detainees

989. People were detained in the classrooms in terrible conditions.[3328] Some detainees did not have anything to eat for days and when food was provided it was very limited.[3329] The food and washing facilities were "grossly inadequate" and the sleeping facilities were non-existent with over 40 people, including women and children sleeping in one room.[3330] Detainees had limited access to water; for example one detainee was only able to wash himself once in the three and a half months he was detained at the school.[3331] The jewellery of the detainees was taken.[3332] The guards also forced detainees to sign papers stating that they had "voluntarily joined the Serbian Orthodox religion".[3333] Detainees were subjected to "serious mental and physical abuse" by Bosnian Serb

about the facility. *See* Milovan Lelek, T. 34391, 34405–34409 (27 February 2013); P6151 (Official record of Sarajevo CJB, 17 June 2004), p. 2.

3325 P3405 (Witness statement of KDZ051 dated 17 September 2011), para. 54. *See also* Adjudicated Fact 2507.

3326 KDZ051, T. 19409 (22 September 2011).

3327 P3405 (Witness statement of KDZ051 dated 17 September 2011), para. 93; KDZ051, T. 19358, 19416 (22 September 2011).

3328 P127 (Witness statement of Alija Isaković dated 22 January 1999), p. 4. In contrast, Batinić himself testified that after he returned to the town, his priority was to visit the school and that when he visited, he spoke to the people and distributed cigarettes to them and he heard that they were provided food and were safe there. D2930 (Witness statement of Tomislav Batinić dated 11 February 2013), para. 26; Tomislav Batinić, T. 33682 (14 February 2013). The Chamber finds that Batinić's evidence with respect to the school is marked by contradictions in that he first claimed that he never heard that Bosnian Muslim civilians were taken from their villages by the Brigade Command and taken to the school but when confronted with documents which showed that the Brigade Command did inform him he acknowledged that he remembered these letters but denied that the civilian authorities ordered them to do so. Batinić's attempt to distance the civilian authorities from these events is contrary to the document which suggests that civilians were separated from "extreme combatants" and gathered at the school with the approval of the Municipal Assembly of Rogatica. Tomislav Batinić, T. 33683–33685 (14 February 2013); D2914 (Response of 1st Podrinje Light Infantry Brigade, 30 November 1992). Having regard to these contradictions, the Chamber cannot rely on Batinić's evidence with respect to events at the school.

3329 P3405 (Witness statement of KDZ051 dated 17 September 2011), para. 59. Ujić testified that detainees received three meals a day which were prepared at a central location for the army, refugees and people at the school. D2909 (Witness statement of Mile Ujić dated 9 February 2013), paras. 27–28. The Chamber does not find this evidence to be reliable given that the witness only visited the school once and that there were inconsistencies in his evidence with respect to the nature of the school.

3330 P3405 (Witness statement of KDZ051 dated 17 September 2011), para. 59.

3331 P3405 (Witness statement of KDZ051 dated 17 September 2011), para. 59.

3332 P3405 (Witness statement of KDZ051 dated 17 September 2011), para. 57.

3333 P3405 (Witness statement of KDZ051 dated 17 September 2011), para. 57.

police and armed individuals in uniforms who entered the facility.[3334] Detainees were taken to the third floor and the cellar where they were questioned and where pliers were used to mistreat them.[3335]

990. At night soldiers would bang on the walls and open the doors violently, flash their flashlights onto the faces of detainees, choose women and girls at random, say they were being taken for questioning but they would take them away to be raped.[3336] The other detainees could hear the women and girls screaming for help.[3337] Women and girls as young as seven, as well as a 13 year old boy were taken out of the classrooms almost every night for a period of two and a half months and raped by the police and soldiers who guarded the camp.[3338] Some of the women were also taken from the school to flats and apartments in other parts of town, where they were also raped.[3339]

991. When one of his female relatives was taken away, a male detainee tried to follow her but could not; he was later taken by two men to the cellar and shown where she had been raped.[3340] This detainee was taken to the cellar almost every day and he could see chains that were for leading cattle, as well as traces of blood and could smell the "stench of sperm and sweat".[3341] He was also raped two and a half weeks after being detained; he was brought to the basement at least 30 times

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3334 P3405 (Witness statement of KDZ051 dated 17 September 2011), paras. 51, 67; *see* Adjudicated Facts 2509, 2510. Ujić testified that when he visited the school and talked to detainees he received no complaints about the conduct of the police or that people were being taken away and killed. D2909 (Witness statement of Mile Ujić dated 9 February 2013), para. 28. The Chamber does not find this evidence to be reliable or of significance given that Ujić visited the school only on one occasion and it is unclear when he went and to how many people he spoke about their treatment. The Chamber also found inconsistencies in his evidence with respect to the school.

3335 P3405 (Witness statement of KDZ051 dated 17 September 2011), paras. 67, 76 (testifying that one of Arkan's men beat him); *see* Adjudicated Fact 2509; Elvir Pašić, P59 (Transcript from *Prosecutor v. Tadić*), T. 865 (testifying that the soldiers wore uniforms which were olive green in colour and the "uniforms worn by the Serb police").

3336 P3405 (Witness statement of KDZ051 dated 17 September 2011), paras. 70–71 (identifying the soldiers who took women out of the facility). This group included members of the SJB such as Mladen Kojić and Vlado Marković. P3291 (List of policemen working at Rogatica SJB in May 1992); Adjudicated Facts 2509 (identifying the guards as those responsible for the rape of Bosnian Muslim detainees), 2510.

3337 P3405 (Witness statement of KDZ051 dated 17 September 2011), para. 70; P3404 (Witness statement of KDZ051 dated 17 September 2011), para. 77 (under seal); P3286 (Witness statement of Armin Baždar dated 23 January 1999), p. 4.

3338 P3405 (Witness statement of KDZ051 dated 17 September 2011), paras. 69–71; P3404 (Witness statement of KDZ051 dated 17 September 2011), paras. 73, 77 (under seal); Adjudicated Fact 2509; P3286 (Witness statement of Armin Baždar dated 23 January 1999), p. 4. *See also* Elvir Pašić, P59 (Transcript from *Prosecutor v. Tadić*), T. 865; KDZ051, T. 19364, 19417–19418 (22 September 2011).

3339 P3405 (Witness statement of KDZ051 dated 17 September 2011), paras. 69–70. *See also* Adjudicated Fact 2509.

3340 [REDACTED].

3341 [REDACTED].

and raped on almost every occasion.[3342] He was tied to a desk, he was verbally abused, pliers were used to mistreat him, and he was raped by police truncheons and similar objects.[3343]

992. Some of the detainees at the school were ordered to work; they dug trenches, collected garbage, carried ammunition, made machine-gun nests, and buried corpses.[3344] Detainees who did not work fast enough or do exactly as they were instructed were beaten, insulted, and threatened.[3345] When a Bosnian Serb tank was hit by an anti-tank mine which killed the driver and injured other soldiers, Kušić came to the school with soldiers and collected four to five Bosnian Muslim men who "were taken to be a sort of human shield for the Serb soldiers so they could pull out their dead and wounded from the tank".[3346]

993. At the end of June 1992, a group of between 200 and 300 people were taken from the school, placed on buses and trucks, and told that they were being taken to Bosnian Muslim territory.[3347] They were escorted by Bosnian Serb police.[3348] The convoy was stopped by local Bosnian Serbs and members of the White Eagles who separated men between the ages of 16 and 65 from the women and children.[3349] The women and children were transported out of the municipality while the men were eventually taken to other detention facilities in other municipalities including the Sušica camp in Vlasenica,[3350] the Batković camp in Bijeljina,[3351] and the Kula Prison in Ilidža.[3352] The women and children were loaded onto buses and trucks "like cattle" and taken to Hreša where they were later exchanged.[3353] On 16 August 1992, a person named Kojić from the Bosnian Serb MUP came to the school and ordered that all "loyal" Muslims

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3342 [REDACTED].

3343 [REDACTED].

3344 P3405 (Witness statement of KDZ051 dated 17 September 2011), para. 78; KDZ051, T. 19417–19418 (22 September 2011); P127 (Witness statement of Alija Isaković dated 22 January 1999), p. 4; P128 (Alija Isaković's statement to BiH authorities, 30 March 1993), p. 4.

3345 P3404 (Witness statement of KDZ051 dated 17 September 2011), para. 78 (under seal).

3346 P3405 (Witness statement of KDZ051 dated 17 September 2011), para. 85; P127 (Witness statement of Alija Isaković dated 22 January 1999), p. 4.

3347 P3405 (Witness statement of KDZ051 dated 17 September 2011), para. 66; Elvir Pašić, P59 (Transcript from *Prosecutor v. Tadić*), T. 867–869.

3348 Elvir Pašić, P59 (Transcript from *Prosecutor v. Tadić*), T. 868–869.

3349 Elvir Pašić, P59 (Transcript from *Prosecutor v. Tadić*), T. 868–869; P3286 (Witness statement of Armin Baždar dated 23 January 1999), p. 4; Armin Baždar, T. 18393–18395 (5 September 2011).

3350 Elvir Pašić, P59 (Transcript from *Prosecutor v. Tadić*), T. 868–869. *See also* P2068 (Witness statement of Jeremy Bowen dated 10 August 2009), para. 53.

3351 P3405 (Witness statement of KDZ051 dated 17 September 2011), para. 66; KDZ051, T. 19407 (22 September 2011); *see* Adjudicated Fact 2251.

3352 KDZ239, T. 18922–18923 (15 September 2011).

3353 P3286 (Witness statement of Armin Baždar dated 23 January 1999), p. 4; Armin Baždar, T. 18382 (5 September 2011); P128 (Alija Isaković's statement to BiH authorities, 30 March 1993), p. 4. *See also* P3289 (Witness statement of KDZ607 dated 1 September 2011) (under seal), para. 13.

be released and that everyone else should be taken to the Rasadnik camp after which some families were released.[3354]

(c) Conclusion on conditions of detention and treatment of detainees

994. Based on the above, the Chamber finds that non-Serb civilians including women and children from Rogatica were brought to and detained at the Veljko Vlahović Secondary School from at least May 1992 until August 1992. The detainees were held in poor conditions which included inadequate food, overcrowding, and limited access to water. Detainees were subjected to beatings and mental abuse and were forced to work at the frontlines. Both male and female detainees were also subjected to acts of sexual violence.

(d) Scheduled Incident B.16.1

995. The Indictment refers to the killing of a number of men taken from the Veljko Vlahović Secondary School between June and September 1992.

996. Between June and September 1992, groups of male detainees were taken out of the school to a location behind the school, after which shooting was heard and the detainees did not return.[3355] After many detainees disappeared from the school those who remained were told that they would all be killed and that they would all disappear.[3356]

997. The Chamber therefore finds that a number of men taken from the Veljko Vlahović Secondary School between June and September 1992 were killed by Serb Forces.

(2) Scheduled Detention Facility C.21.2

998. The Indictment refers to the use of the garage of Novica Andrić as a detention facility on or about 14 August 1992.

3354 P3267 (Witness statement of Šefik Hurko dated 1 September 2011), para. 21; Šefik Hurko, T. 18233–18234 (2 September 2011), T. 18368 (5 September 2011). *See also* P3404 (Witness statement of KDZ051 dated 17 September 2011) (under seal), para. 99.

3355 *See* Adjudicated Fact 2511; P3405 (Witness statement of KDZ051 dated 17 September 2011), paras. 87–88 (testifying *inter alia* that he was told that Mujo Bešlija was killed by one of Arkan's men); KDZ051, T. 19413–19414 (22 September 2011). *See also* P3283 (List of Bosnian Muslim civilians killed in Rogatica), pp. 4, 10 (which lists the names of five people who were killed on the premises of the school and also identifies that Mujo Bešlija was "detained and killed" but does not specify a date). The Chamber is not satisfied with the provenance of this document and will not rely on it for the purposes of a finding in this regard.

3356 P3405 (Witness statement of KDZ051 dated 17 September 2011), para. 93

999. The garage of Novica Andrić was located in the village of Kosovo, approximately four kilometres from the village of Mađer, and was used as a place of detention.[3357] On 14 August 1992, Šefik Hurko, his mother, father, and cousin were arrested by four Bosnian Serb soldiers in the village of Mađer and brought to the garage of Novica Andrić.[3358] There was a large group of armed men in uniforms who were identified as "Chetniks".[3359] These men wore beards and cockades, as well as skull and cross-bone insignias.[3360] Šefik Hurko and his family were ordered by four soldiers to go into the garage.[3361] These four soldiers behaved in a professional manner and did not beat or mistreat the detainees.[3362] Hurko testified that when he and his family entered the garage they sat on a bench and other soldiers entered, including a man with a moustache who introduced himself as Rajko Kušić.[3363] Hurko was beaten on arrival in the garage.[3364] Kušić ordered Stojan Perković and Brane Krsmanović to search them.[3365] After a packet of bullets and a pistol was found, Perković and Krsmanović beat Hurko and his father.[3366] Krsmanović told Hurko's father to "stick his tongue out", took a knife to cut his tongue off, and then started to cut his ears.[3367] Perković hit Hurko on the head with the packet of bullets, cursed him, and forced him to eat three or four of the bullets.[3368]

3357 P3267 (Witness statement of Šefik Hurko dated 1 September 2011), para. 8; Šefik Hurko, T. 18226–18227 (2 September 2011); P6157 (Map of Rogatica).

3358 P3267 (Witness statement of Šefik Hurko dated 1 September 2011), paras. 6, 8; Šefik Hurko, T. 18226–18227 (2 September 2011); Šefik Hurko, T. 18364 (5 September 2011).

3359 P3267 (Witness statement of Šefik Hurko dated 1 September 2011), para. 8.

3360 P3267 (Witness statement of Šefik Hurko dated 1 September 2011), para. 8.

3361 Šefik Hurko, T. 18227 (2 September 2011).

3362 Šefik Hurko, T. 18364, 18365–18366 (5 September 2011); P3267 (Witness statement of Šefik Hurko dated 1 September 2011), para. 7.

3363 Šefik Hurko, T. 18364–18365 (5 September 2011). The Accused tried to suggest that other people introduced themselves as Rajko Kušić but the witness did not know anything about this and only knew that the person introduced himself as Kušić. Šefik Hurko, T. 18363–18364 (5 September 2011). Given that Andrić himself acknowledged that Kušić was there the Chamber places no weight on the Accused's suggestion that this could have been a misidentifcation. Novica Andrić, T. 34454 (28 February 2013).

3364 Šefik Hurko, T. 18367 (5 September 2011). Andrić testified that his garage was used as a shelter to protect Bosnian Muslims from acts of revenge by Bosnian Serb soldiers and that the Hurko family only stayed in the garage for a short time, they were not mistreated or abused and were allowed to leave but had nowhere safer to go. D3038 (Witness statement of Novica Andrić dated 23 February 2013), paras. 10–11, 13; Novica Andrić, T. 34447, 34453–34457 (28 February 2013); D3039 (Photograph of a garage); D3040 (Photograph of a garage). *See also* D3041 (Photograph of a house); D3042 (Photograph of a house). The Chamber does not consider Andrić's evidence to be reliable in this regard. In reaching this conclusion the Chamber noted inconsistencies in Andrić's evidence and found that his evidence was marked by evasiveness as well as indicators that he was not candid with the Chamber. More specifically Andrić denied any knowledge that Perković had pled guilty and was convicted for the crimes committed in the garage; the Chamber also noted an inconsistency between his evidence that the Hurko family members were not detained and his testimony that they were in military detention and prisoners of the army.

3365 Šefik Hurko, T. 18364 (5 September 2011).

3366 P3267 (Witness statement of Šefik Hurko dated 1 September 2011), paras. 9, 12; Šefik Hurko, T. 18228 (2 September 2011), T. 18356 (5 September 2011).

3367 Šefik Hurko, T. 18228 (2 September 2011).

3368 P3267 (Witness statement of Šefik Hurko dated 1 September 2011), para. 12; Šefik Hurko, T. 18227–18228 (2 September 2011); Šefik Hurko, T. 18364–18365 (5 September 2011).

1000. Hurko was singled out by Kušić and taken out of the garage with a gun pointed at his back; he could still hear them beating his father when he went outside.[3369] Hurko was questioned by Kušić about Bosnian Muslim forces before being taken back into the garage.[3370] When he was taken back inside Hurko saw his father on the floor, covered in blood with both his ears cut.[3371] Perković stabbed Hurko in the hand with a knife and attempted to slash his throat.[3372] Kušić watched this whole incident[3373] and ordered that Hurko and his family be taken to Rogatica,[3374] after which they were taken to the Veljko Vlahović Secondary School.[3375] Perković received an award during the first anniversary of the "liberation" of Rogatica.[3376]

1001. Based on the above, the Chamber finds that a Bosnian Muslim family was detained at the garage of Novica Andrić on or about 14 August 1992 and that the male members of the family were beaten, stabbed, and mistreated by Serb Forces.

(3) Scheduled Detention Facility C.21.3

1002. The Indictment refers to the use of Rasadnik as a detention facility at least between August 1992 and October 1994.

(a) Arrival of detainees and control over detention facility

1003. The Rasadnik detention facility was located at a factory farm which had been used before the war to house farm animals.[3377] The building where people were detained had been previously used for cattle exhibitions.[3378]

3369 P3267 (Witness statement of Šefik Hurko dated 1 September 2011), para. 11; Šefik Hurko, T. 18366–18367 (5 September 2011).

3370 P3267 (Witness statement of Šefik Hurko dated 1 September 2011), para. 11.

3371 P3267 (Witness statement of Šefik Hurko dated 1 September 2011), para. 10; Šefik Hurko, T. 18228 (2 September 2011), T. 18367 (5 September 2011).

3372 P3267 (Witness statement of Šefik Hurko dated 1 September 2011), paras. 9, 60; Šefik Hurko, T. 18228 (2 September 2011). The Chamber also received evidence with respect to a killing which occurred at Novica Andrić's garage. The Chamber notes that this killings is not charged pursuant to Schedules A or B of the Indictment. *See* fn. 13.

3373 P3267 (Witness statement of Šefik Hurko dated 1 September 2011), paras. 10, 12; Šefik Hurko, T. 18227–18229 (2 September 2011).

3374 Šefik Hurko, T. 18229–18230 (2 September 2011); P3267 (Witness statement of Šefik Hurko dated 1 September 2011), para. 11.

3375 Šefik Hurko, T. 18230 (2 September 2011).

3376 P2832 (Article from Srpska Vojska entitled "They Saved Serbian Land", 15 July 1993), p. 4.

3377 P3289 (Witness statement of KDZ607 dated 1 September 2011), para. 16 (under seal); P3290 (Aerial photograph of Rasadnik farm); P6157 (Map of Rogatica). *See also* P3286 (Witness statement of Armin Baždar dated 23 January 1999), p. 4.

3378 P3286 (Witness statement of Armin Baždar dated 23 January 1999), p. 4; Armin Baždar, T. 18382–18383 (5 September 2011); P127 (Witness statement of Alija Isaković dated 22 January 1999), pp. 4–5; P128 (Alija

1004. On 5 August 1992, approximately 20 Bosnian Muslim men and one boy aged 14 who had been separated from the women and children at the Veljko Vlahović Secondary School were taken to Rasadnik.[3379] They were detained in two rooms with boarded up windows.[3380]

1005. Other Bosnian Muslims who fled Rogatica in early August 1992 were arrested by Serb Forces and taken to Sokolac before some were brought to Rasadnik.[3381] On 10 August 1992, Serb Forces separated men from the women; the women and children were taken by mini-bus to Hreša.[3382] 13 of the men were lined up and a Bosnian Serb soldier took down their names before they were put into a van and transported to Rasadnik, where they were all put into one small room.[3383] In addition to these 13 men, there were approximately 22 other detainees held in two other rooms and other detainees held in another room.[3384]

1006. On the evening of 16 August 1992, detainees who had been previously held at the Veljko Vlahović Secondary School were brought to Rasadnik.[3385] The men were separated from the women.[3386] Some detainees received better treatment because they were friends of Kušić's or because they co-operated with the Bosnian Serbs.[3387] Detainees were also brought to the facility in October 1992[3388] and there were reports that Bosnian Muslims were still being held at the facility in 1995.[3389] However, given that the Indictment only alleges detention until October 1994 at Rasadnik, the Chamber will not make findings with respect to detention after this date.

Isaković's statement to BiH authorities, 30 March 1993), p. 4. *See also* P3283 (List of Bosnian Muslim civilians killed in Rogatica), pp. 12–20; P3405 (Witness statement of KDZ051 dated 17 September 2011), para. 41.

3379 P3286 (Witness statement of Armin Baždar dated 23 January 1999), p. 4; P127 (Witness statement of Alija Isaković dated 22 January 1999), pp. 4–5; P128 (Alija Isaković's statement to BiH authorities, 30 March 1993), p. 4; Elvir Pašić, P59 (Transcript from *Prosecutor v. Tadić*), T. 869. *See* Scheduled Detention Facility C.21.1 where the detention at the Veljko Vlahović Secondary School is described. *See also* D2909 (Witness statement of Mile Ujić dated 9 February 2013), para. 29; P6104 (Record of interview with Mile Ujić, 6 June 2004), p. 5.

3380 P3286 (Witness statement of Armin Baždar dated 23 January 1999), p. 4; Armin Baždar, T. 18382–18383 (5 September 2011).

3381 P3289 (Witness statement of KDZ607 dated 1 September 2011), paras. 12–13 (under seal). The Chamber received evidence about the mistreatment of this group when detained at other locations. The Chamber notes that these facilities are not charged pursuant to Schedule C of the Indictment. P3289 (Witness statement of KDZ607 dated 1 September 2011), para. 13 (under seal).

3382 P3289 (Witness statement of KDZ607 dated 1 September 2011), para. 13 (under seal).

3383 P3289 (Witness statement of KDZ607 dated 1 September 2011), paras. 14, 16 (under seal).

3384 P3289 (Witness statement of KDZ607 dated 1 September 2011), paras. 17, 20–21 (under seal). KDZ607 was detained at Rasadnik for a period of six days from 10 to 15 August 1992. P3289 (Witness statement of KDZ607 dated 1 September 2011), para. 23 (under seal).

3385 P3267 (Witness statement of Šefik Hurko dated 1 September 2011), para. 21.

3386 P3267 (Witness statement of Šefik Hurko dated 1 September 2011), para. 22.

3387 P3267 (Witness statement of Šefik Hurko dated 1 September 2011), para. 31. *See also* P128 (Alija Isaković's statement to BiH authorities, 30 March 1993), pp. 5–6; D3038 (Witness statement of Novica Andrić dated 23 February 2013), paras. 12, 17.

3388 P3267 (Witness statement of Šefik Hurko dated 1 September 2011), para. 34.

3389 D2133 (1st Mountain Brigade Report, 30 July 1995); Andrić, T. 34468–34469 (28 February 2013).

1007. Rasadnik was guarded by the civilian police of Rogatica and the warden of the facility was Miloš Vojanović.[3390] The guards wore camouflage or olive grey uniforms and automatic weapons of the JNA.[3391] After 1 November 1992, the guards at the detention facility were replaced by soldiers who called themselves "Chetniks", and JNA officers from Serbia would also visit the facility.[3392] Kušić visited the camp on several occasions in 1992 and 1993 and gave the impression that he had "100% control" over the facility.[3393] The Eastern Bosnia Corps command and the command of the 4th Podrinje Light Infantry Brigade were informed about the capture and detention of Bosnian Muslims in Rogatica, including at Rasadnik.[3394]

1008. Defence witnesses testified that (i) Rasadnik was a military detention facility where both Bosnian Muslims and Bosnian Serbs were detained and questioned; (ii) the Bosnian Muslims detained at this facility were suspects who had weapons when their villages were searched or had fired at Bosnian Serb villages; (iii) some civilians may have moved to the camp when the Veljko Vlahović Secondary School closed; (iv) there was no mistreatment of detainees; and (v) the facility was a reception centre.[3395] The Chamber does not find this evidence to be reliable. In reaching that conclusion the Chamber refers to refers to its discussion above relating to the credibility assessment of the relevant witnesses.[3396] More specifically, the Chamber notes that Lelek was shown a list of captured Bosnian Muslims from Rogatica and asked whether they were prisoners, but Lelek maintained that they were placed in Rasadnik because the Veljko Vlahović Secondary School was closed.[3397] Lelek was confronted with evidence that civilians including elderly women were detained and died at Rasadnik, and Lelek confirmed that there were civilians detained there but

3390 P3267 (Witness statement of Šefik Hurko dated 1 September 2011), para. 23 (stating that two of the guards were nicknamed Šolaja and Buco); P3289 (Witness statement of KDZ607 dated 1 September 2011), paras. 19, 22 (under seal). *See also* Milovan Lelek, T. 34386 (27 February 2013).

3391 P3289 (Witness statement of KDZ607 dated 1 September 2011), paras. 19, 22 (under seal).

3392 P127 (Witness statement of Alija Isaković dated 22 January 1999), p. 5; P128 (Alija Isaković's statement to BiH authorities, 30 March 1993), pp. 4–5.

3393 P3267 (Witness statement of Šefik Hurko dated 1 September 2011), para. 44; Šefik Hurko, T. 18238–18239 (2 September 2011). *See also* P128 (Alija Isaković's statement to BiH authorities, 30 March 1993), p. 5.

3394 P6153 (Drina Corps list of captured persons, 10 April 1993), pp. 1–2; P6155 (List of prisoners in Rogatica Vili camp, 1 February 1993).

3395 D2930 (Witness statement of Tomislav Batinić dated 11 February 2013), para. 32; D2909 (Witness statement of Mile Ujić dated 9 February 2013), para. 29; D2950 (Witness statement of Sveto Veselinović dated 15 February 2013), para. 19; D3038 (Witness statement of Novica Andrić dated 23 February 2013), paras. 16–17; Novica Andrić, T. 34457–34458 (28 February 2013); D3031 (Witness statement of Milovan Lelek dated 23 February 2013), para. 19; Milovan Lelek, T. 34413–34419, 34426–34427 (27 February 2013).

3396 *See* fns. 3142, 3208.

3397 P6153 (Drina Corps list of captured persons, 10 April 1993).

insisted that he did not understand why elderly civilians would be killed there.[3398] In light of these inconsistencies the Chamber does not consider Lelek's evidence to be reliable in this regard.

(b) Conditions of detention and treatment of detainees

1009. While the detainees were held at the facility, the windows were boarded up.[3399] The detainees had no running water and their access to the water which was kept in containers outside was at the discretion of the guards; they also had no toilet and had to be escorted outside by guards.[3400]

1010. All the newly arrived detainees were beaten by a guard called Šolaja.[3401] Severe beating of detainees was common place at the facility.[3402] Detainees were interrogated in a small room and in the course of the interrogations were beaten on their heads and stomachs with rifle butts; the room was left bloody from the beatings.[3403] Dragomir Kanostrevac was among those involved in the interrogations and beatings.[3404] Later, interrogations were carried out by Novak Džida who was dressed in civilian clothes.[3405] Kanostrevac and Džida were on the list of active policemen working at the Rogatica SJB in May 1992.[3406]

3398 Milovan Lelek, T. 34413–34421 (27 February 2013); P6152 (Sarajevo Cantonal Court record of Rogatica exhumation, 4 November 1998), pp. 10–13. *See also* P6155 (List of prisoners in Rogatica Vili camp, 1 February 1993); P6153 (Drina Corps list of captured persons, 10 April 1993) (which suggests that detainees included elderly men, women and children).

3399 P3289 (Witness statement of KDZ607 dated 1 September 2011), para. 17 (under seal); P3286 (Witness statement of Armin Baždar dated 23 January 1999), p. 4; Armin Baždar, T. 18382–18383 (5 September 2011).

3400 P3289 (Witness statement of KDZ607 dated 1 September 2011), para. 18 (under seal). In contrast Ujić testified that detainees at Rasadnik had access to toilets and warm water. D2909 (Witness statement of Mile Ujić dated 9 February 2013), para. 29. Having reviewed this evidence, the Chamber is not convinced that Ujić was in a position to know about the specific conditions of detention at Rasadnik. The Chamber is therefore not convinced that it can rely on his evidence in this regard. In addition, the Chamber noted contradictions in the evidence of Lelek with respect to the Rasadnik facility and therefore does not accept his evidence with respect to the conditions of detention and treatment of detainees. Milovan Lelek, T. 34386 (27 February 2013). Similarly, on cross-examination, Andrić could not confirm whether or not Bosnian Muslim women, including a 101 year old, was detained at Rasadnik because his job did not involve going into the buildings but he acknowledged that Bosnian Muslim civilians were detained at the facility. Andrić denied knowledge of old women who died after a year of detention at Rasadnik on the basis that he only came there rarely and was not aware of all things that happened there. Novica Andrić, T. 34460–34464, 34479–34481 (28 February 2013); D3038 (Witness statement of Novica Andrić dated 23 February 2013), para. 17 (stating further that the detainees received the same food as the staff and soldiers at the facility). Having regard to the inconsistencies and evasiveness in Andrić's evidence, the Chamber does not consider that Andrić's evidence is of much weight in this regard particularly given his claim when questioned that he was not aware of many things which happened in the facility.

3401 P3267 (Witness statement of Šefik Hurko dated 1 September 2011), para. 33.

3402 P127 (Witness statement of Alija Isaković dated 22 January 1999), p. 5; P3267 (Witness statement of Šefik Hurko dated 1 September 2011), paras. 36, 38–40.

3403 P3289 (Witness statement of KDZ607 dated 1 September 2011), para. 16 (under seal). *See also* P3267 (Witness statement of Šefik Hurko dated 1 September 2011), para. 22.

3404 P3289 (Witness statement of KDZ607 dated 1 September 2011), para. 16 (under seal).

3405 P3289 (Witness statement of KDZ607 dated 1 September 2011), para. 16 (under seal).

3406 P3291 (List of policemen working at Rogatica SJB in May 1992); KDZ607, T. 18483 (6 September 2011) (private session). While the Chamber received evidence that Radisav Ljubinac (a.k.a. "Pjano") was found guilty

1011. From 16 August to 1 September 1992, Hurko was not beaten, but around 2 a.m. on 1 September, his father was taken to the warden's office for questioning and he could hear his father being beaten through the wall.[3407] When Hurko saw his father the next day, he could see that his father's face was swollen from the blows.[3408] After half an hour, Hurko was taken to a room and was threatened by Vojinović to answer all questions truthfully if he wanted to keep his "head on his shoulders".[3409] When Hurko was questioned about the location of trenches and mines and denied any knowledge about the matter he was beaten as the question was repeated.[3410] Hurko was beaten on the back with a baton and when he fell down a guard nicknamed "Buco" jumped on him. When he lost consciousness, a bucket of water was poured on him and the beating stopped.[3411]

1012. Both Hurko and his father were taken away from the camp by Bosnian Serb police to the Rogatica SJB. Hurko arrived at the Rogatica SJB after his father and saw his father covered in blood.[3412] At the Rogatica SJB, Hurko was threatened before being forced to sign a statement about his father's involvement in organising specific meetings in Rogatica.[3413] Hurko was then returned to Rasadnik where his mother told him that his father had been seriously beaten. As a result of the beating, his father could not move for the next 15 days.[3414]

1013. Although Mile Bojat, who was the warden at Rasadnik for a month,[3415] told the detainees that there would be no more maltreatment under his command, the mistreatment continued.[3416] Bojat was replaced by Vinko Bojić in October 1992.[3417] Bojić, who wore a MP uniform took over command of the facility and was involved in the severe beating of detainees.[3418] During beatings, Bojić would order the detainee to lie on the floor and would jump on him.[3419] In beating Alija Isaković Bojić broke six of Isaković's ribs. He also carved a cross on Isaković's chest with a

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of kicking and punching detained civilians at the Rasadnik camp the Chamber will not rely on this judgement to support findings in this case. P6106 (Verdict of BiH Court against Ljubinac Radisav, 8 March 2007), pp. 1–2.

3407 P3267 (Witness statement of Šefik Hurko dated 1 September 2011), para. 25.

3408 P3267 (Witness statement of Šefik Hurko dated 1 September 2011), para. 27.

3409 P3267 (Witness statement of Šefik Hurko dated 1 September 2011), para. 26.

3410 P3267 (Witness statement of Šefik Hurko dated 1 September 2011), para. 26.

3411 P3267 (Witness statement of Šefik Hurko dated 1 September 2011), para. 26.

3412 P3267 (Witness statement of Šefik Hurko dated 1 September 2011), paras. 28–29.

3413 P3267 (Witness statement of Šefik Hurko dated 1 September 2011), paras. 28, 30.

3414 P3267 (Witness statement of Šefik Hurko dated 1 September 2011), paras. 30–31.

3415 P3267 (Witness statement of Šefik Hurko dated 1 September 2011), para. 34.

3416 P128 (Alija Isaković's statement to BiH authorities, 30 March 1993), p. 5.

3417 P3267 (Witness statement of Šefik Hurko dated 1 September 2011), para. 34. *See also* Šefik Hurko, T. 18236 (2 September 2011) (private session) (testifying that Bojić was appointed by Kušić). It is not clear to the Chamber how Hurko knew that Bojić was appointed by Kušić and therefore the Chamber is not satisfied it can rely on this evidence.

3418 P128 (Alija Isaković's statement to BiH authorities, 30 March 1993), p. 6.

3419 P128 (Alija Isaković's statement to BiH authorities, 30 March 1993), p. 6.

hunting knife, pushed lit cigarettes into his ears and cursed Isaković and called him a "Turk".[3420] Bojić carved 30 crosses on the body of Bećir Ćutarija, burned him with cigarettes, pulled his teeth, jumped on him, and forced him to swallow two bullets.[3421] Bojić also allowed other "Chetniks" to beat the detainees; the maltreatment of the detainees worsened when Bosnian Serb soldiers were killed in clashes with Bosnian Muslims.[3422]

1014. Isaković was beaten on another occasion for two days and two nights by two men known as Brđanin and Šolaja and on other occasions by Mišo Vojinović, Rajak and Ikonić.[3423] Other guards who beat the detainees included Bojić's brother, Branko Planojević, and Sorak.[3424] In July 1993, Hurko heard the beating of a captured member of the ABiH; Hurko himself was beaten around 10 July 1993, when the chief of the SJB in Rogatica and his deputy visited the camp.[3425] Some detainees died following the beatings.[3426] Other detainees were taken away, after which the sound of beating followed by a gun shot were heard.[3427]

1015. The ICRC visited Rasadnik on 28 July 1993 and after being assured that the detainees could speak frankly and in confidence, Hurko told the representatives that their situation was difficult, that they had been taken to the frontlines, that they did not have enough food, and were being sexually mistreated.[3428] After about three days, Hurko was beaten by Bojić in a manner which he describes as "bestial", stating: "He put his pistol in my mouth. He pulled hair from my armpits and inserted it in my mouth. He extinguished cigarettes on me and ordered me to eat the extinguished cigarettes. He ordered me to remove my clothes. He then hit me in my ribs with a knife handle."[3429] One of Hurko's ribs was broken while Bojić asked him about everything he had complained about to the ICRC.[3430] Bojić then brought in Hurko's father and asked him if he

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3420 P128 (Alija Isaković's statement to BiH authorities, 30 March 1993), p. 6; P127 (Witness statement of Alija Isaković dated 22 January 1999), p. 5.

3421 P128 (Alija Isaković's statement to BiH authorities, 30 March 1993), p. 6.

3422 P128 (Alija Isaković's statement to BiH authorities, 30 March 1993), p. 6.

3423 P128 (Alija Isaković's statement to BiH authorities, 30 March 1993), p. 5.

3424 P128 (Alija Isaković's statement to BiH authorities, 30 March 1993), p. 6; P3267 (Witness statement of Šefik Hurko dated 1 September 2011), para. 35.

3425 P3267 (Witness statement of Šefik Hurko dated 1 September 2011), para. 41.

3426 P127 (Witness statement of Alija Isaković dated 22 January 1999), pp. 4–5; P128 (Alija Isaković's statement to BiH authorities, 30 March 1993), pp. 4–6. *See also* P3283 (List of Bosnian Muslim civilians killed in Rogatica), p. 8; P6152 (Sarajevo Cantonal Court record of Rogatica exhumation, 4 November 1998), pp. 9–14.

3427 P3267 (Witness statement of Šefik Hurko dated 1 September 2011), paras. 38–40. *See also* P3267 (Witness statement of Šefik Hurko dated 1 September 2011), paras. 33, 47–48; P128 (Alija Isaković's statement to BiH authorities, 30 March 1993), p. 6.

3428 P3267 (Witness statement of Šefik Hurko dated 1 September 2011), para. 45; Šefik Hurko, T. 18241–18242 (2 September 2011).

3429 P3267 (Witness statement of Šefik Hurko dated 1 September 2011), para. 45.

3430 P3267 (Witness statement of Šefik Hurko dated 1 September 2011), para. 45; Šefik Hurko, T. 18244 (2 September 2011).

wanted to go to a third country, which reflected what he had told the ICRC, and then ordered Hurko to beat his father.[3431] Hurko could only hit his father five or six times as he was out of strength after which Bojić said: "If you don't want to, I will" and continued to hit his father 15 to 16 times until he fell down.[3432] Two 65 year old men were also beaten badly.[3433]

1016. Women were also taken out at night and were forced by Bojić to strip and perform sexual acts with elderly detainees,[3434] after which Bojić would take the women to another room.[3435] Several Bosnian Muslim women who had been detained at Rasadnik told Hurko that Bojić had raped them.[3436]

1017. Bojić also forced "male prisoners to perform unnatural sexual acts".[3437] This included an incident in or around February 1993 where Bosnian Muslim men and women detainees were ordered to undress, dance and perform sexual acts in front of Bosnian Serb soldiers who wore ammunition belts and "skull insignia".[3438] Over the course of one or two hours, the Bosnian Soldiers took the naked women one by one to another room for a period of approximately 20 minutes.[3439] Four women were taken away that day while other women were taken away in the following days.[3440]

1018. Bosnian Muslim detainees were taken to the town of Rogatica each day and forced to clean up broken glass and construction material work in places that had been shelled.[3441] Detainees were also forced to clean and paint Bosnian Muslim apartments to prepare them for Serbs who would be moving into them, as well as to move furniture and belongings out of Bosnian Muslim homes into

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3431 P3267 (Witness statement of Šefik Hurko dated 1 September 2011), para. 46; Šefik Hurko, T. 18243–18244 (2 September 2011).

3432 P3267 (Witness statement of Šefik Hurko dated 1 September 2011), para. 46.

3433 Šefik Hurko, T. 18242–18243 (2 September 2011).

3434 P3267 (Witness statement of Šefik Hurko dated 1 September 2011), para. 35.

3435 P3267 (Witness statement of Šefik Hurko dated 1 September 2011), para. 35.

3436 P3267 (Witness statement of Šefik Hurko dated 1 September 2011), para. 35. *See also* Šefik Hurko, T. 18236 (2 September 2011) (private session).

3437 P3267 (Witness statement of Šefik Hurko dated 1 September 2011), para. 35.

3438 P3267 (Witness statement of Šefik Hurko dated 1 September 2011), paras. 36–37; Šefik Hurko, T. 18236 (2 September 2011) (private session).

3439 [REDACTED].

3440 [REDACTED]. While the Chamber received a report which listed 12 women who were taken away from the Rasadnik camp and raped, it is not satisfied as to the provenance of this document and the basis on which it reached this conclusion and thus will not rely on it in making a finding. P3283 (List of Bosnian Muslim civilians killed in Rogatica), p. 12.

3441 P3289 (Witness statement of KDZ607 dated 1 September 2011), para. 18 (under seal). The Chamber notes that the type of forced labour charged in the Indictment is limited to work at the frontlines and the use of human shields.

"new Serb occupied residences".[3442] Some detainees were also taken from the camp to dig trenches[3443] while others were taken to unload lorries at the Sladara barley factory.[3444]

1019. In mid-July 1993, ten detainees and two captured ABiH soldiers were taken from the camp by truck to the village of Starčići.[3445] The detainees were instructed to recover the bodies of 17 soldiers in an area which was mined.[3446] A Bosnian Muslim named Mirsad Omanović who was meant to know the positions of the mines, was told to lead them.[3447] When one man hit a land mine and lost a leg, Bojić stabbed Omanović, cursed the detainees' "Balija mothers", and shot Osmanović.[3448] Hurko and another detainee were ordered to bury the body in a shallow grave.[3449] After this incident the detainees spent three days in the area and found the 17 bodies and buried them there.[3450]

1020. Some detainees were exchanged from the facility[3451] while others were transported to Batković camp.[3452] In July 1993, 30 detainees were selected for a proposed exchange and taken towards Bijeljina.[3453] However, this exchange did not occur and the detainees were returned to Rasadnik, after which Kušić came to the facility, cursed the detainees and said "Alija doesn't want you, I don't know what to do with you, I'll invite the International Red Cross to send you where you want, and if they don't want you, I'll kill you all."[3454] On 30 April 1994, 12 male detainees

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3442 P3286 (Witness statement of Armin Baždar dated 23 January 1999), p. 5. The Chamber notes that the type of forced labour charged in the Indictment is limited to work at the frontlines and the use of human shields.

3443 P3267 (Witness statement of Šefik Hurko dated 1 September 2011), para. 38. While the Chamber received a report which listed four people who were taken from Rasadnik camp and killed when used as human shields in August 1992, it s not satisfied as to the provenance of this document and the basis on which it reached this conclusion and thus will not rely on it in making a finding. P3283 (List of Bosnian Muslim civilians killed in Rogatica), p. 9.

3444 P3289 (Witness statement of KDZ607 dated 1 September 2011), para. 25 (under seal). Ujić testified that all detainees who had committed a crime were put on trial and subject to work obligation. Mile Ujić, T. 33470 (12 February 2013). The Chamber refers to its credibility assessment in fn. 3208 as to why it does not consider Ujić's evidence in this regard to be reliable.

3445 P3267 (Witness statement of Šefik Hurko dated 1 September 2011), para. 42.

3446 P3267 (Witness statement of Šefik Hurko dated 1 September 2011), para. 42.

3447 P3267 (Witness statement of Šefik Hurko dated 1 September 2011), para. 42.

3448 P3267 (Witness statement of Šefik Hurko dated 1 September 2011), para. 43.

3449 P3267 (Witness statement of Šefik Hurko dated 1 September 2011), para. 43 (stating that Omanović's body was covered with blood, his neck had been cut with a knife, and his chest was "riddled with bullets").

3450 P3267 (Witness statement of Šefik Hurko dated 1 September 2011), para. 43.

3451 P127 (Witness statement of Alija Isaković dated 22 January 1999), p. 5; P128 (Alija Isaković's statement to BiH authorities, 30 March 1993), p. 8.

3452 P3267 (Witness statement of Šefik Hurko dated 1 September 2011), para. 44; Šefik Hurko, T. 18239–18241 (2 September 2011). Refer to Scheduled Detention Facility C.2.1 for evidence on detention at Batković camp.

3453 P3267 (Witness statement of Šefik Hurko dated 1 September 2011), para. 44.

3454 P3267 (Witness statement of Šefik Hurko dated 1 September 2011), para. 44; Šefik Hurko, T. 18239, 18241, 18243–18244 (2 September 2011).

and a large number of women and children were transported by bus from Rasadnik to Kula by Dragan Bulajić, the president of the Serbian Commission for Prisoner Exchange.[3455]

(c) Conclusion on conditions of detention and treatment of detainees

1021. Based on the above, the Chamber finds that non-Serbs from Rogatica, including civilians and some ABiH soldiers, were brought to and detained at Rasadnik from at least August 1992 to October 1994. The detainees were held in poor conditions which included limited access to water. Detainees were subjected to mental abuse and beatings and some detainees died following those beatings.[3456] Detainees were forced to work on the frontline. Both male and female detainees were also subjected to acts of sexual violence.

(d) Scheduled Incident B.16.2

1022. The Indictment refers to the killing of at least 27 men taken from detention facilities at Rasadnik on 15 August 1992.[3457]

1023. On 15 August 1992 Radisav Ljubinac (a.k.a. "Pjano") went to a work site and told Bosnian Muslim detainees who were working at the site that under the orders of Kušić they were to leave their work and would be taken "to where the action was".[3458] Pjano drove a mini-bus carrying approximately 27 Bosnian Muslim detainees and was accompanied by other Bosnian Serb soldiers.[3459] Some of these detainees had been asked to declare their loyalty to a Serb state.[3460]

3455 P3267 (Witness statement of Šefik Hurko dated 1 September 2011), para. 49.

3456 This finding does not include the persons alleged to have been killed in Scheduled Incident B.16.2, which is discussed below.

3457 The Chamber notes however, that the Prosecution only refers to the names of 24 victims with respect to this incident in its final brief. Prosecution Final Brief, Appendix G.

3458 P3286 (Witness statement of Armin Baždar dated 23 January 1999), p. 5; Armin Baždar, T. 18414 (6 September 2011).

3459 P3289 (Witness statement of KDZ607 dated 1 September 2011), paras. 27–28 (under seal). The people KDZ607 identified on the van were Ago Kapo, Armin Baždar, Edis Čatić, Midhat Čatić, Mehmed Delija, Halil Halilović, Eldin Hodžić, Faruk Isaković, Hamdija Jašarević, Huso Jašarević, Suljo Jašarević, Fuad Kazić, Sulejman Kazić, Nedžad Kazić, Besim Kurčehaić, Asim Kapo, Šukrija Omeragić, Derviš Pašić, Mujo Pašić, Zaljko Salihović, Osman Solak, Fuad Šetić, Mustafa Tanković. *See also* Armin Baždar, T. 18388 (5 September 2011) (testifying that Mustafa Tanković and Hamdija Jasarević were in this group of men).

3460 P3289 (Witness statement of KDZ607 dated 1 September 2011), para. 24 (under seal). Money and valuables were taken from them after being ordered to undress.

1024. The detainees were driven to a meadow and were met by Miša Krsmanović a.k.a "Pipa".[3461] When they arrived Pjano swore and asked where Kušić was.[3462] The detainees were driven to the frontline at Duljevac and stopped at a spot where there was a group of "Chetniks" who had beards, long hair, and were wearing caps with Serb insignia.[3463] The detainees were ordered to get out of the mini-bus one by one.[3464] As the detainees got off the bus, one of the Bosnian Serbs said: "[T]hese should be immediately slaughtered" and one who was wearing a yellow headband and was named Dragoje Paunović who was called Špiro,[3465] said that he would decide.[3466]

1025. Špiro was commander of a unit of the Rogatica Brigade.[3467] The 10 to 15 Bosnian Serb soldiers were wearing grey, olive, and camouflage uniforms.[3468] Špiro ordered the soldiers to tie the men's hands behind their backs and to have them walk down a fenced alley towards the frontline.[3469] Špiro ordered the Bosnian Serb soldiers to advance towards the frontlines with the detainees.[3470] Two or three Bosnian Muslim men were ordered to walk in front of the Bosnian Serb soldiers towards the frontline.[3471] When shooting started two of the Bosnian Muslim detainees

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3461 P3289 (Witness statement of KDZ607 dated 1 September 2011), para. 28 (under seal). While the Accused on cross-examination tried to show an inconsistency between the witness's statement and his court testimony on this issue, the Chamber found that the Accused did not accurately quote the witness's statement and that conflicting statements were not established to any degree. The Chamber is therefore satisfied with the witness's evidence in this regard. *See* KDZ607, T. 18517 (7 September 2011) (private session).

3462 P3289 (Witness statement of KDZ607 dated 1 September 2011), para. 28 (under seal); P3286 (Witness statement of Armin Baždar dated 23 January 1999), p. 5; Armin Baždar, T. 18396–18397 (5 September 2011).

3463 P3286 (Witness statement of Armin Baždar dated 23 January 1999), p. 5; Armin Baždar, T. 18396–18397 (5 September 2011). *See also* P3289 (Witness statement of KDZ607 dated 1 September 2011), para. 34 (under seal); KDZ607, T. 18482 (6 September 2011) (private session) (testifying that they were behind the frontline controlled by the VRS); P3267 (Witness statement of Šefik Hurko dated 1 September 2011), paras. 15–17; Šefik Hurko, T. 18226, 18231–18233 (2 September 2011).

3464 P3286 (Witness statement of Armin Baždar dated 23 January 1999), p. 5; Armin Baždar, T. 18396–18397 (5 September 2011).

3465 P3286 (Witness statement of Armin Baždar dated 23 January 1999), p. 6; Armin Baždar, T. 18383 (5 September 2011); Armin Baždar, T. 18409 (6 September 2011).

3466 P3289 (Witness statement of KDZ607 dated 1 September 2011), para. 29 (under seal); KDZ607, T. 18520–18521 (7 September 2011) (private session).

3467 Mile Ujić, T. 33471 (12 February 2013).

3468 P3289 (Witness statement of KDZ607 dated 1 September 2011), paras. 29–32 (under seal). The witness recognised Zoran Rajak, Duško Štica, Ratko Nešković, Vojo Nešković, Dragan Bojević and Uglješa Pećenica. Vojo Nešković and Zlatko Nešković were on the list of active policemen working at the Rogatica SJB in May 1992. P3291 (List of policemen working at Rogatica SJB in May 1992); KDZ607, T. 18484 (6 September 2011) (private session); P3286 (Witness statement of Armin Baždar dated 23 January 1999), p. 6; Armin Baždar, T. 18383 (5 September 2011); Armin Baždar, T. 18409 (6 September 2011).

3469 P3289 (Witness statement of KDZ607 dated 1 September 2011), paras. 29 32–34 (under seal); KDZ607, T. 18519, 18521 (7 September 2011) (private session). P3286 (Witness statement of Armin Baždar dated 23 January 1999), p. 5. The witness identified some of the soldiers in the group as Mladen LNU, Mitar Ljubinać (a.k.a. Grof), and Boban Planojević; Armin Baždar, T. 18411 (6 September 2011).

3470 P3286 (Witness statement of Armin Baždar dated 23 January 1999), p. 6; Armin Baždar, T. 18383 (5 September 2011); Armin Baždar, T. 18409 (6 September 2011).

3471 P3286 (Witness statement of Armin Baždar dated 23 January 1999), p. 5–6.

were wounded.[3472] Thereafter, the Bosnian Muslim men were led along a dirt road for 50 metres and then towards a field and ordered to stop.[3473] When they crossed a meadow three Bosnian Serb soldiers with automatic rifles faced them; Špiro asked how many were wounded and when he was told that some were wounded, he said "I have a lot more" and then ordered a Bosnian Serb soldier to kill them.[3474] The Bosnian Serb soldier then shot at the front of the line of detainees.[3475] When some of the younger people in the group pleaded for mercy Špiro cocked his automatic rifle and shot bursts of fire at the group of men and three other soldiers also opened fire.[3476]

1026. After the shooting, those who survived were moaning, after which Špiro ordered that all those who were still alive should be finished off.[3477] The Bosnian Serb soldiers walked around and shot potential survivors.[3478] After Bosnian Serb soldiers spotted one detainee sitting up, they opened a burst of gunfire and killed him.[3479] Baždar, who was among the Bosnian Muslim men who were shot at, survived. While Baždar was laying face down under the body of his dead uncle, he heard a radio conversation where a person who identified himself as Rajko Kušić asked Špiro "who's shooting?".[3480] Ujić also found out about this incident either on the same day or the day after.[3481]

3472 P3289 (Witness statement of KDZ607 dated 1 September 2011), paras. 35–36, 38 (under seal); KDZ607, T. 18523 (7 September 2011) (private session).

3473 P3286 (Witness statement of Armin Baždar dated 23 January 1999), p. 6; Armin Baždar, T. 18389 (5 September 2011); P3289 (Witness statement of KDZ607 dated 1 September 2011), para. 39 (under seal).

3474 P3289 (Witness statement of KDZ607 dated 1 September 2011), para. 39 (under seal); P3286 (Witness statement of Armin Baždar dated 23 January 1999), p. 6; Armin Baždar, T. 18389 (5 September 2011), T. 18411–18412 (6 September 2011). The Chamber notes that Bazdar testified that two and not three detainees said that they were injured.

3475 P3286 (Witness statement of Armin Baždar dated 23 January 1999), p. 6; Armin Baždar, T. 18389 (5 September 2011).

3476 P3286 (Witness statement of Armin Baždar dated 23 January 1999), p. 6; Armin Baždar, T. 18389 (5 September 2011); P3289 (Witness statement of KDZ607 dated 1 September 2011), para. 41 (under seal); KDZ607, T. 18524 (7 September 2011) (private session). Ujić testified that this execution was carried out by Špiro on his own accord, but that nobody approved of this incident at the Brigade Command, Corps Command or Supreme Command levels. He also testified that he did not report the incident to the Accused nor was he aware of whether anyone else reported the incident to the Accused. Mile Ujić, T. 33470, 33473–33477 (12 February 2013). However, the Chamber does not consider Ujić's evidence to be reliable in this regard. The Chamber noted that Ujić's evidence was marked by contradictions and inconsistencies and his evidence demonstrated a clear interest in minimising the awareness and involvement of the Bosnian Serb authorities in the incident.

3477 P3289 (Witness statement of KDZ607 dated 1 September 2011), para. 44 (under seal).

3478 P3286 (Witness statement of Armin Baždar dated 23 January 1999), p. 6; Armin Baždar, T. 18389–18390 (5 September 2011); P3289 (Witness statement of KDZ607 dated 1 September 2011), para. 44 (under seal). When Baždar was shot in the arm he fell down and his uncle who had been shot in the chest fell over him. Baždar lay face down and pretended to be dead, and while he was there the Bosnian Serbs walked towards them to see if anyone was still alive they shot his uncle in the head and the bullet went through his uncle's head into Baždar's arm. P3286 (Witness statement of Armin Baždar dated 23 January 1999), p. 6

3479 P3286 (Witness statement of Armin Baždar dated 23 January 1999), p. 6.

3480 P3286 (Witness statement of Armin Baždar dated 23 January 1999), p. 6; Armin Baždar, T. 18390–18391 (5 September 2011).

3481 Mile Ujić, T. 33472-33476 (12 February 2013); P6107 (Verdict of BiH Court against Dragoje Paunović, 26 May 2006), p. 3.

1027. The BiH Research and Document Agency reported on the exhumation of 24 bodies from a mass grave site at Duljevac, Rogatica, in September 1998 which was carried out pursuant to a decision of the Sarajevo Cantonal Court.[3482] Bullet cases were retrieved from the mass grave and in the vicinity of the grave.[3483] The 24 bodies were identified following a post-mortem examination.[3484] KDZ607 confirmed that the names listed in the exhumation report corresponded to the names of the people he identified as the victims of this incident.[3485] The bodies were returned to families for burial after they identified the exhumed bodies.[3486]

1028. The Chamber therefore finds that 24 Bosnian Muslims who had been taken from Rasadnik were killed by Serb Forces on 15 August 1992.[3487]

(G) Scheduled Incident D.18

1029. The Indictment refers to the destruction of five mosques in Rogatica at least between June and December 1992.[3488]

1030. In the days following the initial attack on Rogatica on 22 May 1992, tanks and APCs came to the town on a daily basis and fired at targets including the mosques.[3489] While KDZ051 was

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3482 P3276 (Report of BiH Research and Documentation Agency on Rogatica mass grave, 13 October 1998), pp. 2–3, 5–6, 64. KDZ606 recognised the names of almost everyone on this list. P3279 (Witness statement of KDZ606 dated 1 September 2011), paras. 99–100 (under seal); P4850 (Witness statement of Amor Mašović dated 23 March 2012), Annex A, p. 10; P4895 (Sarajevo MUP record of Duljevac exhumation and identification, 10 September 1992). *See also* P4853 (Updated Table 2 to the Report of Amor Mašović), pp. 93–94.

3483 P3276 (Report of BiH Research and Documentation Agency on Rogatica mass grave, 13 October 1998), pp. 3–4.

3484 P3276 (Report of BiH Research and Documentation Agency on Rogatica mass grave, 13 October 1998), p. 7.

3485 KDZ607, T. 18479–18480 (6 September 2011); P3276 (Report of BiH Research and Documentation Agency on Rogatica mass grave, 13 October 1998). KDZ606 also confirmed that the list was an accurate list of the bodies exhumed from the grave. KDZ606, T. 18275–18276 (2 September 2011) (closed session).

3486 P3276 (Report of BiH Research and Documentation Agency on Rogatica mass grave, 13 October 1998), p. 3. The names of the bodies identified by family members were Edis Ćatić, Sulejman Kazić, Eldin Hodžić, Asim Kapo, Mujo Pašić, Mesud Pašić, Mevludin Ćatić, Faruk Isaković, Šukrija Omeragić, Fuad Šetić, Nedžad Kazić, Hamdija Jašarević, Midhat Ćatić, Husein Jašarević, Vahudin Ćatić, Mehmed Delija, Mustafa Tanković, Sulejman Jašarević, Osman Solak, Fuad Kazić, Besim Kurčehajić, Halil Halilović, Zajko Salihović, and Derviš Pašić. P3276 (Report of BiH Research and Documentation Agency on Rogatica mass grave, 13 October 1998), pp. 7–62; 64–69. The Chamber notes that it received another report which listed 26 people who were killed in this incident. P3283 (List of Bosnian Muslim civilians killed in Rogatica), p. 7. The Chamber is not satisfied with the provenance of this document and will not rely on it for the purposes of a finding in this regard.

3487 Armin Baždar, T. 18385–18387 (5 September 2011); P3286 (Witness statement of Armin Baždar dated 23 January 1999), p. 7; P3289 (Witness statement of KDZ607 dated 1 September 2011), paras. 42–43, 45–53 (under seal). Baždar managed to escape into the woods while Bosnian Serb soldiers chased and opened fire on him. *See also* P127 (Witness statement of Alija Isaković dated 22 January 1999), p. 5; P128 (Alija Isaković's statement to BiH authorities, 30 March 1993), p. 4; D3038 (Witness statement of Novica Andrić dated 23 February 2013), para. 17; P3267 (Witness statement of Šefik Hurko dated 1 September 2011), paras. 15–17, 23–24; Šefik Hurko, T. 18231–18233 (2 September 2011) (testifying that he heard Bosnian Serb soldiers talking about this incident and that they had "killed all the balijas" and that he had seen the Bosnian Muslims being driven at Duljevac.)

detained at the Veljko Vlahović Secondary School, he saw Bosnian Serb soldiers go past in a tank carrying a black flag with the skull and bone insignia and the tricolour flag of the RS heading in the direction of a mosque in town.[3490] After some time, KDZ051 heard "a couple of blows or knocks", and then ten minutes later, the tank returned.[3491] That same afternoon, KDZ051 heard that the mosque had been partially destroyed; on the next day, the tank returned with others and destroyed it completely.[3492]

1031. By the end of 1992 the two mosques in Rogatica, named Čaršijska and Arnaudija,[3493] were completely destroyed.[3494] The buildings adjacent to the mosques remained in good condition.[3495] Bosnian Muslims were taken to sites and forced to clear the rubble of both mosques which had been "razed to the ground".[3496] The Chamber therefore finds that Serb Forces destroyed the Arnaudija and Čaršijska mosques in the town of Rogatica between June and December 1992.

3488 Arnaudija mosque, Čaršijska mosque (the Chamber notes that the Indictment refers to the Čaršija mosque but considers this to be a reference to the same mosque), three mosques in the area of Vragolovi.

3489 P127 (Witness statement of Alija Isaković dated 22 January 1999), p. 4.

3490 P3405 (Witness statement of KDZ051 dated 17 September 2011), para. 84.

3491 P3405 (Witness statement of KDZ051 dated 17 September 2011), para. 84.

3492 P3405 (Witness statement of KDZ051 dated 17 September 2011), para. 84. Defence witnesses testified that (i) the Green Berets assembled around the mosques; (ii) the mosques were used by Bosnian Muslim forces for the storage of anti-tank mines; (iii) sniper nests were located near the mosques; (iv) the mosques may have been hit during clashes; and (v) Serb Forces were instructed not to destroy any religious facilities. Milovan Lelek, T. 34391–34393 (27 February 2013) (testifying further that there were major enemy concentrations in the area of Vragolovi); D2950 (Witness statement of Sveto Veselinović dated 15 February 2013), para. 18; Sveto Veselinović, T. 33886–33887 (18 February 2013); D2909 (Witness statement of Mile Ujić dated 9 February 2013), para. 38; D2930 (Witness statement of Tomislav Batinić dated 11 February 2013), para. 33. *See also* D2963 (Video footage of Rogatica), 16:32:00–17:00:00, 21:34:00-22:10:00 (which shows a machine gun nest and what appears to be a destroyed mosque. The Chamber notes that it is unclear when this video was taken and is not satisfied that it can be used to support a finding that machine gun nests were near mosques but does suggest damage to a mosque in Rogatica). The Chamber does not find this evidence to be reliable. In reaching that conclusion the Chamber noted that the evidence the some of the mosques were completely destroyed while adjacent buildings remained in good condition undermined the testimony of the witnesses that they were destroyed in clashes. In addition the Chamber refers to the credibility assessment of the relevant witnesses in fns. 3142 and 3208 as to why the evidence of these witnesses is unreliable in this regard.

3493 P3405 (Witness statement of KDZ051 dated 17 September 2011), para. 83; P4069 (Cultural destruction database), record 263; *see* Adjudicated Fact 2513.

3494 P3267 (Witness statement of Šefik Hurko dated 1 September 2011), para. 61; Šefik Hurko, T. 18375 (5 September 2011); P3289 (Witness statement of KDZ607 dated 1 September 2011), paras. 59–63 (under seal); P3278 (Photograph of Carsijska mosque in Rogatica); P3294 (Photograph of field in Rogatica); P3277 (Photograph of Arnaudija mosque in Rogatica); P3293 (Photograph of field in Rogatica); KDZ606, T. 18276–18278 (2 September 2011) (closed session); P3279 (Witness statement of KDZ606 dated 1 September 2011), paras. 105–109 (under seal); P127 (Witness statement of Alija Isaković dated 22 January 1999), p. 5; P4070 (Attachment to the expert report of András J. Riedlmayer, entitled "Destruction of Cultural Heritage in BiH" prepared for the Karadžić case, formatted records), pp. 259–263; P3286 (Witness statement of Armin Baždar dated 23 January 1999), p. 4; P6157 (Map of Rogatica); P3405 (Witness statement of KDZ051 dated 17 September 2011), para. 83. *See also* David Harland, T. 2118 (7 May 2010) (testifying that when he travelled through Rogatica he could see the minarets of mosques lying on the ground).

3495 P4069 (Cultural destruction database), records 263–264.

3496 P3267 (Witness statement of Šefik Hurko dated 1 September 2011), para. 61; Šefik Hurko, T. 18375 (5 September 2011).

1032. Three mosques in the Vragolovi area were also destroyed.[3497] While the Chamber relies on Riedlmayer for the purposes of finding that the mosques were destroyed, and the nature and extent of the damage to the mosques and surrounding buildings, it does not rely on his evidence as to when and who was responsible for the destruction of the mosques which fall outside his expertise and are based on informant statements which he received. Therefore, while the Chamber further finds that three mosques in the Vragolovi area were also destroyed, it has insufficient evidence to determine when they were destroyed and who was responsible for their destruction.

(H) Movement of the population from Rogatica

1033. In the period leading up to the attack on Rogatica, Bosnian Muslims were harassed, searched, and "insulted on religious and ethnic grounds"; thereafter most of them stopped going to work.[3498] The security situation became more complicated in April 1992.[3499] The shortages in food and necessities caused panic and prompted people to take refuge outside the municipality, including in Serbia.[3500] Both Bosnian Muslims and Bosnian Serbs left because of fear, which was exacerbated in May 1992 due to increasing insecurity and shooting incidents.[3501] Bosnian Serbs left the town *en masse* and found accommodation with relatives on the outskirts of town or in houses in Bosnian Serb villages or hamlets outside town.[3502] Since the majority of the Bosnian Serb inhabitants had moved out of the town, the organs of the Serb Municipality of Rogatica also relocated.[3503] When the Bosnian Serb families started moving out of the town, this made the

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3497 *See* Adjudicated Fact 2513. Riedlmayer's report, which is based on his visits to the sites in 2002 and on information he received from the Islamic Community of BiH and other sources, identifies the following mosques and the level of damage: Arnaudija mosque (completely destroyed), Čaršijska mosque (completely destroyed), Vragolovi mosque (heavily damaged): P4070 (Attachment to the expert report of András J. Riedlmayer, entitled "Destruction of Cultural Heritage in BiH" prepared for the Karadžić case, formatted records), pp. 259– 265; P4069 (Cultural destruction database), records 258–262, 265–266, 268–269; P4071 (Slide images of damaged religious sites in BiH), p. 8; András Riedlmayer, T. 22534 (8 December 2011) referring to the Čaršijska mosque. The Chamber also received evidence on damage to other cultural monuments and sacred sites in Rogatica however, these sites are not charged in Schedule D of the Indictment. P3279 (Witness statement of KDZ606 dated 1 September 2011), para. 105 (under seal); P3289 (Witness statement of KDZ607 dated 1 September 2011), para. 59 (under seal); *see* Adjudicated Fact 2513; P4070 (Attachment to the expert report of András J. Riedlmayer, entitled "Destruction of Cultural Heritage in BiH" prepared for the Karadžić case, formatted records), pp. 266–268; P4069 (Cultural destruction database), records 258–262, 266, 268; András Riedlmayer, T. 22527 (8 December 2011).

3498 P3289 (Witness statement of KDZ607 dated 1 September 2011), para. 9 (under seal); KDZ607, T. 18498 (6 September 2011).

3499 P3407 (Report on the work of the Rogatica Municipal Assembly and Executive Board from July 1992 to September 1993), p. 14.

3500 P3407 (Report on the work of the Rogatica Municipal Assembly and Executive Board from July 1992 to September 1993), p. 14.

3501 KDZ051, T. 19380–19381 (22 September 2011); D2950 (Witness statement of Sveto Veselinović dated 15 February 2013), para. 16.

3502 D2930 (Witness statement of Tomislav Batinić dated 11 February 2013), para. 21.

3503 D2930 (Witness statement of Tomislav Batinić dated 11 February 2013), para. 22. *See also* D3031 (Witness statement of Milovan Lelek dated 23 February 2013), para. 10.

Bosnian Muslim population nervous about what would happen to them.[3504] A significant number of Bosnian Muslims left the town.[3505]

1034. Prior to the attack on Rogatica, Bosnian Serb men had already taken their military positions outside Rogatica and Bosnian Serb women and children had moved out of the area; as a result the only people remaining were Bosnian Muslims and a few Bosnian Serbs.[3506] Some Bosnian Muslims who tried to escape their villages were arrested by Serb Forces and taken to Sokolac.[3507]

1035. The shelling of downtown Rogatica, which had a majority Muslim population, prompted Bosnian Muslims to move out from the town centre and columns of people began moving through Kozarde.[3508] The Chamber has also described above the number of Bosnian Muslims who gathered in Rogatica town and who were taken to Veljko Vlahović Secondary School.[3509] A group of between 1,500 and 2,000 Bosnian Muslims left following the shelling of the town and arrived in the Bosnian Muslim village of Vragolovi where there were approximately 5,000 to 6,000 displaced Bosnian Muslims.[3510] Bosnian Muslims from the villages around Rogatica also went to Vragolovi while others continued towards Goražde.[3511] Bosnian Muslims were threatened and warned of forthcoming "cleansing".[3512] They were told that they would be allowed to leave the area and that buses to Visoko and Zenica would be provided, as this was where Bosnian Muslims were "supposed to live".[3513] When he visited Rogatica in August 1992, Bowen was told that the expulsion of Bosnian Muslims was led by Kušić.[3514] Bowen also interviewed Bosnian Muslims who were former residents of Rogatica who spoke to him about killing, forcible evacuation and the rape of young women.[3515]

3504 P127 (Witness statement of Alija Isaković dated 22 January 1999), p. 3.

3505 D2930 (Witness statement of Tomislav Batinić dated 11 February 2013), para. 22.

3506 P3405 (Witness statement of KDZ051 dated 17 September 2011), para. 13.

3507 P3289 (Witness statement of KDZ607 dated 1 September 2011), paras. 12–13 (under seal); KDZ607, T. 18508–18509 (7 September 2011).

3508 P3289 (Witness statement of KDZ607 dated 1 September 2011), para. 11 (under seal).

3509 *See* paras. 982–985.

3510 *See* Adjudicated Fact 2512. In light of other accepted evidence, the Chamber does not attribute weight to an article which suggested that Bosnian Serb authorities arranged for the transport of Bosnian Muslims to Sarajevo upon their request. P2832 (Article from Srpska Vojska entitled "They Saved Serbian Land", 15 July 1993), p. 4. *See also* P3404 (Witness statement of KDZ051 dated 17 September 2011), paras. 101–102 (under seal) [REDACTED].

3511 Milovan Lelek, T. 34394 (27 February 2013).

3512 P3279 (Witness statement of KDZ606 dated 1 September 2011), para. 102 (under seal).

3513 P3279 (Witness statement of KDZ606 dated 1 September 2011), para. 102 (under seal).

3514 P2068 (Witness statement of Jeremy Bowen dated 10 August 2009), para. 53.

3515 Jeremy Bowen, T. 10254–10255 (14 January 2011). *See also* Milan Tupajić, P5238 (Transcript from *Prosecutor v. Krajišnik*), T. 15376–15377 (testifying that columns of Bosnian Muslim refugees from Rogatica and Višegrad passed through Sokolac in late May, June and July 1992 and related that "very ugly things were happening" including murders).

1036. Some Bosnian Muslims were moved out of Rogatica in an organised way.[3516] At the end of November 1992 Kušić stated that the Municipal Assembly had lists of "loyal Muslims" in Rogatica and also lists of "the ones who were sent away from Rogatica in the previous months during combat activities".[3517] There was also an increasing number of Serb refugees arriving from other areas of BiH who were accommodated in the abandoned homes of Bosnian Muslims and Bosnian Serbs.[3518] By the end of June 1992, more Bosnian Muslims left Rogatica given that the Bosnian Serbs "were terrorising the people" and creating conditions in which "it was impossible for the Muslims to continue to live in the area."[3519] The Bosnian Muslim civilian authorities and police from Rogatica withdrew from the town.[3520]

1037. On 26 June 1992, Tomislav Šipčić, as Commander of the SRK, issued a written warning to the Rogatica Brigade Command in which he said: "Kušić, I strictly forbid you to take any action on your own unless I personally approve, particularly any form of mopping up of anybody's villages. For the last time, I am warning you to refrain from massacre, rampaging, abusing the innocent population of any nationality."[3521] Despite this order, Kušić retained his position in the Rogatica Brigade, but the order did result in some improvement in his conduct.[3522]

3516 KDZ051, T. 19380 (22 September 2011). Batinić denied that the Rogatica Crisis Staff or the Bosnian Serb leadership adopted a position, rendered a decision on the forcible moving out of the Bosnian Muslim population. or incited any other institution to do so. D2930 (Witness statement of Tomislav Batinić dated 11 February 2013), paras. 18, 35 referring to P2835 (Report of Rogatica Crisis Staff, April – June 1992); Tomislav Batinić, T. 33673 (14 February 2013). However, the Chamber does not find Batinić's evidence to be reliable in this regard. In reaching this conclusion the Chamber noted Batinić had an interest in minimising his own involvement in events in Rogatica and that the witness was evasive and his evidence was marked by contradictions.

3517 D2914 (Response of 1st Podrinje Light Infantry Brigade, 30 November 1992), p. 1. Defence witnesses testified that Bosnian Muslim villages which expressed loyalty to the Bosnian Serb authorities and handed over their weapons were protected. D2930 (Witness statement of Tomislav Batinić dated 11 February 2013), paras. 27, 29–30; Tomislav Batinić, T. 33689, 33711 (14 February 2013); D2909 (Witness statement of Mile Ujić dated 9 February 2013), para. 32; Mile Ujić, T. 33462–33463 (12 February 2013); Milovan Lelek, T. 34377–34379 (27 February 2013). The Chamber does not find this evidence that Bosnian Muslim villages were protected to be reliable. In reaching that conclusion, the Chamber noted that Batinić acknowledged on cross-examination that Bosnian Muslims did not remain in these villages throughout the war and that in October 1994 the last remaining Bosnian Muslims left the municipality but he claimed that that they left at their own request. When Batinić was confronted with documents which suggested that these last remaining Bosnian Muslims were forcibly expelled by Bosnian Serb soldiers who came to their homes he claimed he did not know that this was happening. The Chamber found a contradiction in Batinić's evidence that Bosnian Muslims were leaving at their own request and his denial of any knowledge about how they were moved from their homes and his acknowledgement that they lived in fear and the authorities were unable to keep everything under control. Tomislav Batinić, T. 33691–33695 (14 February 2013). The Chamber also refers to its credibility assessment in fns. 3142 and 3208 as to why the evidence of the relevant witnesses are unreliable in this regard.

3518 D2950 (Witness statement of Sveto Veselinović dated 15 February 2013), para. 16.

3519 P3289 (Witness statement of KDZ607 dated 1 September 2011), para. 58 (under seal).

3520 P3279 (Witness statement of KDZ606 dated 1 September 2011), paras. 89, 96 (under seal); P128 (Alija Isaković's statement to BiH authorities, 30 March 1993), pp. 2–3.

3521 P1001 (Warning of SRK Commander to Rogatica Brigade, 26 June 1992), pp. 1–2; [REDACTED].

3522 [REDACTED].

1038. In July 1992, 1,500 Bosnian Muslims escaped from Vragolovi to Goražde after the former was shelled by Serb Forces.[3523] In August 1992, almost all Bosnian Muslims who had taken refuge in Vragolovi left the village after they received a warning about another attack.[3524]

1039. The Chamber finds that the Bosnian Muslim population were forced to leave Rogatica following immense pressure put on them, given the surrounding circumstances in the municipality including *inter alia* (i) attacks against their homes; (ii) shelling of villages; (iii) destruction of mosques and other property; (iv) forcible arrest and removal from their homes; (v) detention in multiple detention facilities; as well as (vi) mistreatment and killings. While the Chamber received evidence that orders were issued which called for the protection of members of the population who handed over weapons, this does not undermine the evidence received with respect to lack of voluntariness in the departure of the Bosnian Muslim population.[3525]

1040. Bosnian Muslim women, children and elderly continued to be expelled from Rogatica even until October 1994 when the last remaining Bosnian Muslims left the municipality.[3526] By the time the Accused delivered a speech at the RS Assembly on 28 August 1995 there were almost no Bosnian Muslims in Rogatica.[3527]

vi. Sokolac

(A) Charges

1041. Under Count 3, the Prosecution alleges that persecution, a crime against humanity, was committed in Sokolac as part of the objective to permanently remove Bosnian Muslims and/or Bosnian Croats from the Municipalities.[3528] Acts of persecution alleged to have been committed by Serb Forces and Bosnian Serb Political and Governmental Organs include killings during and after

3523 *See* Adjudicated Fact 2512.

3524 *See* Adjudicated Fact 2512.

3525 D2910 (SRK Order, 22 October 1992), p. 1; D2911 (SRK Order, 12 July 1992); D95 (Instructions from RS Presidency to presidents of municipalities in Goražde area, 14 July 1992). The Chamber received evidence that in a UNCHR memorandum dated 17 August 1994, General Soubirou expressed his belief that the "forced eviction of civilians in Rogatica which was covered by the media as ethnic cleansing" was part of an agreement between the parties. D950 (UN report re meeting with General Soubirou, 17 August 1994), p. 2. The Chamber does not consider that the opinion of General Soubirou in this context is of much weight given that he simply states that this was his belief without any indication of the basis of his opinion. It is also not clear whether his observation relates to the whole course of the conflict in Rogatica or a specific incident in 1994. The Chamber also notes that when Bowen was shown this document, he testified that when he interviewed those who left Rogatica, they told him about the difficulties they faced including killing, forced evacuation, and rapes. Jeremy Bowen, T. 10254–10255 (14 January 2011). The Chamber also refers to its finding in paras. 1033–1035 regarding the lack of voluntariness in the departure of the Bosnian Muslim population.

3526 P4867 (BiH State Commission for Exchange of POWs report, 15 October 1994), p. 4.

3527 Sveto Veselinović, T. 45110 (16 December 2013).

3528 Indictment, paras. 48–49.

the take-over of Sokolac,[3529] and killings committed during, and deaths resulting from, cruel and inhumane treatment at scheduled detention facilities.[3530] The Prosecution also characterises these killings as extermination, a crime against humanity, under Count 4; murder, a crime against humanity, under Count 5; and murder, a violation of the laws or customs of war, under Count 6.[3531]

1042. Other acts of persecution alleged to have been committed by Bosnian Serb Forces and Bosnian Serb Political and Governmental Organs in Sokolac include (i) torture, beatings, and physical and psychological abuse, during and after the take-over and in scheduled detention facilities, as cruel or inhumane treatment;[3532] (ii) rape and other acts of sexual violence, during and after the take-over and in scheduled detention facilities as cruel and inhumane treatment;[3533] (iii) the establishment and perpetuation of inhumane living conditions in detention facilities, including the failure to provide adequate accommodation, shelter, food, water, medical care, or hygienic sanitation facilities, as cruel or inhumane treatment;[3534] (iv) forcible transfer or deportation of Bosnian Muslims and Bosnian Croats from their homes;[3535] (v) unlawful detention in scheduled detention facilities;[3536] (vi) forced labour at the frontline and the use of Bosnian Muslims and Bosnian Croats as human shields;[3537] (vii) the appropriation or plunder of property, during and after the take-over, during arrests and detention and in the course of or following acts of deportation or forcible transfer;[3538] (viii) the wanton destruction of private property including homes and business premises and public property, including cultural monuments and sacred sites;[3539] and (ix) the imposition and maintenance of restrictive and discriminatory measures.[3540]

1043. Under Counts 7 and 8, the Prosecution alleges deportation and inhumane acts (forcible transfer), respectively, as crimes against humanity.[3541] In this regard, the Prosecution alleges that Bosnian Serb Forces and Bosnian Serb Political and Governmental Organs forcibly displaced Bosnian Muslims and Bosnian Croats from areas in Sokolac in which they were lawfully present by

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3529 Indictment, para. 60(a)(i). *See* Scheduled Incident A.13.1.

3530 Indictment, para. 60(a)(ii). *See* Scheduled Detention Facilities C.23.1, C.23.2.

3531 Indictment, paras. 63(a), 63(b).

3532 Indictment, para. 60(b). *See* Scheduled Detention Facilities C.23.1, C.23.2.

3533 Indictment, para. 60(c). *See* Scheduled Detention Facilities C.23.1, C.23.2.

3534 Indictment, para. 60(d). *See* Scheduled Detention Facilities C.23.1, C.23.2.

3535 Indictment, para. 60(f).

3536 Indictment, para. 60(g). *See* Scheduled Detention Facilities C.23.1, C.23.2.

3537 Indictment, para. 60(h).

3538 Indictment, para. 60(i).

3539 Indictment, para. 60(j). *See* Destruction of Cultural Monuments and Sacred Sites: Scheduled Incident D.20.

3540 Indictment, para. 60(k). The restrictive and discriminatory measures alleged include the denial of freedom of movement; the removal from positions of authority; the invasion of privacy through arbitrary searches of homes; unlawful arrest and/or the denial of the right to judicial process; and/or the denial of equal access to public services.

3541 Indictment, paras. 68–75.

the end of 1992.[3542] It is alleged that from March 1992, restrictive and discriminatory measures, arbitrary arrest and detention, harassment, torture, rape and other acts of sexual violence, killing, destruction of houses, cultural monuments and sacred sites, as well as the threat of further such acts caused Bosnian Muslims and Bosnian Croats to flee in fear while others were physically driven out.[3543]

(B) Lead-up

1044. Sokolac is a municipality in eastern BiH located to the east of Sarajevo and to the west of Rogatica.[3544] According to the 1991 census, the municipality of Sokolac had approximately 15,000 inhabitants, of whom around 66% were Bosnian Serbs and 33% were Bosnian Muslims.[3545]

1045. Following the multi-party elections in late 1990, the SDS won 29 of the 50 seats in Sokolac and an inter-party agreement was reached with the SDA under which positions of authority were divided between Bosnian Serbs and Bosnian Muslims.[3546] The agreement on the distribution of posts in the SJB was confirmed at a meeting of the MUP.[3547] Multi-ethnic patrols of reserve army and police were also formed at that time.[3548]

1046. From the beginning of 1991, there were increasing inter-ethnic tensions and fear amongst Bosnian Muslims and Bosnian Serbs.[3549] In January 1992, a meeting was held between SDS and SDA representatives to discuss the deterioration of the political and security situation.[3550] Tensions were further exacerbated at the beginning of 1992.[3551]

3542 Indictment, paras. 68, 69, 72.

3543 Indictment, para. 71.

3544 D484 (Map of BiH).

3545 D3206 (Witness statement of Milovan Bjelica dated 30 March 2013), para. 20; Milan Tupajić, P5238 (Transcript from *Prosecutor v. Krajišnik*), T. 15322; D3175 (Witness statement of Dragomir Obradović dated 24 March 2013), para. 2.

3546 D3175 (Witness statement of Dragomir Obradović dated 24 March 2013), paras. 2–3; D3206 (Witness statement of Milovan Bjelica dated 30 March 2013), paras. 20–21.

3547 D3206 (Witness statement of Milovan Bjelica dated 30 March 2013), para. 21.

3548 D3206 (Witness statement of Milovan Bjelica dated 30 March 2013), para. 23.

3549 D3175 (Witness statement of Dragomir Obradović dated 24 March 2013), para. 4. *See also* D3206 (Witness statement of Milovan Bjelica dated 30 March 2013), para. 24.

3550 P5246 (Excerpt from Milan Tupajić's diary, 23 December 1991–20 January 1992), p. 10.

3551 D3206 (Witness statement of Milovan Bjelica dated 30 March 2013), paras. 31–32, 70; D3226 (Minutes from 4th session of Sokolac Crisis Staff, 4 May 1992), p. 2; P5246 (Excerpt from Milan Tupajić's diary, 23 December 1991–20 January 1992), p. 10. Examples heard by the Chamber included the fact that the inter-party agreements started to fall apart when the Bosnian Serbs in Sokolac refused to agree to the referendum on BiH independence. D3206 (Witness statement of Milovan Bjelica dated 30 March 2013), para. 22; D3175 (Witness statement of Dragomir Obradović dated 24 March 2013), para. 5. The Chamber also heard evidence about increasing fear among Bosnian Serbs given information that Bosnian Muslims from the region had volunteered to fight in Croatia and were returning with weapons and that Bosnian Muslim paramilitary formations had received training there. D3206 (Witness statement of Milovan Bjelica dated 30 March 2013), paras. 24, 39. The

1047. From 1991 to spring 1992, both Bosnian Serbs and Bosnian Muslims were being armed in Sokolac.[3552] The 2nd Romanija Motorised Brigade of the Army of SerBiH was established on 21 May 1992 and was made up of local conscripts from Sokolac, Han Pijesak, and the surrounding area and all members of the TO were mobilised into the brigade.[3553] Radislav Krstić was the commander of this brigade.[3554]

1048. Around March 1992, check-points were erected in Sokolac on important roads or at locations leading to the direction of Olovo and armed Bosnian Serbs in uniforms were placed at those check-points.[3555] Bosnian Muslims were stopped, taken away or mistreated at these check-points.[3556]

1049. During April 1992, several paramilitary units were based in Sokolac town and its surrounding villages.[3557] These units included Arkan's men, the White Eagles, and some local groups.[3558] Other informal groups were also present in the municipality.[3559]

Chamber also received evidence about attacks against Bosnian Serb villages by Bosnian Muslims. D3206 (Witness statement of Milovan Bjelica dated 30 March 2013), para. 44; D3175 (Witness statement of Dragomir Obradović dated 24 March 2013), para. 7; Dragomir Obradović, T. 36079–36082 (26 March 2013); D3186 (Photograph of Slavko Batinić's house); D3187 (Photograph of Slavko Batinić's house); D3188 (Photograph of Slavko Batinić's house).

3552 The Chamber heard evidence that (i) the SDS and JNA were involved in the distribution of weapons and uniforms to Bosnian Serbs; (ii) the SDA was involved in the arming of the Bosnian Muslim population; (iii) units of the Patriotic League and the Green Berets were formed in Sokolac; and (iv) the reserve forces of the TO and the 216th Mountain Brigade of the JNA were mobilised and a JNA rocket unit was moved to Sokolac. P131 (Witness statement of Asim Hamzić dated 25 March 1996), pp. 3–6; D3175 (Witness statement of Dragomir Obradović dated 24 March 2013), paras. 5–6, 8; D3206 (Witness statement of Milovan Bjelica dated 30 March 2013), paras. 23, 38–39; Milovan Bjelica, T. 36411–36414 (3 April 2013); P2828 (Witness statement of Asim Džambasović dated 18 June 2011), para. 108; D3219 (Report of RS MUP National Security Service, undated). *See also* P1113 (Interview with Momčilo Mandić in Slobodna Bosna, 10 April 1998), p. 2; D3224 (Article from Oslobođenje entitled "We Knew What to Do", 24 September 1992).

3553 Milan Tupajić, P5238 (Transcript from *Prosecutor v. Krajišnik*), T. 15384; D3175 (Witness statement of Dragomir Obradović dated 24 March 2013), para. 14.

3554 Milan Tupajić, P5238 (Transcript from *Prosecutor v. Krajišnik*), T. 15432.

3555 P131 (Witness statement of Asim Hamzić dated 25 March 1996), p. 5; Adjudicated Fact 2673. The Chamber received Defence evidence which suggested that there were no barricades in Sokolac at all and that the only armed formations in March 1992 were members of the TO. D3175 (Witness statement of Dragomir Obradović dated 24 March 2013), para. 27. The Chamber does not accept this evidence and in reaching this conclusion, the Chamber considered that Obradović's evidence was marked by deliberate evasiveness and was contradictory on a number of occasions. Furthermore, the Chamber noted that this point was contradicted by other Defence evidence which suggested that there were reserve police check-points manned by a special purpose unit of the SJB that was removed from the police after complaints were made about its actions, and which therefore corroborates the existence of such check-points. D3206 (Witness statement of Milovan Bjelica dated 30 March 2013), paras. 61, 67; D3222 (Minutes from session of Sokolac Crisis Staff, 20 April 1992), p. 8.

3556 P131 (Witness statement of Asim Hamzić dated 25 March 1996), p. 8.

3557 *See* Adjudicated Fact 2675. The Chamber is not satisfied that there were no paramilitary formations in Sokolac, as suggested by the evidence led by the Defence. D3206 (Witness statement of Milovan Bjelica dated 30 March 2013), paras. 53, 63. In reaching this conclusion, the Chamber considered that in this respect, the evidence of Bjelica was marked with partisanship and bias and could not be relied on in relation thereto.

3558 Adjudicated Fact 2675.

1050. Measures for the creation of a separate Bosnian Serb police in Sokolac started in early 1992. In February 1992, two days after the establishment of a "Serbian collegium" of the MUP to be managed by Momčilo Mandić,[3560] Mandić instructed Zoran Cvijetić, Chief of the Sokolac SJB, and other heads of security centres to have a meeting with all senior executives of the MUP in their area of responsibility and report back to him.[3561] Some time in March or April 1992, Cvijetić dismissed all Bosnian Muslim members of the police force and established a separate Bosnian Serb police.[3562] By April 1992 only Bosnian Serbs remained on the payroll of the Sokolac SJB.[3563]

1051. The Sokolac Crisis Staff was established in April 1992, and its first session was held on 6 April 1992.[3564] At this first session, Milan Tupajić, an SDS member and president of the municipal assembly, was appointed as its president.[3565] The Crisis Staff consisted of the President of the Municipality, the President of the SDS Municipal Board, the chief of police, and other members of the SDS and the SDP and was designed to take over the functions of the municipal assembly when it was unable to convene due to emergency situations.[3566] The Crisis Staff was tasked with maintaining the functioning of authority, commercial, and social life at the municipality level, collaborating with the police in Sokolac, the command of the army and the Bosnian Serb government on all vital issues.[3567] All important decisions of the SDS Main Board that needed to

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3559 D3206 (Witness statement of Milovan Bjelica dated 30 March 2013), paras. 53, 63. *See also* D3175 (Witness statement of Dragomir Obradović dated 24 March 2013), paras. 10, 29.

3560 P1083 (Minutes of meeting of representatives of SerBiH MUP, 11 February 1992), p. 4. For the establishment, and creation of the Bosnian Serb MUP, *see* Section II.C.3: Bosnian Serb MUP.

3561 Momčilo Mandić, C2 (Transcript from *Prosecutor v. Krajišnik*), T. 8649–8650; P1112 (Order of SRBiH MUP to all CSBs and SJBs, 13 February 1992).

3562 P2831 (Diary of Asim Džambasović), p. 34; P6089 (BiH MUP report, 24 March 1992), p. 2; P2828 (Witness statement of Asim Džambasović dated 18 June 2011), para. 87; P131 (Witness statement of Asim Hamzić dated 25 March 1996), p. 5; Momčilo Mandić, T. 4888-4889 (8 July 2010); P6234 (List of employees of Sokolac Police Station in April 1992). *See also* Adjudicated Fact 2674. The Chamber does not accept the Defence evidence that Bosnian Muslim police were temporarily removed for their own safety or as a temporary measure pending the resolution of structural issues in the police. D3206 (Witness statement of Milovan Bjelica dated 30 March 2013), paras. 42, 62; D3175 (Witness statement of Dragomir Obradović dated 24 March 2013), para. 28; Dragomir Obradović, T. 36088, 36090 (26 March 2013). In this regard, the Chamber notes Bjelica's own admission that the employees of the Sokolac SJB could not return to their jobs until the end of the war and that Obradović's evidence was marked by deliberate evasiveness and was contradictory on a number of occasions.

3563 P6234 (List of employees of Sokolac Police Station in April 1992).

3564 Milan Tupajić, P5238 (Transcript from *Prosecutor v. Krajišnik*), T. 15321, 15323, 15508–15509. *See also* P5242 (Minutes of meeting of Sokolac Crisis Staff, 15 May 1992), p. 1; P131 (Witness statement of Asim Hamzić dated 25 March 1996), p. 3; D3206 (Witness statement of Milovan Bjelica dated 30 March 2013), para. 28.

3565 Milan Tupajić, P5238 (Transcript from *Prosecutor v. Krajišnik*), T. 15321, 15323, 15508–15509. *See also* P5242 (Minutes of meeting of Sokolac Crisis Staff, 15 May 1992), p. 1; P131 (Witness statement of Asim Hamzić dated 25 March 1996), p. 3; D3206 (Witness statement of Milovan Bjelica dated 30 March 2013), para. 28.

3566 D3206 (Witness statement of Milovan Bjelica dated 30 March 2013), para. 28; Milovan Bjelica, T. 36394 (2 April 2013).

3567 Milan Tupajić, P5238 (Transcript from *Prosecutor v. Krajišnik*), T. 15330; P5243 (Sokolac Crisis Staff decision, 29 May 1992), p. 1; D3206 (Witness statement of Milovan Bjelica dated 30 March 2013), para. 30. For examples of the issues the Crisis Staff was dealing with *see* P5250 (Minutes of meeting of Sokolac Crisis Staff,

be implemented in Sokolac were sent to the SDS Municipal Board of Sokolac[3568] and the Crisis Staff was informed of these decisions.[3569] Around June 1992, a War Commission was created in Sokolac consisting of SDS members to communicate developments at the municipality level to the republican level.[3570] The Sokolac Crisis Staff operated until some time in July 1992 when the Executive Board took over its functions.[3571]

1052. From 10 April 1992, the Crisis Staff took measures to preserve or restore public law and order in Sokolac and these measures included restrictions on the entry and movement of armed formations without approval, ordering investigation and taking measures against theft in the municipality regardless of the ethnic background of the victim.[3572] The presidents of local communes were instructed to inform the relevant authorities and the Sokolac SJB in the event that

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10 April 1992); P5240 (Sokolac Crisis Staff conclusions, 20 April 1992); P5247 (Sokolac Crisis Staff conclusions, 5 May 1992); P5241 (Request of SerBiH Government to the Sokolac Crisis Staff, 9 May 1992); P5239 (Request of SerBiH Government to the Sokolac Crisis Staff, 11 May 1992); P5242 (Minutes of meeting of Sokolac Crisis Staff, 15 May 1992); P5244 (Minutes of meeting of Sokolac Crisis Staff, 22 June 1992).

3568 Milovan Bjelica replaced Mirko Malović at the beginning of 1992 as the president of the SDS Municipal Board. Milan Tupajić, P5238 (Transcript from *Prosecutor v. Krajišnik*), T. 15349–15350, 15462–15463; D3206 (Witness statement of Milovan Bjelica dated 30 March 2013), para. 18.

3569 Milan Tupajić, P5238 (Transcript from *Prosecutor v. Krajišnik*), T. 15349. In light of the equivocal answers on cross-examination and the fact that Bjelica's evidence was marked by partisanship and bias, the Chamber does not accept his evidence that the municipal authorities never received nor implemented the Variant A/B Instructions. *See* D3206 (Witness statement of Milovan Bjelica dated 30 March 2013), paras. 18, 28; Milovan Bjelica, T. 36434, 36438–36442 (3 April 2013); P6253 (Letter from OTP to RS liaison officer, 30 July 2001).

3570 Milan Tupajić, P5238 (Transcript from *Prosecutor v. Krajišnik*), T. 15402–15403, 15492–15495.

3571 D3206 (Witness statement of Milovan Bjelica dated 30 March 2013), para. 29; Milan Tupajić, P5238 (Transcript from *Prosecutor v. Krajišnik*), T. 15493. *But see* Milan Tupajić, P5238 (Transcript from *Prosecutor v. Krajišnik*), T. 15376–15377, 15381–15382, 15384–15385 (claiming that after 21 May 1992 when the 2nd Romanija Motorised Brigade was established the Crisis Staff lost influence over the security of citizens in the municipality and there were many disagreements between the command of the brigade and the civilian authorities).

3572 P5250 (Minutes of meeting of Sokolac Crisis Staff, 10 April 1992), p. 5; D3176 (Sokolac Crisis Staff order, 10 April 1992); D3177 (Sokolac Crisis Staff order, 20 April 1992); D3206 (Witness statement of Milovan Bjelica dated 30 March 2013), para. 66; D3175 (Witness statement of Dragomir Obradović dated 24 March 2013), para. 12; P5245 (Order of Sokolac Crisis Staff, 20 April 1992); Milan Tupajić, P5238 (Transcript from *Prosecutor v. Krajišnik*), T. 15344–15345. The Crisis Staff also decided to disband the Special Purposes Unit of the SJB and redeploy its members to the TO following reports that it had contravened regulations. D3206 (Witness statement of Milovan Bjelica dated 30 March 2013), paras. 33, 67; D3178 (Sokolac Crisis Staff order, 21 April 1992); D3222 (Minutes from session of Sokolac Crisis Staff, 20 April 1992), p. 8; D3175 (Witness statement of Dragomir Obradović dated 24 March 2013), para. 9. The Crisis Staff also imposed restrictions on the service and sale of alcohol. D3206 (Witness statement of Milovan Bjelica dated 30 March 2013), para. 75; D3211 (Sokolac Crisis Staff decision, 18 May 1992); Milovan Bjelica, T. 36394 (2 April 2013); D3181 (Sokolac Crisis Staff order, 10 April 1992); D3225 (Minutes from session of Sokolac Crisis Staff, 27 April 1992), p. 1; D3175 (Witness statement of Dragomir Obradović dated 24 March 2013), para. 11. For investigations on disturbances to public law and order when the victims were Bosnian Muslims, *see* D3206 (Witness statement of Milovan Bjelica dated 30 March 2013), paras. 46, 70; D3226 (Minutes from 4th session of Sokolac Crisis Staff, 4 May 1992), p. 3; D3230 (Sokolac Crisis Staff conclusions, 5 May 1992); D3175 (Witness statement of Dragomir Obradović dated 24 March 2013), para. 22; D3221 (Sokolac SJB criminal report, 17 September 1992); D3180 (Sokolac SJB dispatch, 1 October 1994); D613 (2nd Romanija Motorised Brigade report re looting, 6 August 1992), p. 1. *See also* Dragomir Obradović, T. 36137 (26 March 2013); D3193 (Investigation report of Sokolac Lower Court, 20 July 1992).

individuals or organised groups attempted to enter the municipality.[3573] Despite these measures there was evidence that orders of the Crisis Staff were not being respected,[3574] and that the SJB was not functioning adequately and was either unable or unwilling to control increasing lawlessness against civilians notably by unofficial groups.[3575]

1053. On 20 April 1992, the TO was mobilised.[3576] On 21 April 1992, the Crisis Staff ordered that measures be taken against individuals who did not respond to the call for mobilisation and for individuals who deserted their TO and JNA units.[3577] Around that period, there were discussions between the Sokolac Crisis Staff and Bosnian Muslim representatives on how to resolve important issues with respect to the establishment of authority and order and resolve problems in the municipality.[3578] The Crisis Staff adopted conclusions which called (i) on individuals who had temporarily left the municipality to return to their homes without fear; (ii) on Bosnian Muslims to return to their jobs; and (iii) for good inter-ethnic relations to be maintained.[3579] Apart from conscripts who required approval from the Secretariat of National Defence, other citizens were able to move freely without passes.[3580] On 7 May 1992, the Crisis Staff concluded that Bosnian Muslim workers should be allowed to engage in their regular jobs but that in the event of provocation the workers would be suspended in accordance with the law.[3581] The Crisis Staff decided on 15 May

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3573 D3223 (Minutes from meeting between Sokolac Crisis Staff and presidents of local communes, 23 April 1992), p. 6; D3185 (Conclusions of Sokolac Crisis Staff, 23 April 1992), p. 1; D3175 (Witness statement of Dragomir Obradović dated 24 March 2013), paras. 10, 29.

3574 D3206 (Witness statement of Milovan Bjelica dated 30 March 2013), paras. 78–79; D3229 (Sokolac Crisis Staff conclusions, 4 June 1992). *See also* Milovan Bjelica, T. 36394 (2 April 2013); D3233 (Decision of Sokolac Crisis Staff, 22 June 1992).

3575 D3206 (Witness statement of Milovan Bjelica dated 30 March 2013), para. 81; D3234 (Conclusions of Sokolac Executive Board, 24 September 1992); Milovan Bjelica, T. 36396–36398 (2 April 2013). *See also* Dragomir Obradović, T. 36134 (26 March 2013).

3576 D3222 (Minutes from session of Sokolac Crisis Staff, 20 April 1992), pp. 4–5.

3577 P5248 (Order of Sokolac Crisis Staff, 21 April 1992); Milan Tupajić, P5238 (Transcript from *Prosecutor v. Krajišnik*), T. 15340–15343. *See also* D3222 (Minutes from session of Sokolac Crisis Staff, 20 April 1992), p. 9.

3578 P5240 (Sokolac Crisis Staff conclusions, 20 April 1992), p. 2; D3206 (Witness statement of Milovan Bjelica dated 30 March 2013), paras. 33–34; D3179 (Sokolac Municipal Assembly notification, 21 April 1992); D3175 (Witness statement of Dragomir Obradović dated 24 March 2013), para. 11. *See also* P131 (Witness statement of Asim Hamzić dated 25 March 1996), pp. 5–6.

3579 D3206 (Witness statement of Milovan Bjelica dated 30 March 2013), para. 34; D3223 (Minutes from meeting between Sokolac Crisis Staff and presidents of local communes, 23 April 1992), pp. 4, 6; D3175 (Witness statement of Dragomir Obradović dated 24 March 2013), paras. 11, 13; D3185 (Conclusions of Sokolac Crisis Staff, 23 April 1992), p. 1; Dragomir Obradović, T. 36070–36071 (26 March 2013). In addition, the Crisis Staff appealed to Bosnian Muslims to send their children to school until war broke out in surrounding municipalities. D3206 (Witness statement of Milovan Bjelica dated 30 March 2013), paras. 68–69, 72–74; D3207 (Sokolac Crisis Staff conclusions, 27 April 1992); D3225 (Minutes from session of Sokolac Crisis Staff, 27 April 1992), p. 2; D3210 (Sokolac Crisis Staff decision, 18 May 1992). *See also* D3208 (Sokolac Crisis Staff conclusions, 5 May 1992); D3209 (Sokolac Crisis Staff decision, 7 May 1992).

3580 D3206 (Witness statement of Milovan Bjelica dated 30 March 2013), para. 77. *See also* D3175 (Witness statement of Dragomir Obradović dated 24 March 2013), para. 22.

3581 D3227 (Minutes from 5th session of Sokolac Crisis Staff, 7 May 1992), pp. 1–3; D3231 (Sokolac Crisis Staff conclusions, 7 May 1992), p. 1; D3206 (Witness statement of Milovan Bjelica dated 30 March 2013), paras. 35–

1992 that a public call would be made for citizens who had been "exiled" to return to Sokolac and that those who did not return before 22 May 1992 would be prohibited from returning.[3582]

1054. By mid-May 1992, there were approximately 4,000 Bosnian Serb refugees in the Sokolac area which added to the atmosphere of "fear and uncertainty" with minor incidents involving Bosnian Serb refugees targeting Bosnian Muslims who remained in Sokolac.[3583] Initially, some of the Bosnian Serb refugees moved into abandoned homes without permission and on 22 April 1992, the Crisis Staff prohibited the unlawful and unauthorised occupation of premises, save in the event of "justifiable need" when approval of the use of premises could be granted by the Crisis Staff following an inventory of their contents.[3584] On 22 May 1992, the Crisis Staff allocated all vacant premises for the temporary use by refugees according to criteria set by the Red Cross of Sokolac after an inventory of the contents carried out by a committee created for this purpose.[3585]

(C) Attacks against Bosnian Muslim villages

1055. At a meeting of the Sokolac Crisis Staff on 15 May 1992, Drago Mačar, as Chief of Staff of the TO, indicated that plans for disarming certain villages had been made.[3586] Following its formation the 2nd Romanija Motorised Brigade took over all the activities and assignments of the TO Staff and was involved in disarming Bosnian Muslim villages.[3587] There was not a positive response to calls for the voluntary surrender of weapons and there was armed resistance to attempts to disarm Bosnian Muslim villages.[3588]

36; D3228 (Sokolac Crisis Staff conclusions, 15 May 1992). The Chamber also received evidence that the Municipal Board of the SDS formed a Personnel Commission for the nomination of candidates to managerial positions and decided that Bosnian Muslims workers may work and receive tasks. P5242 (Minutes of meeting of Sokolac Crisis Staff, 15 May 1992), p. 1; Milan Tupajić, P5238 (Transcript from *Prosecutor v. Krajišnik*), T. 15363.

3582 P5242 (Minutes of meeting of Sokolac Crisis Staff, 15 May 1992), p. 7. *See also* Dragomir Obradović, T. 36069 (26 March 2013).

3583 Milan Tupajić, P5238 (Transcript from *Prosecutor v. Krajišnik*), T. 15383–15384. *See also* D3206 (Witness statement of Milovan Bjelica dated 30 March 2013), paras. 43, 76; D3212 (Sokolac Crisis Staff conclusions, 22 May 1992); Milovan Bjelica, T. 36401 (2 April 2013). These Bosnian Serb refugees arrived from central BiH, Goražde, Olovo, Kladanj and municipalities in Sarajevo which were under Bosnian Muslim control.

3584 D3206 (Witness statement of Milovan Bjelica dated 30 March 2013), paras. 43, 67; D3177 (Sokolac Crisis Staff order, 20 April 1992).

3585 D3216 (Sokolac Crisis Staff decision, 22 May 1992); D3215 (Sokolac Crisis Staff decision, 22 May 1992); D3214 (Sokolac Crisis Staff conclusions, 22 May 1992). *See also* D3217 (Sokolac Crisis Staff conclusions, 22 June 1992) for the proposed relocation of these refugees to other municipalities.

3586 Milan Tupajić, P5238 (Transcript from *Prosecutor v. Krajišnik*), T. 15373–15374; P5242 (Minutes of meeting of Sokolac Crisis Staff, 15 May 1992), item 16.

3587 Milan Tupajić, P5238 (Transcript from *Prosecutor v. Krajišnik*), T. 15374, 15385–15387, 15403.

3588 D3175 (Witness statement of Dragomir Obradović dated 24 March 2013), paras. 16–17; D3206 (Witness statement of Milovan Bjelica dated 30 March 2013), paras. 41, 48. The villages which put up resistance included Šahbegovići, Kaljina, Knežina, Meljine, Šaševci, Žulj, Šahbegovići, Pediše, Išerić Brdo, Rakitnica, Novoseoci, Kuti, Mičivode and Kalimanići. *See also* Milan Tupajić, P5238 (Transcript from *Prosecutor v. Krajišnik*), T. 15375–15378 (testifying that he advised Bosnian Muslims that, should they be asked to hand over

1056. During the period from the end of July to the end of September 1992, the 2nd Romanija Motorised Brigade attacked and destroyed several Muslim villages in Sokolac municipality, including Pihlice, Kaljina, Sahbegovići, Mangurići, and Meljine.[3589] The village of Meljine was attacked by Serb Forces using tanks and howitzers from the village of Knežina.[3590] Attacks began with artillery fire, followed by infantry incursions.[3591] As soon as the first actions commenced, the Bosnian Muslim women, children and elderly started withdrawing from their villages towards Olovo after facing verbal abuse and harassment.[3592]

(1) Scheduled Incident A 13.1

1057. The Prosecution alleges that at least 40 men were killed in the village of Novoseoci on or about 22 September 1992.

1058. The village of Novoseoci is roughly eight to nine kilometres away from the town of Sokolac and four to five kilometres from the Rogatica-Sokolac cross-road.[3593] It consisted of 60 to 70 houses inhabited by Bosnian Muslims.[3594]

1059. In the spring of 1992, Mačar came to Novoseoci and asked the men in the village to turn in any weapons they might have, whereupon the men handed over hunting rifles and other weapons including pistols.[3595] The disarming of villagers continued on 27 July 1992, as Momčilo Pajić, a Bosnian Serb from Sokolac and Velemir Elez, a journalist, came to Novoseoci to request the hand-over of weapons,[3596] and told the Bosnian Muslim men of the village that they should go on with

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their weapons, they should comply because they could not resist the VRS forces and that he could not offer them protection from events which were occurring in other municipalities). *See also* D3206 (Witness statement of Milovan Bjelica dated 30 March 2013), paras. 44, 64; D3175 (Witness statement of Dragomir Obradović dated 24 March 2013), paras. 7, 14, 30; Dragomir Obradović, T. 36080–36082, 36111 (26 March 2013).

3589 Adjudicated Fact 2684; Milan Tupajić, P5238 (Transcript from *Prosecutor v. Krajišnik*), T. 15403–15404, 15408–15409, 15412–15414, 15416–15417. Tupajić also identified a number of other villages attacked in this manner.

3590 P131 (Witness statement of Asim Hamzić dated 25 March 1996), p. 9.

3591 Milan Tupajić, P5238 (Transcript from *Prosecutor v. Krajišnik*), T. 15403–15404, 15408–15409, 15412–15414; P131 (Witness statement of Asim Hamzić dated 25 March 1996), p. 9; Adjudicated Fact 2684.

3592 Milan Tupajić, P5238 (Transcript from *Prosecutor v. Krajišnik*), T. 15414, 15417–15418; D3175 (Witness statement of Dragomir Obradović dated 24 March 2013), para. 17.

3593 Milan Tupajić, P5238 (Transcript from *Prosecutor v. Krajišnik*), T. 15429.

3594 P3295 (Witness statement of Munira Selmanović dated 23 January 2009), para. 2.

3595 P3295 (Witness statement of Munira Selmanović dated 23 January 2009), para. 3; P3296 (2nd Romanija Motorised Brigade's Record of confiscation of weapons in Novoseoci, 27 July 1992); Munira Selmanović, T. 18550–18551 (7 September 2011); D1667 (SRK combat report, 27 July 1992).

3596 Munira Selmanović, T. 18552 (7 September 2011); P3295 (Witness statement of Munira Selmanović dated 23 January 2009), para. 4.

their work and should not be concerned about their safety.[3597] The SRK reported that it did not believe that the villagers had surrendered all of their weapons.[3598]

1060. On 19 September 1992, Krstić reported to the Main Staff that active combat operations would be conducted aimed at liberating Bosnian Serb villages and surrounding areas from Bosnian Muslim "extremists".[3599] On 22 September 1992, members of the 2nd Romanija Motorised Brigade surrounded Novoseoci.[3600] Munira Selmanović was among the Bosnian Muslim villagers who were instructed to gather in a nearby valley and told they would be transferred soon to "Metaljka", which was a meadow above the village.[3601] Instructions were given by soldiers to some of the gathered Bosnian Muslims to go to the village and inform everyone to go to "Metaljka".[3602] When Selmanović was sent back to her house, she saw soldiers looting property including furniture from her home.[3603] Approximately 100 women and children and about 44 men from Novoseoci ultimately gathered at "Metaljka" and were surrounded by approximately 100 Bosnian Serb soldiers in military uniforms, who pointed their weapons at the villagers.[3604] The soldiers read out the names of the villagers to identify whether everyone was present.[3605]

1061. Momčilo Pajić appeared to be in charge and asked the villagers whether they still had any weapons and said that the houses of the village were going to be searched.[3606] Pajić then said he was awaiting orders from Sokolac, and he told the villagers to remain still while he went there.[3607] Pajić, after returning, read out an order, saying that women and children, as well as the elderly were

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3597 Munira Selmanović, T. 18537, 18549–18550 (7 September 2011); P3295 (Witness statement of Munira Selmanović dated 23 January 2009), para. 6 (referring to a Bosnian Serb named Rade Dubovina from the village of Kula frequently visiting Novoseoci and assuring the population that it was safe and there was no reason to leave).

3598 D1667 (SRK combat report, 27 July 1992), para. 1.

3599 D3191 (Report of 2nd Romanija Motorised Brigade, 19 September 1992), p. 1.

3600 Adjudicated Fact 2676.

3601 P3295 (Witness statement of Munira Selmanović dated 23 January 2009), para. 8; Munira Selmanović, T. 18556–18557 (7 September 2011).

3602 P3295 (Witness statement of Munira Selmanović dated 23 January 2009), paras. 8, 14-15; Munira Selmanović, T. 18560 (7 September 2011). Munira Selmanović testified that when she fetched her father, he was covered in blood and told her that soldiers had beaten him with a rifle butt after asking him why he was still in the house and where he had put his weapons. P3295 (Witness statement of Munira Selmanović dated 23 January 2009), para. 15; Munira Selmanović, T. 18538, 18542 (7 September 2011).

3603 P3295 (Witness statement of Munira Selmanović dated 23 January 2009), para. 15; Munira Selmanović, T. 18538, 18540, 18542, 18561–18562 (7 September 2011). *See also* P5480 (Approval to move furniture from Novoseoci to Sokolac signed by Radislav Krstić, 26 September 1992) (wherein Krstić approves that a conscript transport furniture from Novoseoci to Sokolac until the individual moved into a house in Novoseoci which he had chosen).

3604 P3295 (Witness statement of Munira Selmanović dated 23 January 2009), paras. 9–10, 13.

3605 Munira Selmanović, T. 18557 (7 September 2011).

3606 P3295 (Witness statement of Munira Selmanović dated 23 January 2009), paras. 11-13. Besides Pajić, Selmanović also recognised some other soldiers there from Sokolac, including a policeman named Milenko Krsmanović.

3607 P3295 (Witness statement of Munira Selmanović dated 23 January 2009), para. 12.

to be sent to Sarajevo by bus, while able-bodied men were to remain and undertake mandatory work.[3608] The former were assembled and walked from "Metaljka" to the entrance of Novoseoci where they were ordered to get on a bus parked near the mosque.[3609] Pajić entered the bus to check if any of the men had also got in, after which the bus was driven to Hreša, where the passengers were ordered to walk to Sarajevo.[3610] After this incident no Bosnian Muslims remained in the village of Novoseoci.[3611] KDZ607 was told that all the houses in Novoseoci had been destroyed.[3612]

1062. Krstić informed the Main Staff on 22 September 1992 that "[d]uring the day, the village of Novoseoci was cleansed".[3613] On the following day, Krstić reported that units were searching for and destroying straggling groups which had escaped the villages that had been "mopped up", including Novoseoci.[3614]

1063. Members of the 2nd Romanija Motorised Brigade killed 40 to 45 Bosnian Muslim civilian men from Novoseoci, as well as a few from Rogatica who happened to be in Novoseoci on or about 22 September 1992.[3615]

1064. On the evening of 22 September 1992, Tupajić learned that the bodies of the Bosnian Muslim men from Novoseoci who had been killed, had been found at a land fill garbage dump in

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3608 P3295 (Witness statement of Munira Selmanović dated 23 January 2009), paras. 17–18; Munira Selmanović, T. 18558 (7 September 2011); Adjudicated Fact 2676.

3609 P3295 (Witness statement of Munira Selmanović dated 23 January 2009), paras. 18, 20; Munira Selmanović, T. 18542 (7 September 2011).

3610 P3295 (Witness statement of Munira Selmanović dated 23 January 2009), para. 20.

3611 Milovan Bjelica, T. 36460 (3 April 2013).

3612 P3289 (Witness statement of KDZ607 dated 1 September 2011), para. 55(c) (under seal).

3613 P5438 (Report of 2nd Romanija Motorised Brigade, 22 September 1992), p. 1; Adjudicated Fact 2677. The Chamber notes that P5438 uses the term "čišćenje", which is translated as either cleansed or mopped up. The Chamber received evidence which suggested there was no police investigation of this incident as it had no jurisdiction over the army. *See* Dragomir Obradović, T. 36096, 36102–36103 (26 March 2013); D3175 (Witness statement of Dragomir Obradović dated 24 March 2013), para. 20. However, Obradović was unable to adequately explain why the police in this case did not carry out an investigation into this serious incident when it did carry out initial investigations of misdemeanours perpetrated by VRS members. In addition while Obradović testified that the civilian authorities did not inform higher organs about this incident, given that the witness merely expressed his own opinion, the Chamber is not satisfied that the witness would have known whether or not the higher organs had been informed.

3614 D3192 (Report of 2nd Romanija Motorised Brigade, 23 September 1992), p. 2. The Chamber received evidence to suggest that Krstić issued the order to kill these civilians. D3206 (Witness statement of Milovan Bjelica dated 30 March 2013), para. 57; Milovan Bjelica, T. 36454–36455 (3 April 2013). However, this evidence is based on Bjelica's assumption following a conversation with a third person. The Chamber does not accept this conclusion given the absence of any further corroborating evidence.

3615 P3295 (Witness statement of Munira Selmanović dated 23 January 2009), paras. 19, 21; P131 (Witness statement of Asim Hamzić dated 25 March 1996), p. 7; Munira Selmanović, T. 18509 (7 September 2011); P3289 (Witness statement of KDZ607 dated 1 September 2011), para.55(b) (under seal); Milan Tupajić, P5238 (Transcript from *Prosecutor v. Krajišnik*), T. 15428–15429. *See also* Adjudicated Fact 2676; D3206 (Witness statement of Milovan Bjelica dated 30 March 2013), para. 57; D3175 (Witness statement of Dragomir Obradović dated 24 March 2013), para. 20; Dragomir Obradović, T. 36094 (26 March 2013).

Ivan Polje.[3616] Following exhumation of the Ivan Polje site, 42 male bodies were received for post-mortem examinations and it was estimated that the age of the bodies ranged from 12 to 85, with the majority aged between 30 and 60.[3617] 36 of the 38 Bosnian Muslim men identified by Selmanović who remained in Novoseoci were found among the remains of 42 bodies exhumed from the gravesite at Ivan Polje.[3618] No military clothing was found.[3619] Personal belongings were found, and one body carried a miniature Koran.[3620] Evidence of gunshot injuries were found in all of the 42 bodies, 38 having been shot multiple times.[3621] With the exception of one case where the skull was missing, all of the other 41 men died from gunshot injuries.[3622] The exhumation report conclusions are consistent with the majority of the bodies being shot from behind with high velocity weapons.[3623]

1065. The Chamber therefore finds that approximately 40 Bosnian Muslim men were killed by Serb Forces in the village of Novoseoci on or around 22 September 1992.

3616 Milan Tupajić, P5238 (Transcript from *Prosecutor v. Krajišnik*), T. 15428–15430; Munira Selmanović, T. 18547–18548 (7 September 2011). *See also* D3206 (Witness statement of Milovan Bjelica dated 30 March 2013), para. 57. Following this incident at Novoseoci, Tupajić tendered his resignation as president of the municipality. However, members of the Municipal Board asked him to withdraw his resignation as it could have a detrimental effect or be viewed as condemnation of the policies at the time. After Tupajić's car was blown up he decided to continue performing his duties. P5249 (Letter from Milan Tupajić to Sokolac SDS Municipal Board, 9 October 1992); Milan Tupajić, P5238 (Transcript from *Prosecutor v. Krajišnik*), T. 15432–15435; P5251 (Insurance company report on damage to Milan Tupajić's car, 13 October 1992). In light of (i) the evidence about Tupajić's knowledge of events in Novoseoci, and steps taken to prevent his resignation; and (ii) the internal inconsistencies in the evidence of the relevant Defence witnesses, the Chamber does not accept Defence evidence that nobody from the municipal authorities knew about this incident and that when they did find out they all condemned it. *See* D3206 (Witness statement of Milovan Bjelica dated 30 March 2013), para. 57; Milovan Bjelica, T. 36455–36456 (3 April 2013); D3175 (Witness statement of Dragomir Obradović dated 24 March 2013), para. 20; Dragomir Obradović, T. 36074, 36094–36095 (26 March 2013).

3617 P4106 (John Clark's expert report entitled "Report of the Chief Pathologist, Paklenik Cave and Ivan Polje Grave-Sites (2000)", 30 July 2002), p. 14; P3297 (Exhumation report of mass grave in Ivan Polje, 4 September 2000).

3618 P3295 (Witness statement of Munira Selmanović dated 23 January 2009), paras. 21, 23; Munira Selmanović, T. 18544-18545 (7 September 2011). *See also* P3297 (Exhumation report of mass grave in Ivan Polje, 4 September 2000); P4853 (Updated Table 2 to the Report of Amor Mašović), p. 49. While Selmanović testified in court that she herself saw and recognised her son's remains, however, in the exhumation report it is recorded that her son's remains were recognised by her sister, Amra Korman. Munira Selmanović, T. 18545, 18548-18549 (7 September 2011); P3297 (Exhumation report of mass grave in Ivan Polje, 4 September 2000), p. 8. While the Chamber notes this inconsistency, it is not of such significance to affect the credibility of Selmanović's evidence.

3619 P4106 (John Clark's expert report entitled "Report of the Chief Pathologist, Paklenik Cave and Ivan Polje Grave-Sites (2000)", 30 July 2002), p. 14.

3620 P4106 (John Clark's expert report entitled "Report of the Chief Pathologist, Paklenik Cave and Ivan Polje Grave-Sites (2000)", 30 July 2002), p. 14.

3621 P4106 (John Clark's expert report entitled "Report of the Chief Pathologist, Paklenik Cave and Ivan Polje Grave-Sites (2000)", 30 July 2002), p. 15.

3622 P4106 (John Clark's expert report entitled "Report of the Chief Pathologist, Paklenik Cave and Ivan Polje Grave-Sites (2000)", 30 July 2002), p. 15.

3623 P4106 (John Clark's expert report entitled "Report of the Chief Pathologist, Paklenik Cave and Ivan Polje Grave-Sites (2000)", 30 July 2002), p. 16.

(2) Scheduled Incident D.20

1066. The Indictment refers to the destruction of five mosques in Sokolac at least between August and September 1992.[3624]

1067. All five mosques in Sokolac municipality, namely in Knežina, Kruševci, Kaljina, Novoseoci, and Košutica, were blown up or destroyed during attacks on these villages.[3625] The destruction of the mosques was seen by Bosnian Serbs as a way in which Bosnian Muslims would "lose a motive to return to their villages".[3626]

1068. More specifically, the mosque in Novoseoci was blown up by the 2nd Motorised Romanija Brigade.[3627] Bogdan Jovanović together with some other Bosnian Serbs was seen placing explosives around the mosque known as 'Selimija' in Knežina which was completely destroyed in a large explosion and four other mosques were destroyed at about the same time.[3628] Remains of a destroyed mosque were found at the Ivan Polje garbage dump.[3629]

1069. Therefore the Chamber finds that five mosques were destroyed by Serb Forces between August and September 1992.

3624 Specifically, the mosques are the Kruševci mosque, Knežina mosque, Kaljina mosque, Novoseoci mosque, Koštica mosque.

3625 Adjudicated Fact 2684. *See also* Milan Tupajić, P5238 (Transcript from *Prosecutor v. Krajišnik*), T. 15431; P4070 (Attachment to the expert report of András J. Riedlmayer, entitled "Destruction of Cultural Heritage in BiH" prepared for the Karadžić case, formatted records), pp. 312–322; P4069 (Cultural destruction database), records 332–335. While Asim Hamzić stated that Aleska Krsmanović was among the individuals responsible for the destruction of the mosques, the Chamber considers that it is uncorroborated hearsay evidence and is not satisfied that it can rely on this alone to make a findings that Krsmanović was responsible. P131 (Witness statement of Asim Hamzić dated 25 March 1996), p. 8. The Chamber does not accept Defence evidence that (i) mosques in border villages of Sokolac were used for combat operations; (ii) that members of the Patriotic League hid and distributed weapons from these facilities; (iii) these mosques were destroyed during the war, in an environment of chaos in remote villages by individuals and informal groups; or (iv) that the municipal authorities did not know or approve of their destruction and had no control over the territory where these mosques were located. D3206 (Witness statement of Milovan Bjelica dated 30 March 2013), paras. 55, 64; D3175 (Witness statement of Dragomir Obradović dated 24 March 2013), paras. 26, 30. In reaching this conclusion, the Chamber considered the evidence of the two relevant defence witnesses was unreliable given their evidence was marked by inconsistencies and indications of partisanship and bias. In addition the evidence received with respect to the attack on Novoseoci contradicts the Defence evidence that mosques were destroyed in an environment of chaos or by individuals or informal groups. Adjudicated Facts 2676, 2684; Milan Tupajić, P5238 (Transcript from *Prosecutor v. Krajišnik*), T. 15431.

3626 Milan Tupajić, P5238 (Transcript from *Prosecutor v. Krajišnik*), T. 15431.

3627 Milan Tupajić, P5238 (Transcript from *Prosecutor v. Krajišnik*), T. 15431. *See also* András Riedlmayer, T. 22548 (9 December 2011); P4068 (András Riedlmayer's expert report on Destruction of Cultural Heritage in Bosnia and Herzegovina during 1992-1995, 7 May 2009), p. 9; P4070 (Attachment to the expert report of András J. Riedlmayer, entitled "Destruction of Cultural Heritage in BiH" prepared for the Karadžić case, formatted records), p. 316.

3628 P131 (Witness statement of Asim Hamzić dated 25 March 1996), p. 8; P4070 (Attachment to the expert report of András J. Riedlmayer, entitled "Destruction of Cultural Heritage in BiH" prepared for the Karadžić case, formatted records), pp. 312–314.

3629 P3297 (Exhumation report of mass grave in Ivan Polje, 4 September 2000), p. 2.

(D) Detention Facilities in Sokolac

(1) Scheduled Detention Facility C.23.2

1070. Around 20 July 1992, four Bosnian Serbs dressed in MP uniforms and travelling an APC arrested a Bosnian Muslim teacher named Gagula, and brought him to barracks in Knežina where he was interrogated and beaten by one of the officers.[3630] Gagula was then transported to the Slaviša Vajner Čiča Elementary School by local Bosnian Serb soldiers where he was detained with 13 other detainees until 3 October 1992.[3631] On his arrival at the school, Gagula was again interrogated and beaten by Bosnian Serb soldiers.[3632]

(2) Scheduled Detention Facility C.23.1

1071. On 3 October 1992, detainees, including Gagula, were transferred to the former elementary school in Čavarine.[3633] The facility was under the responsibility of the 2nd Romanija Motorised Brigade.[3634] Bosnian Muslims were arrested and detained there by the 2nd Romanija Motorised Brigade without any charges or legal grounds.[3635] Conditions were harsh with insufficient food and

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3630 *See* Adjudicated Fact 2678.

3631 Adjudicated Fact 2679; Milan Tupajić, P5238 (Transcript from *Prosecutor v. Krajišnik*), T. 15410. *But see* D3206 (Witness statement of Milovan Bjelica dated 30 March 2013), para. 54. The Chamber does not accept this evidence that there were no camps or prisons during the war.

3632 *See* Adjudicated Fact 2679. Obradović testified that a military detention unit was set up at the Sokolac primary school at the beginning of October 1992 for approximately 10 days after which it was relocated to Čavarine; however, on cross-examination, he acknowledged that he had not been to the facility, that he simply heard about it and did not know what the conditions were and could not say how long the facility operated. D3175 (Witness statement of Dragomir Obradović dated 24 March 2013), para. 25; Dragomir Obradović, T. 36113–36115 (26 March 2013). Similarly, the Chamber does not accept Bjelica's evidence that the school was used for the questioning of Bosnian Muslims suspected of involvement in sabotage or terrorist actions, that the detainees were treated humanely, and that conditions were satisfactory. In reaching this conclusion, the Chamber considered that Bijelica's evidence was unreliable given that it was marked by indications of partisanship and bias. In addition Bijelica acknowledged on cross-examination that he did not know why a 62 year old woman was detained and that he assumed that the facilities did not have the required hygienic and other facilities. The witnesss was also contradicted on cross-examination and acknowledged that hygiene conditions were not satisfactory. In addition, the witness's evidence with respect to the conditions in these facilities was qualified and he acknowledged on cross-examination that he never visited these facilities. *See* D3206 (Witness statement of Milovan Bjelica dated 30 March 2013), paras. 54, 65; Milovan Bjelica, T. 36448–36450, 36452–36454 (3 April 2013); P6255 (Letter from Sokolac POW Exchange Committee to VRS Lukavica Committee for Exchange and Release of POW, 9 November 1992); Milovan Bjelica, P6256 (Excerpt from transcript from *Prosecutor v. Krajišnik*), T. 22721.

3633 *See* Adjudicated Fact 2680; Milan Tupajić, P5238 (Transcript from *Prosecutor v. Krajišnik*), T. 15410.

3634 D3206 (Witness statement of Milovan Bjelica dated 30 March 2013), para. 65.

3635 Milan Tupajić, P5238 (Transcript from *Prosecutor v. Krajišnik*), T. 15387–15388.

hygiene facilities.[3636] Detainees were beaten by Bosnian Serb paramilitaries coming from Ilijaš.[3637] On 15 March 1993, Gagula was transferred to the Batković camp in Bijeljina.[3638]

(E) Movement of the population from Sokolac

1072. By the end of 1992, the majority of Bosnian Muslims had left the municipality with as few as 30 to 40 families remaining.[3639] The departure of some Bosnian Muslims in Sokolac followed attacks on Bosnian Muslim villages and verbal abuse and harassment.[3640] In some cases Bosnian Muslim women, children and elderly were separated and ordered to board buses taking them away from their villages.[3641] Bosnian Muslim men were not allowed to leave with their families.[3642] Milan Tupajić also advised a Bosnian Muslim to find a safe place to hide as he was afraid that he might be harmed due to the "ethnic cleansing" which had already begun in many of the surrounding villages; Bosnian Muslims then started to move mainly to the areas of Olovo, Tuzla, Visoko, Vareš, Kladanj, and Kakanj.[3643]

1073. The Chamber does not accept Defence evidence which suggests that Bosnian Muslims voluntarily left the municipality on a temporary basis and returned after the war was over.[3644] In reaching that conclusion the Chamber notes that by 1997 very few Bosnian Muslims had in fact returned to Sokolac.[3645] In addition the Chamber considered that in this respect, the evidence of Bjelica and Obradović was unreliable due to inconsistencies in their evidence and some degree of evasiveness in their testimony; there were also indications of partisanship and bias. The Chamber also finds inconsistencies in Obradović's evidence received about when, why and the circumstances in which Bosnian Muslims from the village of Vrhbarje left and does not accept that this is an

3636 Adjudicated Fact 2681; Milan Tupajić, P5238 (Transcript from *Prosecutor v. Krajišnik*), T. 15410–15411; D3206 (Witness statement of Milovan Bjelica dated 30 March 2013), para. 54.

3637 *See* Adjudicated Fact 2682.

3638 *See* Adjudicated Fact 2683.

3639 Milovan Bjelica, T. 36457–36459 (3 April 2013).

3640 *See* para. 1056 above referring to Milan Tupajić, P5238 (Transcript from *Prosecutor v. Krajišnik*), T. 15414, 15417–15418; D3175 (Witness statement of Dragomir Obradović dated 24 March 2013), para. 17.

3641 *See* paras. 1060–1061 referring to P3295 (Witness statement of Munira Selmanović dated 23 January 2009), paras. 17–18, 20; Munira Selmanović, T. 18542, 18558 (7 September 2011); Adjudicated Fact 2676.

3642 P131 (Witness statement of Asim Hamzić dated 25 March 1996), p. 6.

3643 P131 (Witness statement of Asim Hamzić dated 25 March 1996), pp. 5–6.

3644 Milovan Bjelica, T. 36399–36400, 36402, 36405 (2 April 2013), 36464, 36474 (3 April 2013); D3206 (Witness statement of Milovan Bjelica dated 30 March 2013), para. 37; D3175 (Witness statement of Dragomir Obradović dated 24 March 2013), paras. 18–19; Dragomir Obradović, T. 36069–36070, 36083 (26 March 2013).

3645 P4994 (Addendum to Ewa Tabeau's expert report entitled "Ethnic Composition in Internally Displaced Persons and Refugees from 27 Municipalities of BiH 1991 to 1997", 3 February 2009), p. 32.

example of Bosnian Muslims remaining in their homes until the end of the war and requesting to leave by mutual agreement.[3646]

1074. Having considered the totality of the evidence and assessed the circumstances in which departures occurred, the Chamber finds that Bosnian Muslims were forced to leave Sokolac.

vii. Višegrad

(A) Charges

1075. The Chamber notes that although for the purpose of the Indictment, the Prosecution lists Scheduled Incident A.14.2 under Višegrad Municipality, the killing incident charged therein is alleged to have occurred in the municipality of Sokolac.[3647] There are no other charges in relation to Višegrad municipality.[3648]

1076. With respect to Scheduled Incident A.14.2, the Prosecution alleges that on 15 June 1992, following their expulsion from Višegrad, approximately 48 civilians were killed at a place near Paklenik near the village of Kalimanići, in Sokolac municipality. The Prosecution charges Scheduled Incident A.14.2 as persecution, a crime against humanity, under Count 3; extermination, a crime against humanity, under Count 4; murder, a crime against humanity, under Count 5; and murder, a violation of the laws or customs of war, under Count 6.[3649]

(B) Lead-up

1077. Višegrad is a municipality in eastern BiH,[3650] which had a predominantly Muslim population before the war.[3651] In the spring of 1992, tensions increased in Višegrad and militarisation of the municipality ensued where both Bosnian Muslims and Bosnian Serbs organised themselves militarily.[3652] The security situation in Višegrad on 24 March 1992 was described as "complex and dramatical".[3653] At the beginning of April 1992, barricades were set up

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3646 *See* D3175 (Witness statement of Dragomir Obradović dated 24 March 2013), paras. 18–19; D3206 (Witness statement of Milovan Bjelica dated 30 March 2013), para. 37; Milovan Bjelica, T. 36399–36402, 36405, 36460, 36463–36464 (2 and 3 April 2013); Dragomir Obradović, T. 36069–36070, 36083, 36108–36111 (26 March 2013); D3189 (Sokolac SJB dispatch, 31 October 1994); P6235 (Statement of Avdija Katica, 3 January 1995), p. 3.

3647 *See* Prosecution Rule 73 *bis* Submission, fn. 14; Indictment, para. 48, fn. 3; Scheduled Incident A.14.2, fn. 1.

3648 *See* Indictment, para. 48, fn. 3; Prosecution Rule 73 *bis* Submission, fn. 14.

3649 Indictment, paras. 60(a), 63(a).

3650 D484 (Map of BiH).

3651 Momčilo Mandić, T. 5299 (16 July 2010).

3652 D3065 (Witness statement of Aleksandar Vasiljević dated 26 February 2013), para. 169.

3653 P2838 (SerBiH MUP Bulletin on daily events, 24 March 1992), p. 2.

by both Bosnian Serbs and Bosnian Muslims.[3654] At the time, many Bosnian Muslim villagers fled to Višegrad town and later from there to Goražde; Bosnian Muslim men then organised a defence group for Višegrad.[3655] Around the same time, a paramilitary unit from Serbia arrived in the village of Dobrun.[3656]

1078. By 10 April 1992, it was reported that the situation in the Višegrad sector was "extremely serious" and "[l]awlessness and anarchy reign[ed]".[3657] Threats were made by Bosnian Muslims to blow up the hydro-electric dam if the JNA did not prevent attacks by paramilitary formations against Bosnian Muslims.[3658] On 11 April 1992, there was an armed attack allegedly by "Serbian armed formations" on Višegrad with 30 mortar bombs launched at the town; individuals evacuated to surrounding slopes and to the army barracks in Uzamnica.[3659]

1079. By 20 April 1992, the Užice Corps of the JNA had entered Višegrad and taken control of all important positions;[3660] thereafter the situation started returning to normal for a while and the population which had left began returning to their homes.[3661] The Užice Corp left Višegrad on or about 18 May 1992. Following the departure of the Užice Corps, paramilitary formations arrived in the municipality, including the unit known as the "White Eagles" led by Milan Lukić, and joined those which had come earlier.[3662] The paramilitaries held power in the municipality.[3663]

3654 Ferid Spahić, P61 (Transcript from *Prosecutor v. Vasiljević*), T. 351, 353, 405.

3655 P60 (Witness statement of Ferid Spahić dated 4 November 1997), p. 2; Ferid Spahić, P61 (Transcript from *Prosecutor v. Vasiljević*), T. 407.

3656 Ferid Spahić, P61 (Transcript from *Prosecutor v. Vasiljević*), T. 351. *See* also Ferid Spahić, P61 (Transcript from *Prosecutor v. Vasiljević*), T. 405.

3657 P925 (JNA 2nd Military District combat report, 10 April 1992), p. 5.

3658 P925 (JNA 2nd Military District combat report, 10 April 1992), p. 5. *See also* D218 (Green Berets Staff telegraph, 12 April 1992).

3659 D1493 (Transcript of broadcast of Sarajevo, Zagreb, and Belgrade Radio, 11 April 1992). *See also* Ferid Spahić, P61 (Transcript from *Prosecutor v. Vasiljević*), T. 407.

3660 Ferid Spahić, P61 (Transcript from *Prosecutor v. Vasiljević*), T. 355–356, 409; P60 (Witness statement of Ferid Spahić dated 4 November 1997), p. 2; D1694 (Intercept of conversation between Ješirić and Čedo Kljajić, 16 April 1992), p. 4; P2039 (BBC news report re Višegrad, with transcript), 00:00:00–00:00:29.

3661 D1694 (Intercept of conversation between Ješirić and Čedo Kljajić, 16 April 1992), p. 3; P60 (Witness statement of Ferid Spahić dated 4 November 1997), p. 2; Ferid Spahić, P61 (Transcript from *Prosecutor v. Vasiljević*), T. 353, 356, 406. *See also* D1694 (Intercept of conversation between Ješirić and Čedo Kljajić, 16 April 1992), p. 4.

3662 Ferid Spahić, P61 (Transcript from *Prosecutor v. Vasiljević*), T. 356–357; P60 (Witness statement of Ferid Spahić dated 4 November 1997), p. 3 (testifying that although he did not have contact with these groups, he heard that they included Šešelj's men, Arkan's men, the "Black Shirts", Milan Lukić, and the White Eagles). Those who had come with the Užice Corps and remained in Višegrad after its departure wore black uniforms and the traditional "šubara". *See* Ferid Spahić, P61 (Transcript from *Prosecutor v. Vasiljević*), T. 357; P60 (Witness statement of Ferid Spahić, dated 4 November 1997), pp. 2–3.

3663 Ferid Spahić, P61 (Transcript from *Prosecutor v. Lukić and Lukić*), T. 548.

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1080. After the withdrawal of the Užice Corps, the situation changed and became more dangerous for local Bosnian Muslim men.[3664] The Chamber heard evidence about attacks against Bosnian Muslim hamlets and the killing of Bosnian Muslims in Višegrad in May and June 1992 but since they are not charged in Schedules A or B of the Indictment, the Chamber will not enter findings with respect to these incidents.[3665]

1081. Ferid Spahić attended a meeting on 13 June 1992 in Bosanska Jagodina with local Bosnian Serbs and Bosnian Muslims from other villages.[3666] At that meeting, the Bosnian Muslims were informed that the "ethnic cleansing of the Muslims was already going on" and they were encouraged to leave for their own safety with a convoy departing the next day.[3667] Ljupko Tašić, who wore a camouflage uniform at the meeting, seemed to be in charge of the organisation of the convoy.[3668] Tašić stated that the convoy had been announced officially on Radio Višegrad, that the "Red Cross" was also involved, and that the convoy would be escorted by Bosnian Serbs from the region whom the Bosnian Muslims knew and trusted.[3669] This message was subsequently conveyed from hamlet to hamlet in the surrounding area.[3670]

1082. On the morning of 14 June 1992, approximately 100 to 150 Bosnian Muslims from the surrounding area gathered at the bus station in Bosanska Jagodina and left in a convoy of two buses and a truck towards Višegrad where approximately three other buses and two trucks joined the convoy.[3671] Other Bosnian Muslims joined the convoy as it made its way to Višegrad.[3672] They were allowed to take identification documents, clothing, money, and limited personal belongings.[3673]

3664 P60 (Witness statement of Ferid Spahić dated 4 November 1997), p. 3.

3665 P60 (Witness statement of Ferid Spahić dated 4 November 1997), p. 3; Ferid Spahić, P61 (Transcript from *Prosecutor v. Vasiljević*) T. 357–360.

3666 P60 (Witness statement of Ferid Spahić dated 4 November 1997), p. 4; Ferid Spahić, P61 (Transcript from *Prosecutor v. Vasiljević*) T. 361–362, 409.

3667 P60 (Witness statement of Ferid Spahić dated 4 November 1997), p. 4; Ferid Spahić, P61 (Transcript from *Prosecutor v. Vasiljević*) T. 361–362, 409.

3668 Ferid Spahić, P61 (Transcript from *Prosecutor v. Vasiljević)*, T. 362; Ferid Spahić, P61 (Transcript from *Prosecutor v. Lukić and Lukić*), T. 540–541, 546, 564–565.

3669 P60 (Witness statement of Ferid Spahić dated 4 November 1997), p. 4; Ferid Spahić, P61 (Transcript from *Prosecutor v. Vasiljević*), T. 362–365.

3670 Ferid Spahić, P61 (Transcript from *Prosecutor v. Vasiljević*) T. 365.

3671 P60 (Witness statement of Ferid Spahić dated 4 November 1997), p. 4; Ferid Spahić, P61 (Transcript from *Prosecutor v. Vasiljević*), T. 366–367, 382.

3672 Ferid Spahić, P61 (Transcript from *Prosecutor v. Vasiljević*), T. 366–367, 382.

3673 Ferid Spahić, P61 (Transcript from *Prosecutor v. Vasiljević)*, T. 375.

1083. In Višegrad, in front of the Višegrad Hotel by the old bridge, the buses and trucks were parked and those on the convoy were registered and given the option of choosing whether they wanted to head in the direction of Skopje, Olovo or Kladanj, and they all chose Skopje.[3674] Three other buses and two trucks joined the convoy while a number of soldiers in different uniforms were walking around.[3675] Milan Lukić attempted to get Esad Kustura, also known as "Zenga",[3676] off one of the buses, but Ljupko Tašić talked Lukić out of it.[3677]

1084. The convoy of buses and trucks left Višegrad before 11.00 a.m. on 14 June 1992 and there were escorts armed with automatic weapons on each bus.[3678] Željko Tašić, a policeman who served in the Višegrad SJB in June and July 1992, followed the convoy in his car.[3679] The convoy did not head in the requested direction of Skopje and the Bosnian Muslims were told by guards at a check-point and by the driver of the bus that they had to bypass Rogatica and were going to Olovo through Sokolac.[3680] A journalist who stopped the convoy was told by the drivers that there were about 700 to 800 Bosnian Muslims in the convoy.[3681]

1085. The convoy drove through Seljane, near Rogatica, and Sokolac before arriving in Išarića Brdo in the municipality of Olovo.[3682] At Išarića Brdo, the convoy was surrounded by armed soldiers dressed in camouflage uniforms who said that the younger men could not continue and had

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3674 P60 (Witness statement of Ferid Spahić dated 4 November 1997), p. 4; Ferid Spahić, P61 (Transcript from *Prosecutor v. Vasiljević*), T. 362, 367, 371, 382; Ferid Spahić, P61 (Transcript from *Prosecutor v. Lukić and Lukić*), T. 527–528; P501 (Addendum to witness statement of Ferid Spahić dated 24 August 2008), para. 4 (specifying that he was in charge of drawing up the list of those on his bus).

3675 P60 (Witness statement of Ferid Spahić dated 4 November 1997), p. 4; Ferid Spahić, P61 (Transcript from *Prosecutor v. Vasiljević*) T. 367–368; Ferid Spahić, P61 (Transcript from *Prosecutor v. Lukić and Lukić*), T. 527–528.

3676 Ferid Spahić, P60 (witness statement dated 4 November 1997), p. 4; Ferid Spahić, P61 (Transcript from *Prosecutor v. Vasiljević)*, T. 368-369. The Accused submits that Spahić's identification of Milan Lukić is speculative and groundless. *See* Defence Final Brief, para. 1809. However the Chamber is satisfied that Milan Lukić was positively identified by a person who passed this information on to Spahić.

3677 P60 (Witness statement of Ferid Spahić dated 4 November 1997), p. 4; Ferid Spahić, P61 (Transcript from *Prosecutor v. Vasiljević*), T. 368–369; Ferid Spahić, P61 (Transcript from *Prosecutor v. Lukić and Lukić*), T. 529–530, 542, 544–545; P501 (Addendum to witness statement of Ferid Spahić dated 24 August 2008); paras. 6, 17.

3678 Ferid Spahić, P61 (Transcript from *Prosecutor v. Vasiljević)*, T. 367, 373, 411; Ferid Spahić, P61 (Transcript from *Prosecutor v. Lukić and Lukić*), T. 527–528.

3679 P60 (Witness statement of Ferid Spahić dated 4 November 1997), p. 5; P5508 (Report of Višegrad SJB, 1 August 1992).

3680 P60 (Witness statement of Ferid Spahić dated 4 November 1997), p. 5; Ferid Spahić, P61 (Transcript from *Prosecutor v. Vasiljević*), T. 371, 373–374; Ferid Spahić, P61 (Transcript from *Prosecutor v. Lukić and Lukić*), T. 527–528.

3681 P61 (Transcript from *Prosecutor v. Vasiljević*), T. 374, 411; P60 (Witness statement of Ferid Spahić dated 4 November 1997), p. 5; P501 (Addendum to witness statement of Ferid Spahić dated 24 August 2008), para. 8.

3682 P60 (Witness statement of Ferid Spahić dated 4 November 1997), p. 5; P501 (Addendum to witness statement of Ferid Spahić dated 24 August 2008), para. 22; Ferid Spahić, P61 (Transcript from *Prosecutor v. Vasiljević)*, T. 374 (specifying that it was still daytime on 14 June 1992 when they arrived in Išarića Brdo); Ferid Spahić, P61 (Transcript from *Prosecutor v. Lukić and Lukić*), T. 531–532; P80 (Map marked by Ferid Spahić). The map shows the route taken by the convoy from Višegrad.

to return.[3683] Željko Tašić told those in the convoy not to worry and that their return was only for the purpose of a prisoner exchange.[3684] Approximately 49 Bosnian Muslim males were thus separated and left on the buses, while the women, children and some of the older men in the convoy were asked to leave the buses and go to Olovo on foot.[3685] The separated Bosnian Muslim men were then driven back to Sokolac, where they were gathered in one bus parked outside the police station and spent the night on the bus watched by two guards.[3686]

1086. On the morning of 15 June 1992, the Bosnian Muslim men were driven in the direction of Rogatica.[3687] On the way, a soldier wearing a Montenegrin Serbian Guard cap entered the bus, called the Bosnian Muslim men "Ustaša", asked which of them was "Zenga", and cursed him.[3688] He told the driver of the bus to leave "Zenga" to him, but left.[3689]

1087. The bus stopped in front of a factory in Rogatica, two soldiers entered and ordered those on the bus to hand over their documents, valuables, and money.[3690] Another bus was parked close by.[3691] An APC stopped in front of the bus holding the Bosnian Muslim men and there were approximately 10 soldiers standing around.[3692] Slaviša Vukojičić, a blonde man in civilian clothes, arrived in a small car, followed by the soldier in the Montenegrin Serbian Guard cap mentioned earlier.[3693] A young blindfolded man whose hands were tied behind his back was pulled out of the car, hit in the stomach, and pushed onto another bus.[3694] When "Zenga" was identified, the soldiers

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3683 P60 (Witness statement of Ferid Spahić dated 4 November 1997), p. 5; Ferid Spahić, P61 (Transcript from *Prosecutor v. Vasiljević*), T. 375.

3684 P60 (Witness statement of Ferid Spahić dated 4 November 1997), p. 5; Ferid Spahić, P61 (Transcript from *Prosecutor v. Vasiljević*), T. 377–378.

3685 P60 (Witness statement of Ferid Spahić dated 4 November 1997), p. 5. Ferid Spahić, P61 (Transcript from *Prosecutor v. Vasiljević*), T. 375–376. *See also* Ferid Spahić, P61 (Transcript from *Prosecutor v. Lukić and Lukić*), T. 532.

3686 P60 Witness statement of Ferid Spahić dated 4 November 1997), p. 5. Ferid Spahić, P61 (Transcript from *Prosecutor v. Vasiljević*), T. 375–376; Ferid Spahić, P61 (Transcript from *Prosecutor v. Lukić and Lukić*), T. 532.

3687 P60 (Witness statement of Ferid Spahić dated 4 November 1997), p. 5. Ferid Spahić, P61 (Transcript from *Prosecutor v. Vasiljević*), T. 376.

3688 P60 (Witness statement of Ferid Spahić dated 4 November 1997), p. 5.

3689 P60 (Witness statement of Ferid Spahić dated 4 November 1997), p. 5.

3690 P60 (Witness statement of Ferid Spahić dated 4 November 1997), pp. 5–7; Ferid Spahić, P61 (Transcript from *Prosecutor v. Vasiljević*), T. 377.

3691 P60 (Witness statement of Ferid Spahić dated 4 November 1997), p. 6.

3692 P60 (Witness statement of Ferid Spahić dated 4 November 1997), p. 6; Ferid Spahić, P61 (Transcript from *Prosecutor v. Vasiljević*), T. 384–385.

3693 P60 (Witness statement of Ferid Spahić dated 4 November 1997), p. 6; Ferid Spahić, P61 (Transcript from *Prosecutor v. Vasiljević*), T. 384–385. Slaviša Vukojičić was a member of the Rogatica SJB. P3291 (List of policemen working at Rogatica SJB in May 1992)s, p.1. The Chamber notes a minor discrepancy in the spelling of his name but is satisfied that it is the same person.

3694 P60 (Witness statement of Ferid Spahić dated 4 November 1997), p. 6; Ferid Spahić, P61 (Transcript from *Prosecutor v. Vasiljević*), T. 384.

took him off the bus, kicked, and beat him.[3695] Other Bosnian Muslim men were ordered off the bus and beaten by Vukojičić,[3696] All this was done in the presence of Željko Tašić.[3697] After asking who the Bosnian Muslims were, Vukojičić shouted: "You cattle come out" and ordered them to run onto the bus where the young man had been taken.[3698] The detainees were taken off the bus one by one and their hands were tied behind their backs with "half steel wire" so tightly that every movement caused pain.[3699] Some of the Bosnian Muslims were randomly beaten by Vukojičić during this process.[3700] After each Bosnian Muslim was tied they were returned to the bus; the bus then headed back in the direction of Sokolac with three Bosnian Serb soldiers onboard and an additional car driven by Vukojičić escorting the bus.[3701] One of the soldiers said they were going to exchange 50 Muslim men for 10 Serb men.[3702] There were approximately 50 to 52 men on the bus at that time.[3703]

1088. The bus reached a forest location called Paklenik, in Sokolac municipality, on the border with Rogatica.[3704] It stopped near a hill close to a small clearing and Vukojičić drove away in his car for a while before returning.[3705] The Bosnian Muslims were forced to sing a "Chetnik" song and were told that "thanks to Alija" they could not live together any longer.[3706] After Vukojičić returned and talked with the soldiers, the bus drove off again with approximately 11 soldiers

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3695 P60 (Witness statement of Ferid Spahić dated 4 November 1997), p. 6; Ferid Spahić, P61 (Transcript from *Prosecutor v. Vasiljević*), T. 386–387.

3696 P60 (Witness statement of Ferid Spahić dated 4 November 1997), p. 6; Ferid Spahić, P61 (Transcript from *Prosecutor v. Vasiljević*), T. 386–387; Ferid Spahić, P61 (Transcript from *Prosecutor v. Lukić and Lukić*), T. 568.

3697 P60 (Witness statement of Ferid Spahić dated 4 November 1997), p. 6; Ferid Spahić, P61 (Transcript from *Prosecutor v. Vasiljević*), T. 386.

3698 P60 (Witness statement of Ferid Spahić dated 4 November 1997), p. 6; Ferid Spahić, P61 (Transcript from *Prosecutor v. Vasiljević*), T. 384–386.

3699 Ferid Spahić, P61 (Transcript from *Prosecutor v. Vasiljević*), T. 386.

3700 P60 (Witness statement of Ferid Spahić dated 4 November 1997), p. 6; Ferid Spahić, P61 (Transcript from *Prosecutor v. Vasiljević*), T. 385.

3701 P60 (Witness statement of Ferid Spahić dated 4 November 1997), p. 6; Ferid Spahić, P61 (Transcript from *Prosecutor v. Vasiljević*), T. 385.

3702 P60 (Witness statement of Ferid Spahić dated 4 November 1997), p. 6; Ferid Spahić, P61 (Transcript from *Prosecutor v. Vasiljević*), T. 388.

3703 P60 (Witness statement of Ferid Spahić dated 4 November 1997), p. 7. *See also* Ferid Spahić, P61 (Transcript from *Prosecutor v. Vasiljević*), T. 387–388 (identifying 23 names which correspond to the list of named victims for this incident, *see* Prosecution Pre-Trial Brief, Confidential Appendix B. 19 of those names correspond to the bodies identified during the exhumation of the site, *see* P4902 (Sarajevo Cantonal Court record of Jama Paklenik exhumation, 15 August 2000), pp. 7–42).

3704 Ferid Spahić, P61 (Transcript from *Prosecutor v. Lukić and Lukić*), T. 529; P78 (Sketch drawn by Ferid Spahić). *See also* D3206 (Witness statement of Milovan Bjelica dated 30 March 2013), para. 58. Dragomir Obradović identified the location as Arbinjska Propast located seven kilometres from the village of Kalimanići in Sokolac. D3175 (Witness statement of Dragomir Obradović dated 24 March 2013), para. 21.

3705 P60 (Witness statement of Ferid Spahić dated 4 November 1997), p. 7; Ferid Spahić, P61 (Transcript from *Prosecutor v. Vasiljević*), T. 388–389.

3706 P60 (Witness statement of Ferid Spahić dated 4 November 1997), p. 7; Ferid Spahić, P61 (Transcript from *Prosecutor v. Vasiljević*), T. 388–389.

walking in two columns next to the bus.[3707] The bus stopped after about 100 metres, and the Bosnian Muslim men were ordered to get out of the bus, line up two-by-two, and walk on a forest path leading up to a hill.[3708] One soldier asked "Zenga" and Spahić how many "Serb soldiers" they had killed and beat "Zenga".[3709] When other soldiers told him not to beat "Zenga" that hard, he said that they would discuss this after seeing what conditions those Serbs waiting to be exchanged were in.[3710]

1089. After being ordered to walk in a line with their heads bent down for approximately 100 to 200 metres, the Bosnian Muslims were ordered to stop as they reached a clearing.[3711] About nine soldiers lined up in two half circles around a bush.[3712] In addition to Predrag Milisavljević, Spahić also identified Boriša Čeho, who was wearing a blue reserve police uniform, standing close to the site.[3713] The first 10 Bosnian Muslim men from the column were ordered to step up "towards" the soldiers standing around the bush and Predrag Milisavljević started shooting at the first two Bosnian Muslims in the column with an automatic rifle.[3714] The Bosnian Muslim men fell into a pit after being shot.[3715] After the first 10 Bosnian Muslims from the column were shot, the two soldiers at the end of the column were called over by Vukojičić to join the other soldiers in the front.[3716] When the second group of ten men was being lined up to be shot, Spahić managed to

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3707 P60 (Witness statement of Ferid Spahić dated 4 November 1997), pp. 7–8. The soldiers were in different clothes, including olive green and camouflage uniforms, civilian clothes, and one in "blue working suit".

3708 P60 (Witness statement of Ferid Spahić dated 4 November 1997), p. 8; Ferid Spahić, P61 (Transcript from *Prosecutor v. Vasiljević*), T. 389, 391–392; P78 (Sketch drawn by Ferid Spahić).

3709 P60 (Witness statement of Ferid Spahić dated 4 November 1997), p. 8; Ferid Spahić, P61 (Transcript from *Prosecutor v. Vasiljević*), T. 391–392; Ferid Spahić, P61 (Transcript from *Prosecutor v. Lukić and Lukić*), T. 529; Spahić had seen this soldier before in his hamlet when the Užice Corps was still there.

3710 P60 (Witness statement of Ferid Spahić dated 4 November 1997), p. 8; Ferid Spahić, P61 (Transcript from *Prosecutor v. Vasiljević*), T. 392.

3711 P60 (Witness statement of Ferid Spahić dated 4 November 1997), p. 8; Ferid Spahić, P61 (Transcript from *Prosecutor v. Vasiljević*), T. 392–393.

3712 P60 (Witness statement of Ferid Spahić dated 4 November 1997), p. 8; Ferid Spahić, P61 (Transcript from *Prosecutor v. Vasiljević*), T. 393–394; P79 (Sketch drawn by Ferid Spahić).

3713 Ferid Spahić, P61 (Transcript from *Prosecutor v. Lukić and Lukić*), T. 553; P60 (Witness statement of Ferid Spahić dated 4 November 1997), p. 8.

3714 P60 (Witness statement of Ferid Spahić dated 4 November 1997), p. 8; Ferid Spahić, P61 (Transcript from *Prosecutor v. Vasiljević*), T. 393–394; Ferid Spahić, P61 (Transcript from *Prosecutor v. Lukić and Lukić*), p. 553; P79 (Sketch drawn by Ferid Spahić).

3715 P60 (Witness statement of Ferid Spahić dated 4 November 1997), pp. 8–9; Ferid Spahić, P61 (Transcript from *Prosecutor v. Vasiljević*), T. 394, 397–398 (noting that he could not actually see the pit at the time but saw it when he returned at a later date).

3716 P60 (Witness statement of Ferid Spahić dated 4 November 1997), pp. 8–9; Ferid Spahić, P61 (Transcript from *Prosecutor v. Lukić and Lukić*), T. 553; Ferid Spahić, P61 (Transcript from *Prosecutor v. Vasiljević*), T. 395–396; P79 (Sketch drawn by Ferid Spahić).

escape and was shot at before taking shelter in the Bosnian Muslim village of Mrči.[3717] As he was escaping, Spahić could hear the shooting continuing.[3718]

(1) Forensic and documentary evidence regarding Scheduled Incident A.14.2

1090. John Clark reported on the exhumations carried out with respect to the Paklenik Cave.[3719] The Chamber finds that the Paklenik cave site was located in a forest in the area near the village of Kalimanići in Sokolac municipality and is the same location referred to by Ferid Spahić as the pit into which the Bosnian Muslim men fell after being shot.[3720] The post-mortem examination team received 73 whole male bodies.[3721] They estimated that the ages of the bodies exhumed ranged from 15 to 75, with 74% aged between 30 and 55.[3722] Of the 73 whole bodies found at Paklenik, 66 were identified, and 19 of the 66 identified bodies matched with the names of the 23 Bosnian Muslims on the bus who were identified by Ferid Spahić.[3723] In addition to the 23 Bosnian Muslims who Spahić named, he also identified without naming them, the two sons of Musa Omerović and the two sons of Ismet Kustura and two of these bodies were also identified in the exhumation.[3724] At least 21 of the bodies exhumed from the Paklenik cave site are not linked to Scheduled Incident A.14.2.[3725]

3717 P60 (Witness statement of Ferid Spahić dated 4 November 1997), p. 9; Ferid Spahić, P61 (Transcript from *Prosecutor v. Vasiljević*), T. 403–404.

3718 P60 (Witness statement of Ferid Spahić dated 4 November 1997), p. 9; Ferid Spahić, P61 (Transcript from *Prosecutor v. Vasiljević*), T. 395–396, 398; Ferid Spahić, P61 (Transcript from *Prosecutor v. Lukić and Lukić*), T. 529.

3719 P4106 (John Clark's expert report entitled "Report of the Chief Pathologist, Paklenik Cave and Ivan Polje Grave–Sites (2000)", 30 July 2002), p. 5, Figure 1; P4107 (John Clark's expert report entitled "Supplementary Report of the Chief Pathologist, Paklenik Cave and Ivan Polje Grave–Sites (2000)", 30 September 2002).

3720 P4902 (Sarajevo Cantonal Court record of Jama Paklenik exhumation, 15 August 2000), p. 3; P4850 (Witness statement of Amor Mašović dated 23 March 2012), Annex A, p. 13; P4106 (John Clark's expert report entitled "Report of the Chief Pathologist, Paklenik Cave and Ivan Polje Grave–Sites (2000)", 30 July 2002), p. 5, Figure 1; P78 (Sketch drawn by Ferid Spahić); P79 (Sketch drawn by Ferid Spahić).

3721 P4106 (John Clark's expert report entitled "Report of the Chief Pathologist, Paklenik Cave and Ivan Polje Grave–Sites (2000)", 30 July 2002), pp. 5–6. Clark noted in his report that among the 75 bodies they received from the exhumation team, only 73 were whole bodies, while the remaining two turned out to be large body parts. *See also* P3410 (List of bodies exhumed in Višegrad during 2000–2001), p. 5.

3722 P4106 (John Clark's expert report entitled "Report of the Chief Pathologist, Paklenik Cave and Ivan Polje Grave–Sites (2000)", 30 July 2002), p. 6.

3723 P60 (Witness statement of Ferid Spahić dated 4 November 1997), p. 7; P3410 (List of bodies exhumed in Višegrad during 2000–2001); P4902 (Sarajevo Cantonal Court record of Jama Paklenik exhumation, 15 August 2000), pp. 7–42; P4853 (Updated Table 2 to the Report of Amor Mašović), pp. 49–51. Of the identified bodies exhumed, 39 names correspond to the list of named victims attached to the Prosecution's pre-trial brief. Prosecution Pre–Trial Brief, Confidential Appendix B. These 39 identified bodies include 19 of the 23 individuals named by Ferid Spahić.

3724 P60 (Witness statement of Ferid Spahić dated 4 November 1997), p. 7; P4902 (Sarajevo Cantonal Court record of Jama Paklenik exhumation, 15 August 2000), pp. 10, 33.

3725 P4106 (John Clark's expert report entitled "Report of the Chief Pathologist, Paklenik Cave and Ivan Polje Grave–Sites (2000)", 30 July 2002), p. 5.

1091. Clothing that was not military was still present on all of the exhumed bodies.[3726] Personal items were found on many of the victims, including watches, spectacles, combs, keys, money, cigarette lighters, and four miniature Korans.[3727] A large number of the bodies exhumed from the cave were found with their hands tied behind their backs with wire.[3728] None of the bodies were blindfolded and there were no other obvious objects of restraint.[3729]

1092. Gunshot injuries were found in 57 out of the 73 bodies.[3730] Bullet casings were found and other injuries resulted from shotguns and shrapnel.[3731] Evidence of blunt trauma was found in some of the bodies which had probably occurred before death.[3732] There was also evidence that some of the men were still alive when thrown in the cave and died from the resulting injuries.[3733] For 11 of the 73 bodies, it was not possible to determine the cause of death.[3734] The Chamber is satisfied based on the large percentage of the shots fired which struck the trunk or head of the bodies that the shots were not random.[3735] The Chamber is also satisfied that the pathological evidence suggests that many of the victims had been shot from behind which is consistent with

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3726 P4106 (John Clark's expert report entitled "Report of the Chief Pathologist, Paklenik Cave and Ivan Polje Grave–Sites (2000)", 30 July 2002), p. 6.

3727 P4106 (John Clark's expert report entitled "Report of the Chief Pathologist, Paklenik Cave and Ivan Polje Grave–Sites (2000)", 30 July 2002), p. 6.

3728 P4902 (Sarajevo Cantonal Court record of Jama Paklenik exhumation, 15 August 2000), p. 6; P4106 (John Clark's expert report entitled "Report of the Chief Pathologist, Paklenik Cave and Ivan Polje Grave–Sites (2000)", 30 July 2002), p. 6.

3729 P4106 (John Clark's expert report entitled "Report of the Chief Pathologist, Paklenik Cave and Ivan Polje Grave–Sites (2000)", 30 July 2002), p. 6.

3730 P4106 (John Clark's expert report entitled "Report of the Chief Pathologist, Paklenik Cave and Ivan Polje Grave–Sites (2000)", 30 July 2002), p. 7. Among the 57 bodies where "convincing gunshots injuries" were found, 45 were shot only once or twice (29 of them were only shot once), while the other 12 were shot three to five times.

3731 P4106 (John Clark's expert report entitled "Report of the Chief Pathologist, Paklenik Cave and Ivan Polje Grave–Sites (2000)", 30 July 2002), pp. 8–9; P4902 (Sarajevo Cantonal Court record of Jama Paklenik exhumation, 15 August 2000), p. 3.

3732 P4106 (John Clark's expert report entitled "Report of the Chief Pathologist, Paklenik Cave and Ivan Polje Grave–Sites (2000)", 30 July 2002), p. 7.

3733 P4106 (John Clark's expert report entitled "Report of the Chief Pathologist, Paklenik Cave and Ivan Polje Grave–Sites (2000)", 30 July 2002), pp. 9–10.

3734 P4106 (John Clark's expert report entitled "Report of the Chief Pathologist, Paklenik Cave and Ivan Polje Grave–Sites (2000)", 30 July 2002), p. 7; P4107 (John Clark's expert report entitled "Supplementary Report of the Chief Pathologist, Paklenik Cave and Ivan Polje Grave–Sites (2000)", 30 September 2002), p. 2. In the original Report, it was stated that it was not possible to determine the cause of death for 15 men. In the Supplementary Report, however, 4 originally unascertained cases were also determined to have died from gunshot to the head (3 of the 4) or to the chest (1 of the 4). Note that during his testimony Clark also indicated that the cause of death of 15 people was unascertained. John Clark, T. 22702–22704 (10 January 2012).

3735 P4106 (John Clark's expert report entitled "Report of the Chief Pathologist, Paklenik Cave and Ivan Polje Grave–Sites (2000)", 30 July 2002), pp. 5–10; P4107 (John Clark's expert report entitled "Supplementary Report of the Chief Pathologist, Paklenik Cave and Ivan Polje Grave–Sites (2000)", 30 September 2002), p. 2. The Chamber notes that due to the badly decomposed state of the bodies an estimate of the distance of fire was not possible but that it was estimated that 85 % of identifiable shots struck the trunk or the head of the bodies.

Ferid Spahić's evidence about this incident and the way in which the victims were lined up before being shot.[3736]

(2) Conclusion

1093. Considering (i) Spahić's evidence that the number of Bosnian Muslims taken to the execution site was between 50 to 52; (ii) that Spahić survived the execution; (iii) that 66 of the whole bodies exhumed from the mass grave were identified but that at least 21 of those identified bodies are not linked to Scheduled Incident A14.2; and (iv) that there were seven bodies exhumed from the mass grave which were not identified, the Chamber finds that approximately 45 Bosnian Muslim civilians were killed near Paklenik, close to the village of Kalimanići, in Sokolac municipality by Serb Forces on 15 June 1992.

viii. Vlasenica

(A) Charges

1094. Under Count 3, the Prosecution alleges that persecution, a crime against humanity was committed in Vlasenica as part of the objective to permanently remove Bosnian Muslims and/or Bosnian Croats from the Municipalities.[3737] Under Count 1, the Prosecution further alleges that in certain municipalities, including Vlasenica, this persecutory campaign included or escalated to include conduct that manifested an intent to destroy in part the national, ethnical and/or religious groups of Bosnian Muslims and/or Bosnian Croats as such.[3738]

1095. Acts alleged to have been committed by Serb Forces and Bosnian Serb Political and Governmental Organs in Vlasenica include killings during and after the take-over;[3739] killings related to detention facilities and killings committed during, and deaths resulting from, cruel and inhumane treatment at scheduled detention facilities.[3740] The Prosecution characterises these acts as killing, an underlying act of genocide, under Count 1; persecution, a crime against humanity,

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3736 P4106 (John Clark's expert report entitled "Report of the Chief Pathologist, Paklenik Cave and Ivan Polje Grave–Sites (2000)", 30 July 2002), p. 8. According to the report 42 were shot from behind, 9 from the side, 8 from the front, and 28 from an unknown direction. *See* P60 (Witness statement of Ferid Spahić dated 4 November 1997), p. 8; Ferid Spahić, P61 (Transcript from *Prosecutor v. Vasiljević*), T. 393–394; Ferid Spahić, P61 (Transcript from *Prosecutor v. Lukić and Lukić*), p. 553; P79 (Sketch drawn by Ferid Spahić).

3737 Indictment, paras. 48–49.

3738 Indictment, paras. 37–38.

3739 Indictment, para. 60(a)(i). *See* Scheduled Incidents A.15.1, A.15.2.

3740 Indictment, para. 60(a)(ii). *See* Scheduled Incidents B.18.1, B.18.2, B.18.3, B.18.4.

under Count 3; extermination, a crime against humanity, under Count 4; murder, a crime against humanity, under Count 5; and murder, a violation of the laws or customs of war, under Count 6.[3741]

1096. Other acts alleged to have been committed in Vlasenica by Serb Forces and Bosnian Serb Political and Governmental Organs include torture, beatings, and physical and psychological abuse, rape and other acts of sexual violence, during and after the take-over and in scheduled detention facilities, as well as the establishment and perpetuation of inhumane living conditions in detention facilities, as cruel or inhumane treatment, an act of persecution under Count 3.[3742] In relation to Count 1, the Prosecution alleges that in scheduled detention facilities in Vlasenica thousands of Bosnian Muslims and Bosnian Croats were subjected to cruel and inhumane treatment, including torture, physical and psychological abuse, rape, other acts of sexual violence, and beatings by Serb Forces and Bosnian Serb Political and Governmental Organs; the Prosecution characterises this inhumane treatment as causing serious bodily or mental harm to members of the Bosnian Muslim and Bosnian Croat groups, an underlying act of genocide.[3743] In addition, under Count 1, the Prosecution alleges that members of the Bosnian Muslim and Bosnian Croat groups were detained under conditions of life calculated to bring about physical destruction, namely through cruel and inhumane treatment, including torture, physical and psychological abuse, rape, other acts of sexual violence, inhumane living conditions, forced labour, and the failure to provide adequate accommodation, shelter, food, water, medical care or hygienic sanitation facilities.[3744]

1097. Under Count 3, other acts of persecution alleged to have been committed in Vlasenica by Serb Forces and Bosnian Serb Political and Governmental Organs include (i) forcible transfer or deportation of Bosnian Muslims and Bosnian Croats from their homes;[3745] (ii) unlawful detention in scheduled detention facilities;[3746] (iii) forced labour at the frontline and the use of human shields; (iv) the appropriation or plunder of property, during and after the take-over, during arrests and detention and in the course of or following acts of deportation or forcible transfer;[3747] (v) the wanton destruction of private property including homes and business premises and public

3741 Indictment, paras. 40(a)(i), 40(a)(ii), 63(a), 63(b).

3742 Indictment, para. 60(b), 60(c). *See* Scheduled Detention Facilities C.25.1, C.25.2, C.25.3. With respect to C.25.4, on 22 August 2014, the Prosecution filed the Notice of Withdrawal of Incident C.25.4 on the basis that it had not led evidence in relation to this detention facility.

3743 Indictment, para. 40(b).

3744 Indictment, paras. 40(c), 60(d), 60(h). *See* Scheduled Detention Facilities C.25.1, C25.2, C.25.3.

3745 Indictment, paras. 56, 60(f).

3746 Indictment, para. 60(g). *See* Scheduled Detention Facilities C.25, C.25.2, C.25.3.

3747 Indictment, para. 60(i).

property;[3748] and (vi) the imposition and maintenance of restrictive and discriminatory measures.[3749]

1098. Under Counts 7 and 8, the Prosecution alleges deportation and inhumane acts (forcible transfer, respectively, as crimes against humanity.[3750] The Prosecution alleges that, by the end of 1992, Serb Forces and Bosnian Serb Political and Governmental Organs had forcibly displaced Bosnian Muslims and Bosnian Croats from areas in Vlasenica in which they had been lawfully present.[3751] It is alleged that from March 1992, restrictive and discriminatory measures, arbitrary arrest and detention, harassment, torture, rape and other acts of sexual violence, killing, destruction of houses, as well as the threat of further such acts caused Bosnian Muslims and Bosnian Croats to flee in fear while others were physically driven out.[3752] It is further alleged that acts of forcible displacement continued in Vlasenica between January and March 1993 when Serb Forces attacked the Cerska area of the Vlasenica municipality.[3753]

(B) Lead-up

1099. Vlasenica is a municipality in eastern BiH located to the south of Zvornik and to the west of Bratunac and Srebrenica.[3754] Prior to the war the population of Vlasenica was approximately 34,000 and consisted of about 55% Bosnian Muslims, 42% Bosnian Serbs, and 0.1% Bosnian Croats.[3755] The town of Vlasenica itself had a population of between 6,000 and 7,000.[3756]

3748 Indictment, para. 60(j). The Chamber notes that there are no cultural monuments and sacred sites with respect to Vlasenica in Schedule D of the Indictment.

3749 Indictment, para. 60(k). The restrictive and discriminatory measures alleged include the denial of freedom of movement; the removal from positions of authority; the invasion of privacy through arbitrary searches of homes; unlawful arrest and/or the denial of the right to judicial process; and/or the denial of equal access to public services.

3750 Indictment, paras. 68–75.

3751 Indictment, paras. 69, 72.

3752 Indictment, para. 71.

3753 Indictment, para. 72.

3754 D484 (Map of BiH); Izet Redžić, T. 17677 (23 August 2011).

3755 Izet Redžić, P3189 (Transcript from *Prosecutor v. Krajišnik*), T. 5005; Izet Redžić, T. 17674 (23 August 2011); D3093 (Witness statement of Mane Đurić dated 3 March 2013), para. 4; D3098 (Vlasenica Executive Board request, 17 January 1992), p. 3; P6200 (Excerpt from census records of 1991), p. 4; P6199 (Excerpt from censuses records of 1971, 1981 and 1991), p. 2; P4994 (Addendum to Ewa Tabeau's expert report entitled "Ethnic Composition in Internally Displaced Persons and Refugees from 27 Municipalities of BiH 1991 to 1997", 3 February 2009), pp. 31, 34, 40. For differing testimony as to the ethnic composition of the municipality, *see* D3007 (Witness statement of Zoran Jovanović dated 18 February 2013), para. 4; Zoran Jovanović, T. 34204–34205 (21 February 2013); P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 6.

3756 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 7.

Vlasenica formed part of the geographic link to Serbia,[3757] which was part of the third Strategic Goal.[3758]

1100. In the multi-party elections in 1990, for the Vlasenica Municipal Assembly, the SDS won 27 seats, the SDA won 26 seats, and seven seats were won by other parties.[3759] After this election, the SDS and SDA divided leadership posts between them.[3760] For example, the SDS selected Milenko Stanić as President of the Assembly[3761] and Izet Redžić was selected by the SDA as President of the Executive Board.[3762] The chief of the SJB was a Serb named Rade Bjelanović while the second in command was a Bosnian Muslim, Fadil Turković.[3763] With time, there was increasing disagreement between Bosnian Serb and Bosnian Muslim representatives in the Assembly.[3764]

1101. Inter-ethnic relations in Vlasenica deteriorated after conflict broke out in Croatia.[3765] Tomislav Savkić, the president of the Vlasenica SDS,[3766] delivered speeches which emphasised that

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3757 P921 (Transcript of 24th session of RS Assembly, 8 January 1993), p. 46; D115 (Transcript of 25th session of RS Assembly, 19-20 January 1993), p. 42; P972 (Robert Donia's expert report entitled "Thematic Excerpts from the Assembly or Republika Srpska, 1991–1996", 17 March 2008), p. 131.

3758 P956 (Transcript of 16th session of SerBiH Assembly, 12 May 1992), e-court p. 9; P781 (Decision on six strategic goals for Bosnian Serb people, 12 May 1992); P1478 (Ratko Mladić's notebook, 27 May–31 July 1992), pp. 102–103.

3759 Izet Redžić, P3189 (Transcript from *Prosecutor v. Krajišnik*), T. 5006; Izet Redžić, T. 17685 (23 August 2011); D1645 (Report of Vlasenica Municipal Electoral Commission, 27 November 1990); Milenko Stanić, T. 33989 (19 February 2013); D4661 (Letter from the SDS Vlasenica Municipal Council to Radovan Karadžić, 6 November 1991) (informing the Accused of the election results).

3760 Izet Redžić, P3189 (Transcript from *Prosecutor v. Krajišnik*), T. 5006; Izet Redžić, T. 17695–17696 (23 August 2011); D1645 (Report of Vlasenica Municipal Electoral Commission, 27 November 1990). *See also* D2982 (Witness statement of Milenko Stanić dated 16 February 2013), para. 5; D4661 (Letter from the SDS Vlasenica Municipal Council to Radovan Karadžić, 6 November 1991); P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 11.

3761 Izet Redžić, P3189 (Transcript from *Prosecutor v. Krajišnik*), T. 5006; Izet Redžić, T. 17688 (23 August 2011); D2982 (Witness statement of Milenko Stanić dated 16 February 2013), para. 5. *See also* D2932 (Witness statement of Tomislav Savkić dated 11 February 2013), para. 9.

3762 Izet Redžić, P3189 (Transcript from *Prosecutor v. Krajišnik*), T. 5007; Izet Redžić, T. 17688 (23 August 2011); D2982 (Witness statement of Milenko Stanić dated 16 February 2013), para. 5. *See also* D2932 (Witness statement of Tomislav Savkić dated 11 February 2013), para. 9.

3763 Izet Redžić, T. 17694–17695 (23 August 2011); D3093 (Witness statement of Mane Đurić dated 3 March 2013), para. 5. *See also* D2932 (Witness statement of Tomislav Savkić dated 11 February 2013), para. 8; D4661 (Letter from the SDS Vlasenica Municipal Council to Radovan Karadžić, 6 November 1991); D3007 (Witness statement of Zoran Jovanović dated 18 February 2013), para. 5. Other parties including the SDP shared power with the SDA and SDS. D3007 (Witness statement of Zoran Jovanović dated 18 February 2013), para. 5.

3764 D2922 (Witness statement of Savo Čeliković dated 10 February 2013), para. 6; D2982 (Witness statement of Milenko Stanić dated 16 February 2013), para. 6; D3007 (Witness statement of Zoran Jovanović dated 18 February 2013), para. 5. *See also* D2932 (Witness statement of Tomislav Savkić dated 11 February 2013), paras. 10–11, 32.

3765 Izet Redžić, P3189 (Transcript from *Prosecutor v. Krajišnik*), T. 5008; Izet Redžić, T. 17698–17699 (23 August 2011); D2967 (Witness statement of Momir Deurić dated 16 February 2013), paras. 7–8, 10; D3093 (Witness statement of Mane Đurić dated 3 March 2013), para. 6; D2982 (Witness statement of Milenko Stanić dated 16 February 2013), para. 4; D3007 (Witness statement of Zoran Jovanović dated 18 February 2013), para. 7; D2932 (Witness statement of Tomislav Savkić dated 11 February 2013), para. 4. *See also* P3285 (Witness

Serbs were under threat as they would be killed and eliminated from BiH when an Islamic state was formed. These speeches instilled fear amongst the Bosnian Serb population.[3767] Redžić attended a meeting with Milenko Stanić where Stanić declared: "The moment [BiH] is proclaimed a sovereign state, we will draw up our borders in blood".[3768] Inflammatory speeches were also delivered at SDA rallies.[3769]

(1) Militarisation of Vlasenica

1102. In 1991 Bosnian Muslims started leaving the JNA and boycotted the mobilisation upon instructions of the SDA leadership.[3770] After this boycott, there was a mobilisation of local Bosnian Serbs.[3771] In the spring of 1991, military units were formed in Bosnian Serb villages and there was an increased presence of uniformed men, including those wearing cockades and carrying automatic weapons.[3772] For example, after the outbreak of war in Croatia in 1991, units were formed by the SDS in Vlasenica with between 1,200 and 1,500 troops located at a garrison formed in the Bosnian Serb settlement of Milići.[3773] These units erected barricades, wore "Chetnik insignia" and cockades, maltreated people, and "instilled fear among the Muslim population".[3774]

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statement of Sead Hodžić dated 24 May 2000), paras. 5, 10; Sead Hodžić, T. 18438–18439 (6 September 2011); D3048 (Witness statement of Božidar Trišić dated 24 February 2013), paras. 4–5.

3766 Izet Redžić, P3189 (Transcript from *Prosecutor v. Krajišnik*), T. 5048; Tomislav Savkić, T. 33751 (15 February 2013).

3767 Izet Redžić, P3189 (Transcript from *Prosecutor v. Krajišnik*), T. 5049.

3768 Izet Redžić, P3189 (Transcript from *Prosecutor v. Krajišnik*), T. 5040–5041.

3769 D2967 (Witness statement of Momir Deurić dated 16 February 2013), para. 9. *See also* D3007 (Witness statement of Zoran Jovanović dated 18 February 2013), para. 7; D2932 (Witness statement of Tomislav Savkić dated 11 February 2013), paras. 5–7.

3770 Izet Redžić, P3189 (Transcript from *Prosecutor v. Krajišnik*), T. 5112–5113, 5151; Izet Redžić, T. 17732 (23 August 2011); D2932 (Witness statement of Tomislav Savkić dated 11 February 2013), paras. 12–14; D2922 (Witness statement of Savo Čeliković dated 10 February 2013), paras. 8–11; KDZ033, T. 18042–18043 (29 August 2011) (closed session). *See also* D2967 (Witness statement of Momir Deurić dated 16 February 2013), para. 13; Mane Đurić, T. 35076 (7 March 2013); D3007 (Witness statement of Zoran Jovanović dated 18 February 2013), paras. 9–13; D2982 (Witness statement of Milenko Stanić dated 16 February 2013), paras. 7-10; D1373 (Report of Vlasenica Municipal Assembly to SRBiH Presidency, 8 July 1991), p. 1.

3771 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), paras. 12–13; Ibro Osmanović, T. 17971 (29 August 2011).

3772 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), paras. 12–13; Ibro Osmanović, T. 17971 (29 August 2011); Izet Redžić, P3189 (Transcript from *Prosecutor v. Krajišnik*), T. 5017–5019, 5029–5030.

3773 Izet Redžić, P3189 (Transcript from *Prosecutor v. Krajišnik*), T. 5008, 5140; Izet Redžić, T. 17727 (23 August 2011); P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 14. *See also* P2828 (Witness statement of Asim Džambasović dated 18 June 2011), paras. 55–56. Stanić testified that the SDS was not involved in the formation of these units. Milenko Stanić, T. 34021 (19 February 2013). However, the Chamber does not find Stanić's evidence to be reliable in this regard. In reaching that conclusion the Chamber found that Stanić's evidence was marked by evasiveness and indicators that he was witholding information from the Chamber.

3774 Izet Redžić, P3189 (Transcript from *Prosecutor v. Krajišnik*), T. 5008, 5010.

1103. In the autumn of 1991, both Bosnian Serbs and Bosnian Muslims were arming themselves.[3775] In the second half of 1991, night watches were organised in villages and while they were initially mixed, they separated with time due to growing distrust between Bosnian Muslims and Bosnian Serbs.[3776]

1104. Weapons were brought to and stored in the Bosnian Serb village of Tišća and then taken by SDS members to Vlasenica town and secretly distributed to the local Bosnian Serb population to ensure that every Bosnian Serb home had a weapon.[3777] Milenko Stanić was informed of which villages had to be provided with weapons and SDS members in Bosnian Serb villages were provided with weapons by Bjelanović.[3778]

1105. Starting in the summer of 1991, Redžić made contact with Dragomir Milošević, Commander of the JNA barracks in Han Pijesak. He discussed the situation in Vlasenica and the possibility of mobilising the TO, composed of both Bosnian Muslims and Bosnian Serbs, which could protect all citizens.[3779] Dragomir Milošević in response said that "a Muslim cannot be given

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3775 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 18 (under seal); KDZ033, T. 18026 (29 August 2011) (closed session). The Chamber finds that there were Bosnian Muslim armed formations in Vlasenica and that the SDA and TO Chief were involved in the arming of Bosnian Muslims. D2967 (Witness statement of Momir Deurić dated 16 February 2013), paras. 13; D3093 (Witness statement of Mane Đurić dated 3 March 2013), paras. 15–16; Mane Đurić, T. 35058–35059 (7 March 2013) (private session); D1646 (Report of Vlasenica SJB, 8 May 1992), pp. 1–3; D1648 (Official note of Vlasenica SJB, 17 June 1991), pp. 1–2; D1649 (Basic plan of engagement of Vlasenica SJB, 24 June 1991), pp. 1–2; D1651 (Order of ABiH Tuzla Main Staff, 9 August 1992), p. 2; D2922 (Witness statement of Savo Čeliković dated 10 February 2013), paras. 28, 31; D2982 (Witness statement of Milenko Stanić dated 16 February 2013), para. 11; D3007 (Witness statement of Zoran Jovanović dated 18 February 2013), paras. 14–16, 20; D2932 (Witness statement of Tomislav Savkić dated 11 February 2013), paras. 15–20, 22–24. *See also* D3008 (Video still of four armed men); D3012 (Video still of a letter "U"); Zoran Jovanović, T. 34176–34177 (21 February 2013); D1657 (Excerpt from book entitled "The Truth about Bratunac"), p. 2; D2944 (Witness statement of Zoran Durmić dated 12 February 2013), para. 19. Other witnesses testified that they were not aware of the existence or formation of the Patriotic League in Vlasenica. Izet Redžić, P3189 (Transcript from *Prosecutor v. Krajišnik*), T. 5113; Izet Redžić, T. 17702–17703, 17705, 17715, 17722–17723 (23 August 2011); Ibro Osmanović, T. 17958 (29 August 2011). However, the Chamber notes that Redžić's evidence on this issue was equivocal and he could not comment on the content of documents which related to Bosnian Muslim military formations in the municipality. Similarly, Osmanović simply testified that he was not aware of Bosnian Muslim military formations but did not rule out the possibility that they existed. The Chamber therefore does not rely on their evidence in this regard.

3776 D2922 (Witness statement of Savo Čeliković dated 10 February 2013), para. 7. *See also* D2932 (Witness statement of Tomislav Savkić dated 11 February 2013), para. 26. In July 1991 the Executive Board instructed the TO to place a guard outside the Municipal Assembly. D1654 (Conclusions from session of Vlasenica's Executive Board, 10 July 1991), p. 1.

3777 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 18 (under seal). *See also* Mane Đurić, T. 35058 (7 March 2013) (private session).

3778 Izet Redžić, P3189 (Transcript from *Prosecutor v. Krajišnik*), T. 5020–5021, 5141; Izet Redžić, T. 17702 (23 August 2011).

3779 Izet Redžić, P3189 (Transcript from *Prosecutor v. Krajišnik*), T. 5010–5013; Izet Redžić, T. 17678 (23 August 2011). Redžić contacted Dragomir Milošević because the JNA had taken all weapons that should have been available to the TO, and in the event of war, while the civilian authorities could mobilise the TO it would be subordinated to the military. *See also* P3201 (Order of SFRY Federal Secretariat for National Defence, 14 May 1990) (in which General Adžić issued an order for the JNA to take-over TO weapons depots in May 1990).

a rifle, because that rifle would be turned against the Serbs".[3780] In the first days of April 1992, a large number of soldiers and reservists were present in Vlasenica. Tanks, artillery, and armed vehicles from Milići, Han Pijesak, and Šekovići, were deployed, which created concern among the Bosnian Muslim population.[3781] There was also shooting during the day and night.[3782]

1106. On 21 April 1992, the Bosnian Serb authorities mobilised the Bosnian Serb population of Vlasenica through the Vlasenica TO. Additional JNA units also arrived in the municipality from Šekovići, and volunteers were also deployed.[3783] Dragomir Milošević visited the units deployed in Milići. He explained the presence of this unit, by saying that the "Serbs should have the military that would protect them".[3784] Other leaders, including the Accused, Biljana Plavšić, Nikola Koljević and other high level SDS leaders visited the units located in Milići.[3785]

1107. The reserve police force in Vlasenica consisted of 70 to 80% Bosnian Serbs.[3786] An order of the Presidency of SRBiH which directed police chiefs to ensure ethnic balance in the reserve police force at the municipal level was not respected by Bjelanović in Vlasenica.[3787]

(2) Division of municipal structures

1108. On 26 December 1991, despite the opposition of Bosnian Muslim representatives,[3788] the Vlasenica Municipal Assembly issued a decision to join the SAO Birač.[3789] On 18 February 1992,

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3780 Izet Redžić, P3189 (Transcript from *Prosecutor v. Krajišnik*), T. 5014.

3781 Izet Redžić, P3189 (Transcript from *Prosecutor v. Krajišnik*), T. 5039–5040; *see* Adjudicated Fact 2687.

3782 Izet Redžić, P3189 (Transcript from *Prosecutor v. Krajišnik*), T. 5040. There were also Bosnian Muslim attacks against Bosnian Serb villages. D3007 (Witness statement of Zoran Jovanović dated 18 February 2013), paras. 30–35; D3014 (Video clip of Nedelišta village); Zoran Jovanović, T. 34177–34189 (21 February 2013); D3009 (Excerpt from a notebook found in Neđeljišta village).

3783 D2922 (Witness statement of Savo Čeliković dated 10 February 2013), para. 22. *See also* D2967 (Witness statement of Momir Deurić dated 16 February 2013), para. 15; D3093 (Witness statement of Mane Đurić dated 3 March 2013), para. 14.

3784 Izet Redžić, P3189 (Transcript from *Prosecutor v. Krajišnik*), T. 5014–5015.

3785 Izet Redžić, P3189 (Transcript from *Prosecutor v. Krajišnik*), T. 5016–5017; Izet Redžić, T. 17679, 17727 (23 August 2011). Redžić further testified that the purpose of these visits was for the Accused, in co-operation with SDS officials, to prepare the Bosnian Serb people to fight their neighbours. However, it is not clear on what basis Redžić knew this information and the Chamber will not rely on Redžić's assessment in this regard.

3786 Izet Redžić, T. 17709 (23 August 2011). The Accused tendered a document which suggested that less than 10% of police candidates nominated for a training course in March 1992 were Serb. D1647 (Order of SerBiH MUP, 12 March 1992). The Chamber notes that the document only refers to two names which relate to Vlasenica and does not consider that this undermines the credible evidence of Redžić regarding the composition of the reserve police force.

3787 Izet Redžić, P3189 (Transcript from *Prosecutor v. Krajišnik*), T. 5023–5025.

3788 The Chamber notes that some Bosnian Muslims did vote in favour of this decision. D2932 (Witness statement of Tomislav Savkić dated 11 February 2013), para. 28.

3789 D2932 (Witness statement of Tomislav Savkić dated 11 February 2013), para. 28; D2922 (Witness statement of Savo Čeliković dated 10 February 2013), paras. 18–19. Izet Redžić as President of the Executive Board of Vlasenica objected to the implementation of the decision on Vlasenica joining the SAO Birač. Mane Đurić, T. 35008–35010 (7 March 2013); D3098 (Vlasenica Executive Board request, 17 January 1992); D3007 (Witness statement of Zoran Jovanović dated 18 February 2013), para. 17.

the Executive Council of the SAO Birač reached a conclusion that "[i]n order to take over power in the area of the Birač SAO as efficiently as possible" it was necessary to take stock of the situation, including with respect to infrastructure and the economic situation in the region.[3790] After the formation of the SAO Birač, the municipalities in the region, including Vlasenica, established their own crisis staffs.[3791]

1109. On 4 April 1992, following the instructions of the SDS Main Board, the Municipal Board of the SDS in Vlasenica passed a decision establishing a crisis staff of the Serb Municipality of Vlasenica ("Vlasenica Crisis Staff") and Milenko Stanić was appointed President.[3792]

1110. Negotiations between Bosnian Serb and Bosnian Muslim representatives took place from 30 March until 11 April 1992.[3793] The SDS representatives prepared a proposal and placed

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3790 P6113 (Minutes from 1st session of Executive Council of SAO Birač, 18 February 1992), p. 3. Savkić acknowledged that in his position within the SAO he worked on political and ethnic issues. Tomislav Savkić, T. 33756 (15 February 2013). Milenko Stanić was the President of the Executive Council of the SAO Birač. D2932 (Witness statement of Tomislav Savkić dated 11 February 2013), paras. 28–29; D3007 (Witness statement of Zoran Jovanović dated 18 February 2013), para. 17.

3791 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 19 (under seal). Defence witnesses testified that while the SAO was constituted it never became operational and had no influence on the municipalities. D2922 (Witness statement of Savo Čeliković dated 10 February 2013), para. 18; Savo Čeliković, T. 33560–33561 (13 February 2013); D3093 (Witness statement of Mane Đurić dated 3 March 2013), paras. 7–8; D2982 (Witness statement of Milenko Stanić dated 16 February 2013), para. 13; Milenko Stanić, T. 33996, 34000–34002, 34041 (19 February 2013); P6112 (Excerpt from Naser Orić's book entitled "Srebrenica"), pp. 2, 5. The Chamber does not find the evidence of these witnesses as to whether the SAO was operational to be reliable and considers that it is contradicted by reliable evidence to the contrary. In addition the Chamber notes that the evidence of the relevant witnesses was marked by inconsistencies, evasiveness, and other indicators that the witnesses were not forthright in this regard.

3792 P6121 (Decision of Vlasenica's SDS Municipal Board, 4 April 1992), p. 1; P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 40. *See also* P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 19 (under seal); D3093 (Witness statement of Mane Đurić dated 3 March 2013), paras. 9–10. The SJB Chief of Vlasenica and the Commander of the TO were also members of the Vlasenica Crisis Staff. *But see* D2932 (Witness statement of Tomislav Savkić dated 11 February 2013), para. 34; Tomislav Savkić, T. 33777–33779 (15 February 2013). The Chamber notes that Savkić disputed the date on which the Vlasenica Crisis Staff was created. However, the Chamber finds his evidence in this regard to be equivocal and marked by contradictions. Similarly Stanić did not recall that the Vlasenica Crisis Staff met before 21 April 1992 and testified that it did not function in its full capacity as some members moved to the newly formed Milići municipality. Stanić was confronted with documents which suggested that the Vlasenica Crisis Staff was functioning and issued decisions before that date but he maintained it only started sitting after 21 April 1992 and that some of the documents produced by the Crisis Staff were drafted in the secretariat of the Municipal Assembly. He also drew into question the authenticity of the stamps used on the documents. D2982 (Witness statement of Milenko Stanić dated 16 February 2013), paras. 29–30; Milenko Stanić, T. 34007–34011, 34047–34048 (19 February 2013); P6137 (Decision of Vlasenica Crisis Staff, 19 April 1992); P6138 (Decision of Vlasenica Crisis Staff, 19 April 1992); P3214 (Decision of Vlasenica Crisis Staff, 19 April 1992). Having regard to the weight of evidence received, and the equivocal nature of Stanić's evidence, the Chamber is satisfied that the documents issued by the Vlasenica Crisis Staff are authentic. Defence witnesses also testified that the Vlasenica Crisis Staff only operated for a short period of time. D3093 (Witness statement of Mane Đurić dated 3 March 2013), paras. 12–13; D2982 (Witness statement of Milenko Stanić dated 16 February 2013), paras. 30, 32. However, considering credible evidence about the actions of the Vlasenica Crisis Staff, and considering the credibility assessment of the relevant witnesses in fn. 3791, the Chamber does not find their evidence to be reliable with respect to the dissolution of the Vlasenica Crisis Staff. The Chamber does find however, that by 17 June 1992 a War Commission for Vlasenica was established. P5486 (RS Presidency Confirmation of Appointment of Members of the War Commission in Vlasenica, 17 June 1992).

pressure on Bosnian Muslims to agree to a division of Vlasenica into three parts: Serbian Vlasenica, Muslim Vlasenica, and Milići municipality.[3794] Redžić was instructed by Alija Izetbegović to prolong the negotiations to allow as many Bosnian Muslims as possible to evacuate from Vlasenica to Bosnian Muslim majority areas.[3795] Savkić threatened that, if the Bosnian Muslims refused the partition or stalled the negotiations, armed intervention would follow and that there were "tanks ready to shed blood".[3796] Bosnian Muslims were also asked to return their weapons.[3797] During these negotiations, Milenko Stanić told Redžić that there "were no more possibilities" and that he had orders which had come from "higher up", which he was simply obeying.[3798]

1111. In an attempt to protect the Bosnian Muslim population from possible attacks, the Bosnian Muslim representatives eventually agreed to the proposed division of the municipality.[3799] The

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3793 Izet Redžić, P3189 (Transcript from *Prosecutor v. Krajišnik*), T. 5042–5043, 5084. *See also* D2932 (Witness statement of Tomislav Savkić dated 11 February 2013), para. 34.

3794 Izet Redžić, P3189 (Transcript from *Prosecutor v. Krajišnik*), T. 5040, 5042–5043, 5050–5051. *See also* D2922 (Witness statement of Savo Čeliković dated 10 February 2013), para. 20; D2932 (Witness statement of Tomislav Savkić dated 11 February 2013), para. 34; D1286 (Agreement on division of Vlasenica, 11 April 1992).

3795 Izet Redžić, P3189 (Transcript from *Prosecutor v. Krajišnik*), T. 5043–5044, 5051–5052; Izet Redžić, T. 17739 (23 August 2011). *See also* Mane Đurić, T. 35062 (7 March 2013); D2982 (Witness statement of Milenko Stanić dated 16 February 2013), para. 20; D2932 (Witness statement of Tomislav Savkić dated 11 February 2013), para. 35; Tomislav Savkić, T. 33749 (15 February 2013). Savkić testified that this demonstrated that the SDA leadership was probably planning to attack Vlasenica. D2932 (Witness statement of Tomislav Savkić dated 11 February 2013), para. 36; Tomislav Savkić, T. 33749–33750 (15 February 2013). However, the Chamber finds that Savkić's evidence in this regard is purely speculative and does not rely on his evidence in this regard. The Chamber also received a note handwritten by Redžić, which referred to organising Bosnian Muslim defence. The document also included a typewritten addition which suggested that the note confirmed that the SDA "had a plan ready for taking over power in nearly all segments of life". D1656 (Handwritten document by Izet Redžić), p. 1. *See also* Decision on Accused's Motion to Admit Documents Previously Marked for Identification, 4 November 2011, para. 14. While Redžić acknowledged that the handwriting on the document was his, he testified that the type written addition was used to create a "false picture" and that the date was a forgery. Izet Redžić, T. 17742–17743 (23 August 2011). Having regard to Redžić's evidence in this regard and the uncertain provenance of the type-written additions, the Chamber does not rely on the typewritten additions to support the suggestion that the SDA had a plan to take-over power in Vlasenica but finds that there were preparations for Bosnian Muslim defence in Vlasenica. The Chamber further finds that there were rumours about the possibility of a forceful take-over of Vlasenica by Bosnian Muslims. KDZ033, T. 18031 (29 August 2011) (closed session).

3796 Izet Redžić, P3189 (Transcript from *Prosecutor v. Krajišnik*), T. 5047. *See also* Adjudicated Fact 2689. Defence witnesses testified that (i) there was no such threat; (ii) the decision to divide the municipality was adopted without any pressure; (iii) the division did not form part of a goal to establish Serb control over territory; and (iv) the proposed division was to avoid war given increasing tensions. D2922 (Witness statement of Savo Čeliković dated 10 February 2013), para. 21; Savo Čeliković, T. 33559–33560 (13 February 2013); D2982 (Witness statement of Milenko Stanić dated 16 February 2013), para. 14. The Chamber does not find this evidence to be reliable. In reaching that conclusion the Chamber noted that the testimony of Čeliković was marked by inconsistencies and the testimony of Stanić was marked by evasiveness and other indicators that the witness was not forthright nor candid in this regard.

3797 Izet Redžić, P3189 (Transcript from *Prosecutor v. Krajišnik*), T. 5050–5051; Izet Redžić, T. 17702 (23 August 2011).

3798 Izet Redžić, P3189 (Transcript from *Prosecutor v. Krajišnik*), T. 5057, 5070.

3799 Izet Redžić, T. 17736–17737 (23 August 2011).

agreement on the division of the municipality was signed on 11 April 1992.[3800] Notwithstanding this agreement, Bosnian Muslim leaders, including Redžić, left the municipality a few days later.[3801]

1112. On 13 April 1992, Milenko Stanić reported to the Bosnian Serb Assembly that the Vlasenica Municipal Assembly would adopt the protocol on the agreement for the territorial delineation of the municipality and urged all citizens who had fled Vlasenica to return to their homes; negotiating teams were urged to pay special attention to the balance of urban settlement and to "enable each member of a particular nation to become part of his or her ethnic community".[3802] While the decision on the division of the municipality was adopted, only the decision on the establishment of the Milići municipality was verified as Bosnian Muslim representatives did not want to implement the agreement.[3803] In a briefing attended by Mladić in June 1992, Milenko Stanić reported there were still problems with the delineation of the municipalities of Vlasenica and Milići.[3804]

(C) Take-over of Vlasenica

1113. On 19 April 1992 the Vlasenica Crisis Staff adopted a decision to take-over power in the territory of the Serb Municipality of Vlasenica.[3805] On the same day, the Vlasenica Crisis Staff proclaimed that there was an imminent threat of war and that it would assume the functions of the

3800 Izet Redžić, P3189 (Transcript from *Prosecutor v. Krajišnik*), T. 5053, 5084; Izet Redžić, T. 17739 (23 August 2011); *see* Adjudicated Fact 2688. *See also* D2967 (Witness statement of Momir Deurić dated 16 February 2013), para. 14; Mane Đurić, T. 35014–35015 (7 March 2013); D1286 (Agreement on division of Vlasenica, 11 April 1992).

3801 Izet Redžić, P3189 (Transcript from *Prosecutor v. Krajišnik*), T. 5053. *See also* D2967 (Witness statement of Momir Deurić dated 16 February 2013), para. 14.

3802 D1655 (Conclusions from extraordinary session of Vlasenica Municipal Assembly, 13 April 1992), p. 1.

3803 D2982 (Witness statement of Milenko Stanić dated 16 February 2013), para. 15; Milenko Stanić, T. 34042 (19 February 2013); P961 (Shorthand Record of 12th session of SerBiH Assembly, 24 March 1992), pp. 23–24. *See also* D3007 (Witness statement of Zoran Jovanović dated 18 February 2013), para. 25; D2932 (Witness statement of Tomislav Savkić dated 11 February 2013), para. 34; Tomislav Savkić, T. 33751, 33760 (15 February 2013).

3804 P1478 (Ratko Mladić's notebook, 27 May–31 July 1992), p. 233.

3805 P3214 (Decision of Vlasenica Crisis Staff, 19 April 1992); P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 26. Đurić testified that these decisions were adopted by the Vlasenica Crisis Staff because of (i) the departure of Bosnian Muslims from the municipality; (ii) poor inter-ethnic relations and the large quantity of weapons which were held by citizens; and (iii) the fact that the joint assembly could not function. D3093 (Witness statement of Mane Đurić dated 3 March 2013), paras. 18–21. Stanić also testified that the creation of the Serb Municipality of Vlasenica was not intended to mean an ethnically pure municipality. Milenko Stanić, T. 34041–34042 (19 February 2013). The Chamber does not consider this evidence, so far as it relates to the motivation or reasons behind these decisions, to be reliable. In reaching that conclusion the Chamber noted that evidence of the relevant witnesses was marked by contradictions, evasiveness and indicators that they were witholding information from the Chamber. For the Chamber's analysis and conclusion with respect to the reason for the take-over of Vlasenica, *see* Section IV.A.3: Overarching JCE and the Accused's responsibility.

Municipal Assembly.[3806] It also passed a decision establishing the TO Staff[3807] and a Serbian Assembly.[3808] Milenko Stanić was appointed president of the Serb Municipality of Vlasenica.[3809]

1114. On or about 21 April 1992, the Bosnian Serb police, the TO[3810] and 200 JNA soldiers from the Novi Sad Corps with the assistance of armed local Serbs took control of Vlasenica.[3811] The White Eagles also came to Vlasenica at the beginning of the conflict but their operations were limited to the vicinity of the bauxite mine in Milići.[3812] The Serb Forces took control of the municipality premises, the police station, the post office, the bank, the court, factories, and the medical centre.[3813] Serb flags were "hoisted around town, and very loud Serbian nationalist music was playing through the public address system".[3814] The Vlasenica Crisis Staff was involved in the co-ordination of the take-over with the JNA and continued to command and control units in the

3806 P6137 (Decision of Vlasenica Crisis Staff, 19 April 1992); D3093 (Witness statement of Mane Đurić dated 3 March 2013), paras. 18–19. The SAO Birač on 29 April 1992 proclaimed a state of war in the entire SAO. P2615 (Decision of Birač Crisis Staff, 29 April 1992).

3807 P6140 (Decision of Vlasenica Crisis Staff, 19 April 1992).

3808 P3214 (Decision of Vlasenica Crisis Staff, 19 April 1992). *But see* Milenko Stanić, T. 34010 (19 February 2013). The Chamber refers to its assessment in fn. 3792 relating to Stanić's evidence about the date when the Vlasenica Crisis Staff was established.

3809 P6139 (Decision of Vlasenica Municipal Assembly, 30 March 1992). *But see* Milenko Stanić, T. 34014 (19 February 2013) (disputing the veracity of this document).

3810 The TO included Bosnian Serb reservists from Vlasenica, Milići and Šekovići, and later became part of the Vlasenica Brigade of the VRS. P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 20 (under seal).

3811 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 20 (under seal); KDZ033, T. 18029 (29 August 2011) (closed session); P3285 (Witness statement of Sead Hodžić dated 24 May 2000), para. 13; P2761 (RS MUP report on work for period April to December 1992), p. 7. *See also* D3093 (Witness statement of Mane Đurić dated 3 March 2013), paras. 27–28; D2982 (Witness statement of Milenko Stanić dated 16 February 2013), para. 22; D3007 (Witness statement of Zoran Jovanović dated 18 February 2013), paras. 21–22; D2932 (Witness statement of Tomislav Savkić dated 11 February 2013), para. 37; D4002 (Letter from BiH MUP to Vasvija Vidović, 4 July 1995), p. 34; P1478 (Ratko Mladić's notebook, 27 May–31 July 1992), p. 232 (Stanić reported that they launched an operation in Vlasenica on 21 April 1992). P62 (Witness statement of Nedžad Hadžiefendić dated 3 October 1997), p. 3. Before the take-over some Bosnian Serb locals had already been mobilised into the police and on the day of the take-over were standing outside of and took control of the enterprises and institutions in the town of Vlasenica. P3227 (Witness statement of KDZ033 dated 7 April 2010), paras. 20–21 (under seal).

3812 KDZ033, T. 18033, 18038 (29 August 2011) (closed session).

3813 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), paras. 18–19, 23–25. *See also* Adjudicated Fact 2690; D2932 (Witness statement of Tomislav Savkić dated 11 February 2013), para. 37; Ibro Osmanović, T. 17961 (29 August 2011). Defence witnesses also testified that the role of the JNA was to separate "warring sides in case of an armed clash" and that Serb Forces entered Vlasenica to pre-empt a Bosnian Muslim operation to attack Vlasenica. D3007 (Witness statement of Zoran Jovanović dated 18 February 2013), para. 22; D2932 (Witness statement of Tomislav Savkić dated 11 February 2013), para. 37. However, the Chamber does not find this evidence to be reliable. In reaching that conclusion, the Chamber noted that the testimony of the relevant witnesses was marked by evasiveness, bias, insincerity and indicators that they were witholding information from the Chamber.

3814 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 21 (under seal).

field until 28 June 1992 when units became part of the 1st Birčani Brigade which later became part of the Vlasenica Brigade.[3815]

1115. There was no armed Bosnian Muslim resistance to the take-over of Vlasenica and no casualties.[3816] Members of the Novi Sad Corps came to Vlasenica following reports that Bosnian Serbs had been killed but found these reports to be false and treated the Bosnian Muslim population fairly.[3817] The "liberation" of the town of Vlasenica on 21 April 1992 marked the start of combat operations in the area and; a number of villages in the municipality were also "liberated".[3818]

1116. Members of the SDA leadership had already left Vlasenica before the take-over,[3819] but after the take-over SDA members were brought into custody and asked for weapons; other Bosnian Muslims were also arrested.[3820]

(D) Developments in Vlasenica after take-over

1117. After the take-over, the seat of the Serb Municipality of Vlasenica was moved to the Boskit office building in Vlasenica town.[3821] Thereafter, the Vlasenica Crisis Staff took control of life in Vlasenica.[3822]

3815 P2636 (Report of 1st Vlasenica Light Infantry Brigade, 19 December 1994), p. 1. Defence witnesses disputed the veracity of this report and testified that the Vlasenica Crisis Staff did not co-ordinate the take-over and that the author of this report was not in Vlasenica at the time. Tomislav Savkić, T. 33774–33777 (15 February 2013); Milenko Stanić, T. 34017–34019 (19 February 2013). However, the Chamber does not consider the testimony of the witnesses to be reliable in this regard. In reaching that conclusion the Chamber noted that their testimony was marked by contradictions, evasiveness, and indicators that they were not completely forthright in their evidence. The Chamber thus has no reason to doubt the veracity of this report.

3816 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 20 (under seal); Sead Hodžić, T. 18431-18432 (6 September 2011); D2982 (Witness statement of Milenko Stanić dated 16 February 2013), para. 22; D3007 (Witness statement of Zoran Jovanović dated 18 February 2013), para. 21; D2932 (Witness statement of Tomislav Savkić dated 11 February 2013), para. 37; Tomislav Savkić, T. 33774 (15 February 2013) (testifying that this operation was not co-ordinated by the SDS Crisis Staff); D2922 (Witness statement of Savo Čeliković dated 10 February 2013), para. 22; P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), paras. 28, 59. *See also* D3093 (Witness statement of Mane Đurić dated 3 March 2013), para. 14; D1652 (Report of ABiH's Vlasenica municipal staff, 19 July 1992), p. 1.

3817 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), paras. 17, 21; Ibro Osmanović, T. 17960, 17962 (29 August 2011); Izet Redžić, P3189 (Transcript from *Prosecutor v. Krajišnik*), T. 5060–5062; Izet Redžić, T. 17679 (23 August 2011); Sead Hodžić, T. 18432 (6 September 2011).

3818 P6458 (Report of 1st Birač Infantry Brigade, 30 October 1993), pp. 3, 7. The report names over 15 villages and other strategic points.

3819 KDZ033, T. 18030 (29 August 2011) (closed session). *See also* D1652 (Report of ABiH's Vlasenica municipal staff, 19 July 1992), p. 1.

3820 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), paras. 35–36; P3216 (Vlasenica SJB crime register, April-December 1992), p. 3. No Bosnian Serbs were prosecuted for the illegal possession of weapons. Mane Đurić, T. 35059–35060 (7 March 2013).

3821 D3093 (Witness statement of Mane Đurić dated 3 March 2013), para. 63. *See also* Adjudicated Fact 2690. The Chamber notes that the Adjudicated Fact also refers to the setting up of a "Serb Crisis Staff" after the take-over. However, the Chamber notes that this is not consistent with evidence cited in para. 1109 about the formation of the Vlasenica Crisis Staff before this date.

(1) Control of movement and other restrictions

1118. From April 1992, Bosnian Serb police, acting under the authorisation of an SDS member,[3823] established check-points on all access roads towards Vlasenica and on local roads to villages.[3824] The Vlasenica Crisis Staff issued passes for people to move around town and introduced a curfew.[3825] In order for Bosnian Muslims to pass check-points, move around or leave the municipality they had to be issued a travel pass by the Bosnian Serb municipal authorities.[3826] Even if they did have such passes, they were often arrested and detained. On the other hand, Bosnian Serb citizens did not have to obtain movement passes.[3827] Bosnian Muslims who were involved with the SDA or other Muslim organisations were not issued such passes.[3828] Transit passes were usually only issued to women, children and the elderly with able bodied men only able to secure such passes if they had connections or had substantial amounts of money to pay for such passes, particularly if they wanted to leave the municipality.[3829]

1119. Graffiti appeared on the houses of eminent Muslims with the words "Ustasha", "Muslims out", "We will slaughter", "Out", and "This is Serb, this is Serbia".[3830] Following the take-over, three houses belonging to Bosnian Muslims, including the commander of the police, were torched

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3822 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 44 (under seal). *See also* P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 48.

3823 *See* Adjudicated Fact 2692. Đurić testified that check-points were not erected by the SDS but by the TO and were later taken over by the police. D3093 (Witness statement of Mane Đurić dated 3 March 2013), para. 65. The Chamber refers to its credibility assessment in fn. 3791 in concluding that it does not find his evidence with respect to the lack of involvement of the SDS in this regard to be reliable.

3824 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 22 (under seal).

3825 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), paras. 33, 48; Ibro Osmanović, T. 17977 (29 August 2011). *See also* P3217 (Travel pass issued by Vlasenica Crisis Staff, undated).

3826 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), paras. 43–44, 46–48; Ibro Osmanović, T. 17972 (29 August 2011); P3217 (Travel pass issued by Vlasenica Crisis Staff, undated); P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 22 (under seal). *See also* Adjudicated Fact 2691.

3827 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 22 (under seal). The Chamber does find however, that Bosnian Serb conscripts also needed a military pass in order to leave the municipality. KDZ033, T. 18062–18064 (31 August 2011) (closed session). The Chamber notes that Stanić himself was issued passes. D2984 (Travel passes issued to Milenko Stanić). One of the passes issued to Stanić was in his capacity as a military conscript. The Chamber finds that the issuance of passes to Bosnian Serb military conscripts does not undermine the evidence that there were additional restrictions faced by Bosnian Muslim civilians which did not apply to Bosnian Serbs. Defence witnesses testified that passes were issued on request to everyone regardless of ethnicity to allow them to move around freely due to war operations. D3093 (Witness statement of Mane Đurić dated 3 March 2013), para. 64; D2982 (Witness statement of Milenko Stanić dated 16 February 2013), para. 33; D2983 (Vlasenica Crisis Staff travel pass); Milenko Stanić, T. 33990–33991 (19 February 2013). The Chamber does not find the evidence to be reliable in this regard and refers to its credibility assessment of the relevant witnesses in fn. 3791 in reaching that conclusion.

3828 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 22 (under seal); KDZ033, T. 18064 (31 August 2011) (closed session).

3829 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 45; P3227 (Witness statement of KDZ033 dated 7 April 2010), paras. 11, 22, 55 (under seal); KDZ033, T. 18064, 18095 (31 August 2011) (closed session).

3830 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 39.

in broad daylight and the fire brigade was prevented from taking action.[3831] Bosnian Muslims unlike Bosnian Serbs had limitations on the amount of money they could withdraw from the bank.[3832] Bosnian Serbs started boycotting Bosnian Muslim cafés and shops, there was gun fire at night and increasing intimidation; altogether this created fear among the Bosnian Muslim population.[3833] The intimidation included the beating, arrest and questioning of Bosnian Muslim men, including Bosnian Muslim intellectuals and people of influence. In addition, television broadcasts from Sarajevo were cut and Bosnian Muslims were threatened that they should not go to work.[3834] Members of the Bosnian Serb police selected the houses of wealthy Bosnian Muslims and took away their property.[3835] The cars of some Bosnian Muslim detainees were also confiscated by the Bosnian Serb police.[3836] Non-Serb intellectuals, political leaders and the wealthy who had not fled before the conflict began were the first to be "forcibly removed" from Vlasenica.[3837]

1120. Muslims working in state-owned companies and other public services in Vlasenica municipality were dismissed from their jobs.[3838] Muslim shop-keepers feared keeping their

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3831 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 37.

3832 Ibro Osmanović, T. 18006 (29 August 2011).

3833 P3285 (Witness statement of Sead Hodžić dated 24 May 2000), paras. 7–12. There were also incidents of shooting in Bosnian Serb villages. D2932 (Witness statement of Tomislav Savkić dated 11 February 2013), para. 25. *See also* P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 38 (stating that immediately following the take-over of Vlasenica, Bosnian Serb businesses re-opened while Bosnian Muslim shops remained closed).

3834 P3285 (Witness statement of Sead Hodžić dated 24 May 2000), paras. 14–15, 19, 21; Sead Hodžić, T. 18446–18447 (6 September 2011); P418 (Witness statement of Mersudina Saim-Hodžić dated 24 May 2002), p. 4. The Chamber received evidence of killings by Serb Forces of Bosnian Muslims after the take-over of Vlasenica between May and October 1992 but these killings are not charged pursuant to Schedules A or B of the Indictment. *See* fn. 13. P3227 (Witness statement of KDZ033 dated 7 April 2010), paras. 61–64, 66, 79 (under seal); KDZ033, T. 18098–18099 (31 August 2011) (closed session); P3242 (Map of Vlasenica showing locations of exhumation sites); P3260 (List of missing civilians in Vlasenica in 1992), pp. 3, 12 (under seal); P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 193; Ibro Osmanović, T. 17948 (25 August 2011). The Chamber received evidence from Mašović and Tabeau about a large number of other individuals who went missing from Vlasenica and who were later exhumed. However, in the absence of other evidence linking these to scheduled incidents, the Chamber has not relied on this evidence in this regard. P4854 (Updated Table 1 to the Report of Amor Mašović), p. 2; P4852 (Report of Amor Mašović, 20–21 October 2009), p. 3; P4856 (Appendix B to the Prosecution Pre-Trial Brief filed on 18 May 2009 marked by Amor Mašović), pp. 29–30; P4853 (Updated Table 2 to the Report of Amor Mašović), pp. 51–55; D2250 (Ewa Tabeau's report entitled "Deaths and Disappearance of BiH Muslims 1992–1995," 25 April 2012); Ewa Tabeau, T. 28411–28412 (2 May 2012). The Chamber also received evidence about the destruction of the Vlasenica mosque but Schedule D of the Indictment does not charge the destruction of cultural monuments and sacred sites in Vlasenica. P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 57 (under seal); KDZ033, T. 18095–18096 (31 August 2011) (closed session). *See also* Mane Đurić, T. 35055-35056 (7 March 2013); Zoran Jovanović, T. 34195–34196, 34212–34213 (21 February 2013); D2932 (Witness statement of Tomislav Savkić dated 11 February 2013), para. 99; Tomislav Savkić, T. 33719-33720 (14 February 2013), T. 33744 (15 February 2013).

3835 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 51 (under seal).

3836 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 81 (under seal).

3837 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 53 (under seal).

3838 *See* Adjudicated Fact 2686; P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 24 (under seal). Defence witnesses testified that (i) Bosnian Muslim were not dismissed from their jobs; (ii) some workers no

businesses open, and the salaries of the Bosnian Muslim workers of the local bauxite mine were stopped. Their Serb colleagues on the other hand, continued to receive salaries.[3839] On 14 May 1992, the local bauxite mine announced that "not a single Muslim should return to work".[3840] In August 1992, at one company, an announcement was made that the Vlasenica Crisis Staff had ordered Bosnian Muslims to return to work and that those who were absent would lose their jobs and property.[3841]

(2) Confiscation of weapons and interrogations

1121. The Vlasenica Crisis Staff issued an ultimatum for the surrender of weapons by 21 April 1992 and guaranteed the security of citizens who complied with this deadline.[3842] Bosnian Muslims were ordered to surrender their weapons to the Serb authorities or face arrest.[3843] The Bosnian Serb police went through town and called for the surrender of all weapons and stated that while the army was there for protection, force would be used against those who did not comply.[3844] Following this announcement, groups of Bosnian Muslims handed over their hunting and personal weapons to the SJB.[3845] Following this hand over, the Bosnian Serb police began arresting Bosnian Muslims who were suspected of still possessing weapons.[3846] From 27 to 30 April 1992, orders

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longer reported for work; and (iii) companies started operating at reduced capacity and cancelled work arrangements for workers who did not show up at work and such notices were also given to Bosnian Serbs. D2982 (Witness statement of Milenko Stanić dated 16 February 2013), para. 18; D3093 (Witness statement of Mane Đurić dated 3 March 2013), para. 62; D2922 (Witness statement of Savo Čeliković dated 10 February 2013), para. 4; Savo Čeliković, T. 33550–33551 (13 February 2013). However, the Chamber does not consider this evidence to be reliable. In reaching that conclusion the Chamber refers to its credibility assessment of the relevant witnesses in fns. 3791 and 3796.

3839 *See* Adjudicated Fact 2686.

3840 Izet Redžić, P3189 (Transcript from *Prosecutor v. Krajišnik*), T. 5028–5029; Izet Redžić, T. 17681 (23 August 2011). Redžić further testified that not a single Bosnian Muslim was working in any company or institution in Vlasenica by mid-May 1992. Izet Redžić, P3189 (Transcript from *Prosecutor v. Krajišnik*), T. 5028. However, the Chamber accepted the evidence of KDZ033 that even in June 1992, some Bosnian Muslims continued to work in the municipality and thus does not accept Redžić's contrary evidence in this regard. KDZ033, T. 18061 (31 August 2011) (closed session).

3841 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 41. *See also* Adjudicated Fact 2693.

3842 P3215 (Decision of Vlasenica Crisis Staff, 19 April 1992), p. 1; P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), paras. 30–32; Ibro Osmanović, T. 17962 (29 August 2011); D3093 (Witness statement of Mane Đurić dated 3 March 2013), para. 22. *See also* D3093 (Witness statement of Mane Đurić dated 3 March 2013), para. 22 (stating that the decision applied to all citizens regardless of nationality).

3843 *See* Adjudicated Fact 2693; P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 20 (under seal); KDZ033, T. 18039–18040 (29 August 2011) (closed session). Bosnian Serbs were not expected to hand over their weapons. *See also* D3007 (Witness statement of Zoran Jovanović dated 18 February 2013), para. 21 (stating that it was the Bosnian Serb TO which called for the surrender of weapons and that many Bosnian Muslims complied); D3010 (Photograph of weapons); D3011 (Photograph of weapons). *See also* Ibro Osmanović, T. 17988 (29 August 2011).

3844 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), paras. 27, 31; Ibro Osmanović, T. 17964, 17968, 17999 (29 August 2011).

3845 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), paras. 28–29; P3227 (Witness statement of KDZ033 dated 7 April 2010), paras. 20–21 (under seal).

3846 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 20 (under seal). KDZ033 also stated that many of these arrests were a pretext for gaining information including where money had been hidden. However, the

were issued by the TO which noted that Bosnian Muslims still possessed illegal firearms in a number of villages and the Vlasenica TO decided in co-operation with the SJB to "mop up the terrain" to seize these weapons. The Vlasenica TO commander ordered that in carrying out this operation, measures should be taken to "prevent unnecessary casualties and wounding".[3847]

1122. On 19 May 1992, the Vlasenica Crisis Staff issued an instruction to the Commander of the TO and the Chief of the SJB to control the entry of armed persons into the town.[3848] All Bosnian Serb members of the Vlasenica TO Staff moved to the Serb Municipality of Vlasenica.[3849]

1123. By mid May 1992, the JNA had withdrawn but left behind its equipment, armoured vehicles, tanks and weapons, which were given to local Bosnian Serbs.[3850] While the JNA was in Vlasenica, the focus was in forcing the Bosnian Muslims to surrender their weapons, but when the JNA left there was a shift towards rounding up, detaining and interrogating Bosnian Muslims.[3851] Bosnian Muslims were arrested in their homes and taken for interrogation.[3852] At first those taken for interrogation were on lists which identified people suspected of being involved in the arming of Bosnian Muslims or owning weapons.[3853] Over time however, "for all practical purposes almost every single Muslim was brought in for interrogation"; some were released while others were not.[3854]

(3) Establishment of Bosnian Serb SJB

1124. The Vlasenica Crisis Staff decided to disarm the active duty and reserve members of the joint police force, the reserve police was mobilised, and a new Bosnian Serb SJB was formed.[3855] In May 1992, Mane Đurić replaced Bjelanović as the Chief of the Vlasenica SJB, and Bjelanović

Chamber does not know on what basis KDZ033 formed this conclusion and does not rely on his evidence in this regard.

3847 D3100 (Reports of Vlasenica TO, 27–30 April 1992); Mane Đurić, T. 35012–35015 (7 March 2013).

3848 P3218 (Letter from Vlasenica Crisis Staff to TO commander and SJB chief, 19 May 1992).

3849 D1652 (Report of ABiH's Vlasenica municipal staff, 19 July 1992), p. 1.

3850 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), paras. 52, 59; Ibro Osmanović, T. 17962–17963, 17982 (29 August 2011). *See also* P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 25 (under seal); Izet Redžić, P3189 (Transcript from *Prosecutor v. Krajišnik*), T. 5114.

3851 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 25 (under seal).

3852 KDZ033, T. 18062 (31 August 2011) (closed session).

3853 KDZ033, T. 18064–18065 (31 August 2011) (closed session); P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), paras. 34, 51; Ibro Osmanović, T. 17989–17990, 17994 (29 August 2011).

3854 KDZ033, T. 18065 (31 August 2011) (closed session).

3855 D3093 (Witness statement of Mane Đurić dated 3 March 2013), paras. 23–25, 30. While Đurić also refers to an attempt by a paramilitary formation to take-over the SJB, the evidence on this point is equivocal and it is unclear whether this refers to a Bosnian Serb or Bosnian Muslim paramilitary formation and the Chamber does not rely on his evidence in this regard. *See also* P2761 (RS MUP report on work for period April to December 1992), p. 7; P6138 (Decision of Vlasenica Crisis Staff, 19 April 1992).

became the SJB Chief in Milići municipality.[3856] Radenko Stanić was the Commander of the SJB and the Assistant Commander was Dragomir Šargić.[3857] While the Vlasenica Crisis Staff informed Bosnian Muslims that they could continue their employment, in practice, Bosnian Muslims were dismissed from their positions in the municipal authorities and the police.[3858] After these dismissals the police became a "Serb only body" with police officers wearing a white patch with an eagle and a white ribbon on their sleeves.[3859] Joint police or joint security organs were no longer organised.[3860] Đurić, in a briefing attended by Mladić in June 1992, reported that an SJB had been set up and was involved in confiscating weapons.[3861]

(4) Formation of Special Platoon

1125. Bosnian Serbs received summons for mobilisation and a platoon was formed, which was named the Special Police Platoon.[3862] This platoon, which consisted of between 20 to 30 men who had no previous police experience; they had criminal records[3863] and refused to place themselves under the command of the Vlasenica TO.[3864] The Special Police Platoon was commanded by

3856 Rade Bjelanović was identified as the "right-hand man" of the SDS Main Board member, Rajko Đukić. P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 15 (under seal).

3857 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 15 (under seal); P3226 (List of Vlasenica SJB active workers in May 1992); Zoran Durmić, T. 33857 (18 February 2013). *See also* D3093 (Witness statement of Mane Đurić dated 3 March 2013), para. 29.

3858 P3227 (Witness statement of KDZ033 dated 7 April 2010), paras. 15, 24 (under seal); P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), paras. 49, 69; P3226 (List of Vlasenica SJB active workers in May 1992). *See also* P3285 (Witness statement of Sead Hodžić dated 24 May 2000), para. 13. Deurić stated that people continued to work until mid-April 1992 but then Bosnian Muslims stopped coming to work at the TO out of fear. D2967 (Witness statement of Momir Deurić dated 16 February 2013), para. 11. The Chamber does not consider that evidence that some Bosnian Muslims stopped coming to work out of fear is inconsistent with others being dismissed from their jobs. Đurić testified that Bosnian Muslim police decided of their own accord not to return to work and were not given decisions on termination of employment or sent on forced leave. However, he was confronted and contradicted by reference to his prior testimony where he testified that all Bosnian Serb police officers were re-employed while Bosnian Muslims were laid off or told to take annual leave and it was done to change the ethnic composition of the police. D3093 (Witness statement of Mane Đurić dated 3 March 2013), para. 25; Mane Đurić, T. 35063–35065 (7 March 2013) (private session). In light of these contradictions, the Chamber does not consider Đurić's evidence to be reliable in this regard. *See also* KDZ033, T. 18044 (29 August 2011) (closed session). While KDZ033 testified that to his knowledge Bosnian Muslims left the MUP of their own accord, the Chamber finds his answers in this regard to be equivocal.

3859 P3285 (Witness statement of Sead Hodžić dated 24 May 2000), para. 13; Sead Hodžić, T. 18444 (6 September 2011).

3860 Ibro Osmanović, T. 17977 (29 August 2011).

3861 P1478 (Ratko Mladić's notebook, 27 May–31 July 1992), p. 233.

3862 P3227 (Witness statement of KDZ033 dated 7 April 2010), paras. 6–8 (under seal); P3234 (Mobilisation order, 26 April 1992) (under seal); P3235 (Mobilisation order) (under seal); KDZ033, T. 18041 (29 August 2011) (closed session).

3863 KDZ033, T. 18045 (29 August 2011) (closed session); KDZ033, T. 18047–18048 (31 August 2011) (closed session); P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 64 (under seal).

3864 D3093 (Witness statement of Mane Đurić dated 3 March 2013), paras. 31–33, 35; Mane Đurić, T. 35065–35066, 35067 (7 March 2013) (private session); P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 64 (under seal).

Miroslav Kraljević and was within the organisational structure of the SJB.[3865] Members of the Special Police Platoon received payment from the SJB and reported daily to Kraljević at the SJB.[3866] They were under the command of the Vlasenica Crisis Staff.[3867]

1126. The Special Police Platoon engaged in illegal activities and mistreated Bosnian Muslims.[3868] For example, members of the Special Police Platoon would beat Bosnian Muslims during interrogations.[3869] In mid-June 1992, they looted goods from Bosnian Muslim homes while conducting searches and in one case moved into an abandoned Bosnian Muslim house.[3870] Bosnian Muslims who remained in their homes were interrogated to identify people considered to be Muslim leaders in the municipality[3871] and were also harassed by members of the police who came to their homes at night and demanded money.[3872] The Special Police Platoon conducted these operations on a daily basis and sometimes at night.[3873] Đurić and Radenko Stanić initially permitted members of the Special Police Platoon and reserve police to loot non-Serb property and misappropriate non-Serb houses.[3874] The Special Police Platoon was disbanded in August 1992.[3875]

3865 P3227 (Witness statement of KDZ033 dated 7 April 2010), paras. 8, 14, 16–17 (under seal); KDZ033, T. 18050 (31 August 2011) (closed session); P3225 (List of Vlasenica SJB reserve workers in September 1992); P3244 (Payroll list of reserve police force in Vlasenica).

3866 P3227 (Witness statement of KDZ033 dated 7 April 2010), paras. 10, 13 (under seal).

3867 *See* Adjudicated Fact 2694.

3868 Mane Đurić, T. 35066 (7 March 2013), 35067 (7 March 2013) (private session); P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 64 (under seal). Đurić testified that whenever the SJB received reports about the illegal behaviour of members of the Special Police Platoon, the commander was called, reports were made against the individuals who were removed from the unit but the SJB did not have the time to control this unit. D3093 (Witness statement of Mane Đurić dated 3 March 2013), paras. 34–36. However, having noted the contradictions and evasiveness in Đurić's testimony, the Chamber does not consider his evidence in this regard is reliable.

3869 KDZ033, T. 18065 (31 August 2011) (closed session).

3870 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 26 (under seal).

3871 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 26 (under seal).

3872 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 27 (under seal).

3873 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 25 (under seal).

3874 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 51 (under seal).

3875 The Special Police Platoon was disbanded following an order of the MUP Minister, which disbanded all special units attached to the SJB and placed them under the command of the VRS. P6192 (Vlasenica SJB report, 10 August 1992); D3094 (Romanija-Birač CSB instructions, 28 July 1992); Mane Đurić, T. 35068–35071 (7 March 2013); D3093 (Witness statement of Mane Đurić dated 3 March 2013), para. 38; P6193 (List of reserve police force of Vlasenica SJB). While this platoon was disbanded, its commander and his deputy remained employed by the MUP. This order also required that individuals who committed crimes be dismissed from the MUP and be put at the disposal of the VRS. The Vlasenica SJB did dismiss members of the reserve police for crimes they had committed. D3094 (Romanija-Birač CSB instructions, 28 July 1992), pp. 1–2; D3095 (Romanija-Birač CSB instructions, 25 July 1992); D3096 (Vlasenica SJB report, 6 August 1992); D3097 (Vlasenica SJB report, 25 September 1992).

(5) Take-over of surrounding villages

1127. After the take-over of Vlasenica, representatives of the Bosnian Serb authorities drove from village to village and used megaphones to call on all Bosnian Muslims to hand over their weapons.[3876]

1128. The Special Police Platoon first took-over "several villages" on the road from Vlasenica to Milići.[3877] Kraljević received orders for operations against Bosnian Muslim villages from Radenko Stanić.[3878] The aim was to "cleanse" the area of Bosnian Muslims and Kraljević instructed the Special Police Platoon that the "territory had to be 100 percent clean and that none of the Muslims should remain in the area".[3879]

1129. In May and June 1992, the Special Police Platoon, led by Kraljević, conducted two operations, one in Sušica, and another in Gradina and other Muslim hamlets in the municipality, occasionally encountering armed resistance.[3880] In accordance with Kraljević's instruction, the Special Police Platoon set Bosnian Muslim houses on fire.[3881] In the village of Piskavice only the homes belonging to Bosnian Muslims were torched while the Bosnian Serbs continued to live in their houses.[3882]

1130. In early May 1992, Kraljević ordered the Special Police Platoon to conduct an operation in Turalići, during which the village was "burnt almost entirely to the ground".[3883] In late May 1992, Kraljević ordered the Special Police Platoon to take-over the village of Gradina and the surrounding area.[3884] The Gradina operation was discussed in an informal meeting at the SJB building attended by officials, including Đurić and Radenko Stanić.[3885] On the morning of the operation, inhabitants were instructed by loudspeaker to surrender their weapons and warned that if

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3876 P3285 (Witness statement of Sead Hodžić dated 24 May 2000), para. 17; Sead Hodžić, T. 18449 (6 September 2011); D3007 (Witness statement of Zoran Jovanović dated 18 February 2013), para. 21.

3877 [REDACTED].

3878 [REDACTED].

3879 [REDACTED].

3880 *See* Adjudicated Fact 2694.

3881 [REDACTED]; *see* Adjudicated Fact 2694.

3882 [REDACTED].

3883 [REDACTED].

3884 [REDACTED]. *See also* Adjudicated Fact 2694; [REDACTED].

3885 [REDACTED]. Some of these individuals were listed as employees of the SJB in August 1992. P6382 (Public Auditing Service confirmation of debit; Payroll of Vlasenica SJB, August 1992).

they failed to do so, military action would be taken.[3886] The Special Police Platoon was supported by police officers from the Vlasenica SJB and a VRS unit with a tank and two APCs.[3887]

1131. The members of the Special Police Platoon were ordered by Kraljević to search for weapons, detain men who surrendered for questioning, kill those men who tried to escape, and send women and children to Vlasenica town.[3888] After the escape of a Bosnian Muslim man, Kraljević instructed the Special Police Platoon not to take any more male Muslim prisoners alive.[3889] There were armed clashes with Bosnian Muslims during the take-over of Gradina.[3890] After Bosnian Muslims fled, Serb Forces torched many Bosnian Muslim homes in Gradina and surrounding villages.[3891] Some men were arrested, detained and then transferred to Sušica camp.[3892] Following the attack on Gradina, Serb Forces took part in operations in the villages of Borići, Barice and Hrastovac.[3893]

1132. On 7 June 1992, the Command of the Eastern Bosnia Corps issued an order to secure Milići, protect the Milići–Vlasenica route, and "mop up" the Birač territory of remaining enemy forces.[3894]

1133. In early June 1992, the Special Police Platoon was ordered to return to Gradina where they burnt down the remaining non-Serb houses and then almost all Bosnian Muslim houses in the area were destroyed.[3895] This second operation covered a larger area, including the Bosnian Muslim villages from Drum to the north.[3896] The Special Police Platoon, members of the TO, SJB Milići, members of the VRS and local Bosnian Serbs took part in the operation.[3897] Kraljević explicitly ordered the units to torch all Bosnian Muslim houses because "you can see for yourselves that if we don't set fire to these houses, they'll return later on".[3898] After this operation, the area of Gradina

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3886 [REDACTED].

3887 [REDACTED]. The Chamber places no weight on Svetozar Andrić's testimony that he did not believe that the army participated in this operation given that he himself had not heard of the operation. Svetozar Andrić, T. 41673–41674 (22 July 2013).

3888 [REDACTED]. *See also* Adjudicated Fact 2694.

3889 [REDACTED].

3890 [REDACTED]; D2932 (Witness statement of Tomislav Savkić dated 11 February 2013), paras. 60–61.

3891 [REDACTED].

3892 *See* Adjudicated Fact 2694. [REDACTED].

3893 [REDACTED].

3894 P5400 (Order of Eastern Bosnia Corps, 7 June 1992), pp. 1–2. *But see* Svetozar Andrić, T. 41669–41670 (22 July 2013) (testifying that "cleansing" involved dealing with both Bosnian Muslim and Bosnian Serb paramilitaries). The Chamber notes that Andrić's evidence was marked by contradictions and indicators of insincerety which undermine the reliability of his evidence in this regard.

3895 [REDACTED]. *See also* Adjudicated Fact 2694.

3896 [REDACTED]. *See also* P6458 (Report of 1st Birač Infantry Brigade, 30 October 1993), pp. 3. For evidence specific to the village of Drum, *see* Scheduled Incident A.15.1.

3897 [REDACTED].

3898 [REDACTED]. *See also* Adjudicated Fact 2694.

was "ethnically pure" with nobody living in the Bosnian Muslim villages.[3899] Thereafter, approximately 500 Bosnian Muslims, including many women and children, were captured and transported to Sušica camp or sent to the bus station or football field in Vlasenica for transportation to Kladanj.[3900]

1134. The Special Police Platoon proceeded to "cleanse" the villages of Drum, Piškavica, Alihodžići and Pustoše.[3901] Local Bosnian Serbs were involved in the looting of Bosnian Muslim villages.[3902] During these operations, Serb Forces, including the Special Police Platoon, took-over the Bosnian Muslim villages of Dragaši, Dzemat, Drum, Alihadžić, Piskavice, Pijuć, Gradina, Turalići, Zaklopača, Kašaha, Nedeljište, Peševina, Hodžići, Mršići, Smajići, and Kuljančić.[3903] Following these take-overs the non-Serb inhabitants escaped to Kladanj, Cerska and other villages while the others were captured and taken to Sušica camp.[3904] Some Bosnian Muslim men who were captured were interrogated and beaten.[3905]

(a) Scheduled Incident A.15.2

1135. The Prosecution alleges that at least 60 people were killed in the village of Zaklopača on 16 May 1992.

1136. Zaklopača was a Bosnian Muslim village located approximately six kilometres from Vlasenica.[3906] The village was the only Bosnian Muslim village in the area and was surrounded by Bosnian Serb villages.[3907]

3899 [REDACTED].

3900 [REDACTED]. For evidence on detention at Sušica camp, *see* Scheduled Detention Facility C.25.3.

3901 [REDACTED].

3902 [REDACTED].

3903 [REDACTED]. *See also* P6459 (Map of Vlasenica); P6458 (Report of 1st Birač Infantry Brigade, 30 October 1993), p. 7.

3904 [REDACTED].

3905 [REDACTED]. While the Chamber also received evidence that Bosnian Muslims were killed during the attacks on Bosnian Muslim villages, with the exception of the alleged killings in the villages of Drum and Zaklopača, it notes that these killings are not charged pursuant to Schedules A or B of the Indictment. *See* fn. 13. [REDACTED]; P3242 (Map of Vlasenica showing locations of exhumation sites); P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), paras. 54–55; [REDACTED].

3906 P3285 (Witness statement of Sead Hodžić dated 24 May 2000), para. 2; P418 (Witness statement of Mersudina Saim-Hodžić dated 24 May 2002), p. 2; P6459 (Map of Vlasenica). *See also* D3048 (Witness statement of Božidar Trišić dated 24 February 2013), para. 3; D3050 (Map of Zaklopača marked by Božidar Trišić). There were a few Bosnian Serb houses on the outskirts of the village and overlooking hills.

3907 P3285 (Witness statement of Sead Hodžić dated 24 May 2000), para. 3; P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 56; P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 50 (under seal); KDZ033, T. 18088 (31 August 2011) (closed session); P418 (Witness statement of Mersudina Saim-Hodžić dated 24 May 2002), p. 2; Zoran Jovanović, T. 34206 (21 February 2013).

1137. In the lead-up to the attack on the village, reserve soldiers gathered and there was a large number of soldiers in the area; they initially wore the regular JNA uniforms but later added "Četnik insignias" and cockades.[3908] Out of fear, Bosnian Muslims left their homes and started hiding in the woods at night.[3909]

1138. Approximately 10 to 15 days before the attack on Zaklopača, the village was visited by a delegation of Bosnian Serb leaders who demanded the surrender of weapons and assured the population of their security if the weapons were surrendered.[3910] The licensed weapons held by Bosnian Muslims in the village were also confiscated by Bosnian Serb police.[3911]

1139. On 3 May 1992, the nearby Bosnian Muslim village of Žutica was burned down and a bus full of people who had been expelled from the village following the attack by Serb Forces was brought to Zaklopača.[3912] Many of the men from Žutica had been severely beaten. They described how Serb Forces had attacked the village, arrested men, and raped women, which caused fear.[3913]

1140. On 15 May 1992, the Birač Brigade issued an order for its units to take co-ordinated action with the Birač TO to "restore control over the territory".[3914] On 16 May 1992, Serb Forces entered in four or five army vehicles and one police car and attacked the village.[3915] Some of the soldiers

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3908 P418 (Witness statement of Mersudina Saim-Hodžić dated 24 May 2002), p. 2. *See also* D3007 (Witness statement of Zoran Jovanović dated 18 February 2013), para. 22; P3285 (Witness statement of Sead Hodžić dated 24 May 2000), para. 26; Sead Hodžić, T. 18428 (6 September 2011).

3909 Izet Redžić, P3189 (Transcript from *Prosecutor v. Krajišnik*), T. 5062; P3285 (Witness statement of Sead Hodžić dated 24 May 2000), para. 23.

3910 P418 (Witness statement of Mersudina Saim-Hodžić dated 24 May 2002), pp. 2–3; *see* Adjudicated Fact 2697. *See also* P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 50 (under seal).

3911 P3285 (Witness statement of Sead Hodžić dated 24 May 2000), paras. 16–18. *But see* D3048 (Witness statement of Božidar Trišić dated 24 February 2013), para. 30 (stating that both Bosnian Serbs and Bosnian Muslims were asked for their weapons).

3912 P3285 (Witness statement of Sead Hodžić dated 24 May 2000), para. 24; Sead Hodžić, T. 18433, 18450 (6 September 2011). *But see* D3048 (Witness statement of Božidar Trišić dated 24 February 2013), paras. 6-7 (stating that the Bosnian Muslims from Žutica were fleeing from Bosnian Muslim forces, who were attempting to mobilise them). The Chamber notes that Trišić was contradicted during his cross-examination on this issue and does not rely on his evidence in this regard. Božidar Trišić, T. 34494–34496, 34509 (28 February 2013).

3913 P3285 (Witness statement of Sead Hodžić dated 24 May 2000), para. 24; Sead Hodžić, T. 18433 (6 September 2011). While the witness also testified about reports of killings in this village, these killings are not charged pursuant to Schedules A or B of the Indictment. *See* fn. 13.

3914 D3890 (Order of Birač Brigade, 15 May 1992), pp. 1, 3; D3886 (Witness statement of Svetozar Andrić dated 16 July 2013), para. 2.

3915 P3285 (Witness statement of Sead Hodžić dated 24 May 2000), paras. 27–28; P418 (Witness statement of Mersudina Saim-Hodžić dated 24 May 2002), p. 3; *see* Adjudicated Fact 2698. *See also* P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 49 (under seal). The Serb Forces included members of the police, men wearing JNA uniforms, camouflage uniforms and civilian clothes. Defence witnesses testified that this incident was not a planned operation and was an example of both sides taking revenge, that it must have been an attack by "outsiders", and that both Bosnian Serb and Bosnian Muslim houses were shot at. D2932 (Witness statement of Tomislav Savkić dated 11 February 2013), paras. 63–65, 99. *See also* D2944 (Witness statement of Zoran Durmić dated 12 February 2013), paras. 30–32. The Chamber does not find the evidence of these witnesses to be of any weight in this regard given that it is based on unfounded speculation. For example Durmić acknowledged that he did not see the incident himself and he heard rumours. Zoran Durmić, T. 33863

had long beards and wore cockades on their uniforms; others covered their faces with masks.[3916] After a soldier fired a signal flare, the attack on the village commenced with extensive automatic gun-fire.[3917] There was no organised defence in the village to this attack.[3918]

1141. Sead Hodžić passed the house of Murat Hreljić and saw a body with multiple bullet wounds lying in a pool of blood and another body in the garden.[3919] Hodžić saw five other Bosnian Muslims being shot and killed.[3920] Hodžić saw other bodies as he passed through the village and was warned by Elvira Hreljić to run away because the Serb Forces were going through the village and killing all the men.[3921] Sead Hodžić was shot at as he ran away.[3922] Haso Hodžić was caught by two soldiers and brought back to his home, questioned about whether he had any weapons, and when he denied having any weapons he was shot and killed by a soldier.[3923] Sporadic gunfire continued from different places in the village. Serb Forces then stole some cars and withdrew.[3924]

(18 February 2013). Savkić refused to explain how no Bosnian Serbs were killed in Zaklopača if it was an attack on both ethnicities, *see* Tomislav Savkić, T. 33787–33791 (15 February 2013).

3916 P418 (Witness statement of Mersudina Saim-Hodžić dated 24 May 2002), p. 3.

3917 P3285 (Witness statement of Sead Hodžić dated 24 May 2000), paras. 28–30.

3918 Sead Hodžić, T. 18435 (6 September 2011). Trišić testified that there was confusion as to who was attacking the village and he saw Bosnian Serbs firing into the woods from their houses. He also stated that it was a spontaneous attack. He testified that the police did not participate in the attack, the authorities did not know about the incident, and he heard that there was an investigation into the incident. D3048 (Witness statement of Božidar Trišić dated 24 February 2013), paras. 12, 14–15, 23, 26; Božidar Trišić, T. 34511 (28 February 2013). However, the Chamber does not find his evidence to be reliable in this regard. In reaching that conclusion the Chamber noted that Trišić's evidence was marked by inconsistencies, which undermined his evidence in this respect. For example on cross-examination, he acknowledged that this was his guess and did not know who the attackers were and acknowledged that while he did not see police participating in the attack it could have happened. Božidar Trišić, T. 34505–34508 (28 February 2013).

3919 P3285 (Witness statement of Sead Hodžić dated 24 May 2000), para. 36. Hodžić stated that he learned that the body was Salim Avdić's. However, there is no indication of how the witness found out and the Chamber does not place any weight on this aspect of his evidence.

3920 P3285 (Witness statement of Sead Hodžić dated 24 May 2000), para. 22. The people identified as having been shot were Rifet Hodžić, Mujo Hodžić, Salko Salihović, Bajro Salihović, and Becir Hodžić; Sead Hodžić, T. 18462 (6 September 2011). *See also* P418 (Witness statement of Mersudina Saim-Hodžić dated 24 May 2002), p. 3.

3921 P3285 (Witness statement of Sead Hodžić dated 24 May 2000), para. 36; Sead Hodžić, T. 18453 (6 September 2011). Trišić testified that (i) no Bosnian Muslims who stayed in their homes were killed and that only those who were outside or tried to flee were killed; (ii) he did not see police cars during the attack. D3048 (Witness statement of Božidar Trišić dated 24 February 2013), para. 29; Božidar Trišić, T. 34505–34507, 34513 (28 February 2013). The Chamber does not consider that Trišić's evidence pertaining to whether he saw police cars to be significant. However, the Chamber does note his admission that Bosnian Muslims who were outside or tried to flee were killed. Savkić also testified that this incident was not a planned operation but acknowledged on cross-examination that this was his guess and did not know who the attackers were.

3922 P3284 (Witness statement of Sead Hodžić dated 24 May 2000), paras. 37, 39 (under seal); P3285 (Witness statement of Sead Hodžić dated 24 May 2000), para. 38; Sead Hodžić, T. 18453 (6 September 2011) (private session).

3923 P418 (Witness statement of Mersudina Saim-Hodžić dated 24 May 2002), p. 3; Sead Hodžić, T. 18454 (6 September 2011).

3924 P3285 (Witness statement of Sead Hodžić dated 24 May 2000), para. 41; Sead Hodžić, T. 18454 (6 September 2011). *See also* D3048 (Witness statement of Božidar Trišić dated 24 February 2013), para. 18.

1142. Mersudina Saim-Hodžić saw many bodies lying around the village and estimated that approximately 80 people were killed that day.[3925] When the survivors returned they saw the bodies of at least 58 men and those of some women and children; they were all from Zaklopača.[3926] Scattered in groups around the village, most of the bodies bore gunshot wounds through the mouth.[3927] The Chamber notes at least two of those killed were members of an ABiH unit.[3928]

1143. After the incident, men wearing gas masks and protective equipment arrived in the village and used a mechanical digger, tractor, and trailer to dig a mass grave; they then wrapped the bodies in sheets and threw them into the grave.[3929] The bodies were moved from the first grave to another location after Bosnian Serbs moved into the village.[3930]

1144. Very few males from the village survived the attack.[3931] The villagers who had survived gathered together and left in trucks to Gradina with two of the wounded women taken to Vlasenica hospital.[3932] One of the trucks was stopped at a Bosnian Serb check-point where three Bosnian

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3925 P418 (Witness statement of Mersudina Saim-Hodžić dated 24 May 2002), p. 4; *see* Adjudicated Fact 2698. *See also* Izet Redžić, P3189 (Transcript from *Prosecutor v. Krajišnik*), T. 5062, 5104; Izet Redžić, T. 17681 (23 August 2011) (testifying that 83 civilians were killed); P3285 (Witness statement of Sead Hodžić dated 24 May 2000), para. 43; Božidar Trišić, T. 34496 (28 February 2013) (testifying that over 60 of his Bosnian Muslim neighbours in the village were killed by gun-fire). [REDACTED]. Osmanović was told that approximately 80 people were killed in Zaklopača and that four houses had been burned. P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 55; Ibro Osmanović, T. 17995 (29 August 2011).

3926 P3285 (Witness statement of Sead Hodžić dated 24 May 2000), paras. 43, 45 (stating that 28 members of his family were killed in this attack). The bodies Sead Hodžić saw and identified included Ibrahim Hodžić, Huso Hodžić, Mersudin Hodžić (16 years old), Hamdija Hodžić, Haso Hodžić, Bećir Hodžić, Ibro Hodžić, Safet Hodžić, Muhamed Hodžić, Ibiš Hodžić, Đulsuma Hodžić (a woman), Behadil Hodžić, Fadil Hodžić, Ismeta Hodžić (a woman), Sedin Hodžić (16 years old), Sadmir Hodžić (12 years old), Admir Hodžić (9 years old), Admira Hodžić (4 or 5 years old), Fail Hodžić's wife, Mujo Hodžić, Salih Hodžić (10 years old), Enisa Hodžić (a woman), Ismet Hodžić, Rifet Hodžić, Meho Hodžić, Admira Hodžić (12 years old), Asim Hodžić (3 years old), Anesa Hodžić (7 years old), Alija Hamidović, Osman Hamidović, Bego Hamidović, Hašim Hamidović, Asim Hamidović, Senaid Hamidović, Hamed Hamidović, Fata Hamidović (a woman), Zada Hamidović (a woman), Murat Hreljić, Muradif Hreljić, Salko Salihović, Bajro Salihović, Mujaga Salihović, Osman Salihović, Fatima Salihović, Edin Salihović (13 years old), Edina Salihović (10 years old), Nedžad Salihović (13 years old), Mustafa Mahmutović, Šaban Avdić, Mustafa Avdić, Salim Avdić, Raif Dugalić, Šaha Dugalić, Mustafa Berbić, Fatima Berbić, Junuz Selimović, Adem Selimović, and Salih Selimović. Mersudina Saim-Hodžić also identified 59 people who were killed. P418 (Witness statement of Mersudina Saim-Hodžić dated 24 May 2002), pp. 5–6. In addition to some of those listed above she also identified the following individuals: Makbula Hodžić, Velida Hodžić, Ades Hodžić, Adesa Hodžić, Sajma Hodžić, Senahid Hamidović, Asko Hamidović, Edina Hamidović, and a female named Hamidović. Of these named individuals, 50 were identified by Mašović as having been exhumed from a mass grave. P4853 (Updated Table 2 to the Report of Amor Mašović), pp. 55–57. *See also* P4856 (Appendix B to the Prosecution Pre-Trial Brief filed on 18 May 2009 marked by Amor Mašović), pp. 8–9.

3927 P3285 (Witness statement of Sead Hodžić dated 24 May 2000), para. 44.

3928 D2942 (Request of ABiH 1st Žepa Brigade, 13 February 1995). The Chamber notes that Savkić's evidence with respect to whether those who were killed in the village were members of an armed Bosnian Muslim group is equivocal and thus not of much weight. *See also* Tomislav Savkić, T. 33823–33831 (15 February 2013); D2943 (Recommendation sent to Alija Izetbegović, 23 June 1995), p. 6.

3929 P3285 (Witness statement of Sead Hodžić dated 24 May 2000), paras. 51–54.

3930 Sead Hodžić, T. 18435 (6 September 2011). [REDACTED].

3931 P418 (Witness statement of Mersudina Saim-Hodžić dated 24 May 2002), p. 4.

3932 P3285 (Witness statement of Sead Hodžić dated 24 May 2000), para. 46; P418 (Witness statement of Mersudina Saim-Hodžić dated 24 May 2002), p. 6.

Muslims were arrested, taken away, and never seen again while the women were allowed to head to Gradina.[3933] The Chamber has insufficient evidence to conclude whether or not Serb Forces killed the three Bosnian Muslims who disappeared during the transportation.

1145. Bosnian Muslim survivors from Zaklopača stayed in Gradina until it was also attacked by Serb Forces.[3934] They then took shelter for a few days in the woods; a large number of women and children surrendered to Bosnian Serbs and were taken to Sušica camp before being transferred to Cerska and Kladanj.[3935]

1146. Considering the above, the Chamber finds that at least 60 people, including women and children, were killed in the village of Zaklopača by Serb Forces on or about 16 May 1992. While at least two of those killed were ABiH soldiers, the Chamber found that (i) many of the victims were women and young children; (ii) some of the victims were shot while trying to escape or after they had been captured by Serb Forces; and (iii) most of those killed had gun shot wounds through the mouth. The Chamber therefore finds beyond reasonable doubt that those killed by Serb Forces were civilians or had been rendered *hors de combat*.

(b) Scheduled Incident A.15.1

1147. The Prosecution alleges that at least 20 men were killed in the village of Drum on or about 2 June 1992.

1148. Drum was a Bosnian Muslim village in the commune of Piskavica[3936] and was surrounded by a number of Bosnian Serb villages.[3937] Armed Bosnian Muslims had established a check-point in the village at the beginning of 1992 and there was shooting from the village.[3938]

3933 P3285 (Witness statement of Sead Hodžić dated 24 May 2000), para. 47. The people who were taken away were identified as Meho Hamidović, Edin Hamidović (10 years old), and Pašan Selimović. *See also* P418 (Witness statement of Mersudina Saim-Hodžić dated 24 May 2002), p. 5 (stating that Meho Hamidović and Edin Hamidović were killed).

3934 For evidence relating to the attack on Gradina, *see* paras. 1129–1130.

3935 P3285 (Witness statement of Sead Hodžić dated 24 May 2000), paras. 53–55; Sead Hodžić, T. 18433–18434 (6 September 2011); P418 (Witness statement of Mersudina Saim-Hodžić dated 24 May 2002), p. 4.

3936 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 34 (under seal); P3262 (Witness statement of KDZ603 dated 30 August 2011), para. 2 (under seal); KDZ603, T. 18136 (1 September 2011); P6459 (Map of Vlasenica); P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 93; Ibro Osmanović, T. 17994–17995 (29 August 2011). There were only two Bosnian Serb houses on the outskirts of the village.

3937 P3262 (Witness statement of KDZ603 dated 30 August 2011), para. 2 (under seal); KDZ603, T. 18136 (1 September 2011). *See also* Zoran Jovanović, T. 34206 (21 February 2013).

3938 Ibro Osmanović, T. 17994–17996 (29 August 2011). *See also* Mane Đurić, T. 35005–35007 (7 March 2013); D2932 (Witness statement of Tomislav Savkić dated 11 February 2013), paras. 58–59; D2982 (Witness statement of Milenko Stanić dated 16 February 2013), para. 43; Milenko Stanić, T. 34020 (19 February 2013); KDZ033, T. 18083 (31 August 2011) (closed session); Svetozar Andrić, T. 41671–41672 (22 July 2013). In the Accused's submission, the village of Drum was a legitimate military target. Defence Final Brief, para. 1436.

1149. In late May 1992, Bosnian Serb police confiscated a few hunting weapons held by Bosnian Muslims in the village.[3939] Houses of Bosnian Muslims were searched multiple times by Bosnian Serbs who claimed to be searching for weapons, but the searches had the effect of intimidating the population.[3940] Bosnian Serb police went through the village and used a megaphone to tell the Bosnian Muslims that they had to hand over all their weapons or else their homes would be burned down and the men would be arrested.[3941]

1150. On 2 June 1992, Serb Forces attacked Drum.[3942] Serb Forces first entered the village and, at approximately 7 a.m., when an APC with a heavy calibre machine gun opened fire, the soldiers attacked the village.[3943] While some Bosnian Muslim villagers may have had weapons, there was no armed resistance to the attack by Serb Forces on Drum.[3944] The Special Police Platoon patrolled the village in search of Bosnian Muslim men who may have hidden in houses and shot at them whether or not they were armed.[3945]

1151. Soldiers dragged people out of their homes and killed them in plain sight with machine guns.[3946] More than 20 Bosnian Muslim males were killed in a few minutes with only three male residents surviving the attack.[3947] The women and children were gathered and held at gunpoint

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While the Chamber finds that there were armed Bosnian Muslims in Drum, the evidence accepted by the Chamber does not support the conclusion that the whole village was a legitimate military target or justifies the manner in which the attack against the village was carried out. In this regard the Chamber does not find the evidence of witnesses Đurić, Savkić, Stanić, and Andrić about the extent to which Bosnian Muslims were armed to be reliable. In reaching that conclusion the Chamber refers to its credibility assessment in fns. 3791, 3813, and 3894 with respect to the relevant witnesses.

3939 P3262 (Witness statement of KDZ603dated 30 August 2011), para. 6 (under seal); KDZ603, T. 18135, 18145 (1 September 2011).

3940 P3262 (Witness statement of KDZ603 dated 30 August 2011), para. 6 (under seal).

3941 P3262 (Witness statement of KDZ603 dated 30 August 2011), para. 6 (under seal).

3942 P3262 (Witness statement of KDZ603 dated 30 August 2011), para. 7 (under seal); KDZ603, T. 18145 (1 September 2011); *see* Adjudicated Fact 2695.

3943 P3262 (Witness statement of KDZ603 dated 30 August 2011), paras. 8–10 (under seal); *see* Adjudicated Fact 2695.

3944 KDZ603, T. 18135, 18137–18138, 18157 (1 September 2011). The Chamber notes that KDZ603 when questioned further stated that he did not know about or see the distribution of weapons in Drum. KDZ603's testimony is qualified based on what he knew, and does not rule out that there were weapons held by Bosnian Muslims in Drum at some point before the attack on the village which he was not aware about. The Accused submits that the credibility of KDZ603 is questionable given his inconsistent testimony with respect to the incident. Defence Final Brief, confidential, para. 1436 citing to P3262 (Witness statement of KDZ603 dated 30 August 2011), para. 5 (under seal); KDZ603, T. 18143, 18145 (1 September 2011). The Chamber does not see any merit in the Accused's submission. The Chamber has had regard to the totality of KDZ603's evidence, including the references cited by the Accused, and does not consider that there are any inconsistencies which would affect the credibility of this witnesss with respect to his evidence pertaining to this incident.

3945 [REDACTED].

3946 P3262 (Witness statement of KDZ603 dated 30 August 2011), paras. 10–13, 15 (under seal); KDZ603, T. 18147–18148, 18152–18153 (1 September 2011). Those taken out and killed in this manner included Hadžo Malešević, Fadil Salihović, Meho Jahić and his son Ekrem Jahić.

3947 *See* Adjudicated Facts 2695, 2696; P3262 (Witness statement of KDZ603 dated 30 August 2011) (under seal), para. 17; KDZ603, T. 18151 (1 September 2011). [REDACTED]. Defence witnesses testified *inter alia* (i) that they were not aware of the incident; (ii) that those who carried out the attack acted independently; and (iii) that

before being sent by bus to Sušica.[3948] As the villagers were ordered onto the bus they faced a "barrage of insults" as to their "Muslim ethnicity".[3949] The villagers were taken to Sušica under the guard of the reserve police.[3950] After this date there were no Bosnian Muslims left in Drum.[3951]

1152. While Osmanović was detained at the prison building in Vlasenica he was taken with three other Bosnian Muslim detainees to Drum to bury 22 bodies.[3952] Osmanović knew four of the deceased men personally[3953] and observed that all but one of the bodies had a single gunshot wound between the eyes.[3954] Osmo Hodžić had been shot in the chest.[3955] All the victims were Bosnian Muslims between the ages of 18 to 65 and were wearing civilian clothes.[3956] The bodies had been arranged next to each other in front of the local bar, which was owned by a Bosnian Muslim.[3957] The guards instructed Osmanović to search the bodies for valuables and documents before they were loaded onto a tractor and taken to the Muslim cemetery near the Boksit stadium and buried in a hole.[3958] Lime was poured over the bodies before they were covered.[3959]

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even if they had heard about the incident they were unsure whether the Bosnian Muslims were armed or had provoked the attack. Svetozar Andrić, T. 41672 (22 July 2013); D2982 (Witness statement of Milenko Stanić dated 16 February 2013), para. 37; Mane Đurić, T. 35082 (7 March 2013); D3853 (Witness statement of Zvonko Bajagić dated 5 July 2013), para. 26. The Chamber does not find the evidence of these witnesses to be reliable in this regard. In reaching that conclusion the Chamber refers to its credibility assessments for the relevant witnesses in fns. 3791 and 3894. In addition the Chamber notes that the evidence of Bajagić was also marked by contadictions, evasiveness and indicators that he was not forthright in his testimony in this regard.

3948 *See* Adjudicated Fact 2696. The surviving three male villagers were also transferred to Sušica. *See also* P3262 (Witness statement of KDZ603 dated 30 August 2011), paras. 12, 14–16 (under seal); KDZ603, T. 18148 (1 September 2011).

3949 P3262 (Witness statement of KDZ603 dated 30 August 2011), para. 21 (under seal); KDZ603, T. 18147 (1 September 2011).

3950 P3262 (Witness statement of KDZ603 dated 30 August 2011), paras. 19–21 (under seal); P3262 (Witness statement of KDZ603 dated 30 August 2011), para. 24 (under seal); KDZ603, T. 18159 (1 September 2011).

3951 KDZ603, T. 18158 (1 September 2011).

3952 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), paras. 93–95. For evidence on detention at the Vlasenica prison building, *see* Scheduled Detention Facility C.25.2.

3953 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 93.

3954 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 93. KDZ603 saw approximately 20 bodies in Drum and was able to positively identify the bodies of Goro Salihović, Braco Salihović, Osmo Hodžić, Nedžad Hodžić, Jasmin Kičić, the brother of Jasmin Kičić, Huso Aličević, Meho Jahić, Ekrem Jahić, Hadžo Malešević, Fadil Salihović. P3262 (Witness statement of KDZ603 dated 30 August 2011), paras. 22–23 (under seal); KDZ603, T. 18132, 18138, 18152 (1 September 2011). The bodies of Osmo Hodžić, Huso Aličević, Meho Jahić, Ekrem Jahić and Fadil Salihović were identified by Mašović as having been exhumed from a mass grave, while Nedžad Hodžić was exhumed from an individual grave. P4853 (Updated Table 2 to the Report of Amor Mašović), pp. 51, 53–55. *See also* P4856 (Appendix B to the Prosecution Pre-Trial Brief filed on 18 May 2009 marked by Amor Mašović), p. 8.

3955 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 93.

3956 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 96.

3957 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 93.

3958 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 93. The Chamber does not accept Đurić's evidence that the Bosnian Serb police were requested to provide protection and ensured the proper burial of Bosnian Muslims killed in Drum. The Chamber refers to its credibility assessment in fn. 3791 as to why Đurić's evidence is not reliable in this regard. D3093 (Witness statement of Mane Đurić dated 3 March 2013), para. 44; Mane Đurić, T. 35006, 35030–35031 (7 March 2013). The Chamber does note however, that Đurić himself acknowledged that some of the victims were Bosnian Muslim civilians.

1153. Considering the above, the Chamber finds that at least 20 Bosnian Muslim men in the village of Drum were killed by Serb Forces on or about 2 June 1992.

(6) Scheduled Incident B.18.4

1154. The Prosecution alleges that at least 29 men were taken away from the Civil Defence Building and killed on the side of the road near the village of Nova Kasaba between May and June 1992.[3960]

1155. On 17 May 1992, Bosnian Muslims were taken from villages surrounding Bratunac and, in three full buses, were brought to Bratunac town. They were then transferred to Vlasenica.[3961] They were loaded onto buses by Bosnian Serb police and accompanied by an armed guard in each bus and a police car.[3962] After their arrival in Vlasenica, a group of Bosnian Serb soldiers approached the buses; they wore camouflage uniforms with balaclavas or stockings over their faces,[3963] they also wore patches, including those of Arkan's men and of the White Eagles. The soldiers ordered all the men to line up in front of the buses.[3964] The men were made to sing "Serbian nationalist songs" and to give the three-fingered Serbian salute and those who refused were beaten.[3965] One of the detainees was kicked and beaten when questioned about a military backpack he was wearing.[3966]

1156. The elderly men in the group were sent back to the buses while approximately 34 men of military age and five minors were taken to the MUP prison and detained for several days.[3967] On arrival, the group was held in a small room and severely beaten.[3968] Two of the men were taken back to the buses with the women, children and elderly who were taken to Kladanj.[3969] The remaining Bosnian Muslims were beaten during the day and night with batons, tubes, and rifle butts

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3959 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 93.

3960 The Prosecution submits that the evidence shows that these individuals were taken from the Vlasenica SJB building. Prosecution Final Brief, Appendix B, fn. 807.

3961 P3263 (Witness statement of Suad Džafić dated 31 August 2011), paras. 15, 19–21, 24. For evidence on the transfer from Bratunac, *see* para. 763.

3962 P3263 (Witness statement of Suad Džafić dated 31 August 2011), paras. 19, 24.

3963 P3263 (Witness statement of Suad Džafić dated 31 August 2011), para. 26.

3964 P3263 (Witness statement of Suad Džafić dated 31 August 2011), para. 26.

3965 P3227 (Witness statement of KDZ033 dated 7 April 2010), paras. 29, 160 (under seal).

3966 P3263 (Witness statement of Suad Džafić dated 31 August 2011), para. 26; Suad Džafić, T. 18197 (1 September 2011).

3967 P3263 (Witness statement of Suad Džafić dated 31 August 2011), paras. 27–28. *See also* P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 29 (under seal).

3968 P3263 (Witness statement of Suad Džafić dated 31 August 2011), para. 29; Suad Džafić, T. 18197–18198 (1 September 2011).

3969 P3263 (Witness statement of Suad Džafić dated 31 August 2011), para. 29.

by Bosnian Serb soldiers.[3970] They were not provided with any food or water until the second day.[3971]

1157. On 21 May 1992, this group of Bosnian Muslims, with the exception of the five minors, was taken out by two policemen and told they would be exchanged.[3972] The detainees were asked to hand over all their personal belongings before being loaded onto a bus to be taken towards Nova Kasaba.[3973] One detainee was cursed and beaten "wildly" by a soldier called "Makedonac" when he was found to have not handed over a wristwatch.[3974] As the Bosnian Muslims were waiting to leave, four cars with the insignia of a skull on their doors arrived and uniformed men, including a man named Pero Mitrović, got out.[3975] There was also an armoured vehicle with soldiers parked near the bus, the soldiers entered the bus and made the Bosnian Muslims sing "Chetnik" songs.[3976] The bus was then led by the armoured vehicle and followed by the cars towards Bratunac.[3977]

1158. The column of vehicles stopped at the entrance to Nova Kasaba, and the soldiers got out of their vehicles; Makedonac told the detainees to get off the bus in groups of four or five.[3978] The detainees in the first group were killed on the spot as they got off the bus.[3979] The other groups of detainees were ordered to get off the bus and run across the fields where they were then shot with automatic rifles and a machine gun mounted on the armoured vehicle.[3980] Suad Džafić was in the last group; he was hit by gunfire and wounded in four different parts of his body but survived.[3981] Mitrović and Makedonac shot any survivors they found in the head.[3982] As Mitrović and Makedonac got closer to Suad Džafić he could hear an argument which suggested that the execution should not have taken place on the main road. The soldiers were then ordered to leave

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3970 P3263 (Witness statement of Suad Džafić dated 31 August 2011), paras. 31, 68.

3971 P3263 (Witness statement of Suad Džafić dated 31 August 2011), para. 31.

3972 P3263 (Witness statement of Suad Džafić dated 31 August 2011), paras. 33–34. One of the guards recognised by Suad Džafić was a Bosnian Serb from Bratunac named Nešo Zivanović. Suad Džafić, T. 18173, 18202 (1 September 2011). *See also* Adjudicated Fact 2701.

3973 P3263 (Witness statement of Suad Džafić dated 31 August 2011), paras. 35–36. *See also* Adjudicated Fact 2701.

3974 P3263 (Witness statement of Suad Džafić dated 31 August 2011), para. 38; Suad Džafić, T. 18173, 18202–18203 (1 September 2011).

3975 P3263 (Witness statement of Suad Džafić dated 31 August 2011), paras. 39–40.

3976 P3263 (Witness statement of Suad Džafić dated 31 August 2011), paras. 41–42.

3977 P3263 (Witness statement of Suad Džafić dated 31 August 2011), para. 43. *See also* Adjudicated Fact 2701.

3978 P3263 (Witness statement of Suad Džafić dated 31 August 2011), paras. 47–48; Suad Džafić, T. 18174–18175 (1 September 2011). *See also* Adjudicated Fact 2702.

3979 P3263 (Witness statement of Suad Džafić dated 31 August 2011), paras. 48–50. [REDACTED].

3980 P3263 (Witness statement of Suad Džafić dated 31 August 2011), paras. 49–51. *See also* Adjudicated Fact 2702.

3981 P3263 (Witness statement of Suad Džafić dated 31 August 2011), para. 50, 52.

3982 P3263 (Witness statement of Suad Džafić dated 31 August 2011), para. 53. *See also* Adjudicated Fact 2702.

immediately; this allowed Suad Džafić to escape.[3983] Of the 29 Bosnian Muslim men who were killed, Suad Džafić was able to identify 21 relatives and neighbours.[3984] The Milići SJB reported to CSB Sarajevo on 3 August 1992 about this incident and stated that the summary execution was carried out by the Vukovar Detachment, which was a paramilitary group.[3985]

1159. The Chamber therefore finds that approximately 29 Bosnian Muslim men were taken from Vlasenica, on or about 21 May 1992 and killed by Serb Forces.

(E) Detention Facilities in Vlasenica

(1) Scheduled Detention Facility C.25.1

1160. The Indictment refers to the use of SJB building in Vlasenica as a detention facility at least between May and July 1992.[3986]

(a) Arrival of detainees and control over the detention facility

1161. The SJB building was located in the centre of Vlasenica.[3987] The police officers who worked at the SJB building went from door to door, interrogating non-Serbs, bringing them to the SJB building and demanding money.[3988] Bosnian Muslims were arrested in their homes by reserve police officers and taken to the SJB building with no explanation as to the reason for their arrest.[3989]

3983 P3263 (Witness statement of Suad Džafić dated 31 August 2011), paras. 55–58, 66 (stating that Rahman Karić and Sado Muhić also survived).

3984 P3263 (Witness statement of Suad Džafić dated 31 August 2011), paras. 60–63, 65; Suad Džafić, T. 18204 (1 September 2011) (testifying that of the 32 men taken for execution, 29 were killed). The identified individuals are Mehmed Džafić, Ibro Džafić, Hamed Džafić, Osman Džafić, Fahrudin Džafić, Fejzo Džafić, Mirsad Džafić, Huso Džafić, Samir Džafić, Šahin Suljić, Himzo Suljić, Izo Suljić, Suljo Suljić, Ramiz Karić, Arif Karić, Ismet Salihović, Ragib Salihović, Galib Ahmetović, Hidajet Alic, Ibro Suljagić, Alija Suljagić. Each of these 21 named individuals was identified as having been exhumed from a mass grave. P4853 (Updated Table 2 to the Report of Amor Mašović), pp. 95–96. *See also* P4856 (Appendix B to the Prosecution Pre-Trial Brief filed on 18 May 2009 marked by Amor Mašović), pp. 29–30; P3264 (Report of Milići SJB, 3 August 1992), pp. 1–2.

3985 P3263 (Witness statement of Suad Džafić dated 31 August 2011), para. 67; P3264 (Report of Milići SJB, 3 August 1992), pp. 1–2. While the report also suggested that the Milići SJB was unable to protect these people from the execution as the Vukovar Detachment was heavily armed, the Chamber places no weight on this attempt by the SJB to distance itself from the incident. In reaching that conclusion the Chamber noted the testimony of Džafić that he saw no attempts by the police to protect the detainees and in fact one policeman had said "[l]et me kill them all now."

3986 The Prosecution submits that the evidence shows that the facility operated in May and June 1992. Prosecution Final Brief, Appendix B.

3987 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 99; P3219 (Aerial photograph of Vlasenica marked by Ibro Osmanović); P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 163 (under seal); P3258 (Photograph of Vlasenica SJB); P6459 (Map of Vlasenica).

3988 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 166 (under seal); P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 189.

3989 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), paras. 60–64, 189, 191; Ibro Osmanović, T. 17984, 17992 (29 August 2011); P3225 (List of Vlasenica SJB reserve workers in September 1992).

1162. The first non-Serbs who were detained and interrogated at the SJB building were intellectuals, SDA members, and wealthy individuals. While some were detained for a couple of days, others were detained longer. Some were released and re-arrested.[3990] Members of the Vlasenica SJB were involved in interrogations including members of the Special Police Platoon.[3991]

1163. In May 1992, members of the Special Police Platoon were ordered by Kraljević to take all able-bodied men from the predominantly Bosnian Muslim suburb of Sušica to the SJB building to be questioned about weapons.[3992] A total of 50 Bosnian Muslim men, including some elderly and underage boys were rounded up in this operation.[3993]

(b) Conditions of detention and treatment of detainees

1164. Bosnian Muslims were detained and mistreated in a small cell of the SJB building by the Bosnian Serb police for several days.[3994] When Osmanović was detained in this cell, there were over 20 Bosnian Muslims, including some children, who were locked in these cramped conditions for three to four hours. 10 men were then taken to another room.[3995] None of these individuals had taken part in military activities.[3996]

1165. A number of reserve police officers were also involved in the mistreatment of Bosnian Muslim detainees at the SJB building.[3997] Members of the Special Police Platoon were also allowed to enter the SJB building and were involved in the beating of the detainees.[3998] Detainees were taken out either in groups or individually for interrogations during which time they were beaten.[3999] They had their arms and legs tied and were beaten over the course of about 10 days

3990 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 165 (under seal).

3991 [REDACTED]. *See also* P3262 (Witness statement of KDZ603 dated 30 August 2011), para. 33 (under seal).

3992 [REDACTED].

3993 [REDACTED].

3994 P3227 (Witness statement of KDZ033 dated 7 April 2010), paras. 20, 163 (under seal); P3255 (Photograph inside of Vlasenica SJB); *see* Adjudicated Fact 2699. With respect to Adjudicated Fact 2699, Đurić testified that it was only in mid-May 1992 that effective control was established over the SJB building and that before then the SJB was unable to prevent paramilitary groups from entering the building. D3093 (Witness statement of Mane Đurić dated 3 March 2013), para. 67. The Chamber does not consider Đurić's evidence to be reliable in this regard. In reaching that conclusion the Chamber refers to its credibility assessment in fn. 3791.

3995 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), paras. 65–68 (naming the other detainees as including Hasan Kuljančić and Dževad Topalović); Ibro Osmanović, T. 17986–17987 (29 August 2011).

3996 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 67.

3997 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), paras. 184–186, 189–191; P3224 (List of members of Vlasenica SJB reserve forces, 25 June 1992); P3225 (List of Vlasenica SJB reserve workers in September 1992); P3226 (List of Vlasenica SJB active workers in May 1992); P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 164 (under seal).

3998 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 28 (under seal); P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 71.

3999 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), paras. 68, 70.

with police batons, metal pipes, grips of guns, and metal chains.[4000] Detainees were also cut on multiple places of their body with knives and in one case a detainee had salt rubbed into those wounds.[4001]

1166. While occasionally, the detainees were allowed to have food from their homes, they were frequently hungry.[4002] On one occasion the detainees were given food and it was spoiled.[4003] The detainees did not have any access to any medical care and the conditions of detention were poor.[4004] While the detainees had access to water in the basement of the building, they were beaten en route.[4005] The detainees did not have beds and slept on concrete tiles.[4006] Osmanović described the atmosphere as one of "suffering, misery, of pain".[4007]

(c) Conclusion on conditions of detention and treatment of detainees

1167. Based on the above, the Chamber finds that Bosnian Muslim civilian men as well as some children and elderly, were arrested in their homes and detained at the Vlasenica SJB building in May 1992 by Serb Forces. The detainees were held in poor conditions which included lack of food, bedding, no medical care, and over-crowding. Detainees were subjected to beatings with batons, metal pipes, chains and other objects. Some detainees were cut with knives during their detention.

(d) Scheduled Incident B.18.3

1168. The Indictment refers to the killing of one man in SJB building on or about 22 May 1992.

1169. On or about 22 May 1992, Džemal Ambešković, an ex-policeman who had helped organise the referendum for an independent BiH in Vlasenica,[4008] was pushed into a room, and other detainees saw his face and stomach were bruised.[4009] After some time, Stevan Mumović, who wore

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4000 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), paras. 70, 78; *see* Adjudicated Fact 2699. The Chamber places no weight on Đurić's evidence that some detainees assaulted inspectors during interviews and thus had to be "physically overpowered". D3093 (Witness statement of Mane Đurić dated 3 March 2013), paras. 45–47. The Chamber does not find this evidence to be plausible. The Chamber also refers to its credibility assessment in fn. 3791 in concluding that Đurić's evidence in this regard was unreliable.

4001 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), paras. 77–78.

4002 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 79.

4003 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 79.

4004 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 79; *see* Adjudicated Fact 2699.

4005 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 79.

4006 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 79.

4007 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 79.

4008 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 72. *See also* Adjudicated Fact 2700; P4856 (Appendix B to the Prosecution Pre-Trial Brief filed on 18 May 2009 marked by Amor Mašović), p. 29; P4853 (Updated Table 2 to the Report of Amor Mašović), p. 95 (identifying Džemal Ambešković as having been exhumed from an individual grave).

4009 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 72.

a "war police" patch, told Ambešković to get out of the room. As Ambešković stepped out of the room he was struck on the back of his head, he fell to the floor, and then a single pistol shot was heard.[4010] After he was killed three of the detainees were ordered by a member of the reserve police force to "get out and load this shit", given a plastic bag, and ordered to load the body onto a van.[4011] After the body was loaded onto the van, the detainees were beaten as they went up the stairs.[4012]

1170. The Chamber therefore finds that on or about 22 May 1992 a Bosnian Muslim man was killed by a member of the Serb Forces at the Vlasenica SJB building.

(2) Scheduled Detention Facility C.25.2

1171. The Indictment refers to the use of the Prison building in Vlasenica as a detention facility at least between June and July 1992.[4013]

(a) Arrival of detainees and control over detention facility

1172. The prison in Vlasenica was close to the SJB building and the commander of the prison was a man named Branislav Sokanović; he was a police officer of the Vlasenica SJB.[4014] The guards at the prison were Bosnian Serb police and included reserve police officers.[4015]

1173. Beginning in May 1992, Bosnian Muslims were arrested and detained for several days at the Vlasenica prison by Bosnian Serb police.[4016] These included a group of approximately 30 non-Serb men from Bratunac and a significant number of other non-Serbs from Vlasenica.[4017]

4010 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), paras. 73–74. *See also* Adjudicated Fact 2700; [REDACTED]; P3260 (List of missing civilians in Vlasenica in 1992) (under seal). *But see* D3093 (Witness statement of Mane Đurić dated 3 March 2013), para. 68 (stating that nobody was killed at the SJB building). The Accused himself acknowledges that the evidence presented confirms that a man was killed at this facility on or about 22 May 1992 but asserts that no evidence was introduced to link this killing with anyone at the Republican level. Defence Final Brief, para. 1439.

4011 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), paras. 75–76; P3226 (List of Vlasenica SJB active workers in May 1992).

4012 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 76. The Chamber received evidence of other killings of individuals who had been detained at the facility. P3227 (Witness statement of KDZ033 dated 7 April 2010), paras. 164, 166 (under seal). The Chamber notes that these killings are not charged pursuant to Schedules A or B of the Indictment. *See* fn. 13.

4013 The Prosecution submits that the evidence shows that the facility operated in May and June 1992. Prosecution Final Brief, Appendix B, p. 56.

4014 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), paras. 81–82, 99, 191; P3226 (List of Vlasenica SJB active workers in May 1992); P3219 (Aerial photograph of Vlasenica marked by Ibro Osmanović); P3227 (Witness statement of KDZ033 dated 7 April 2010), paras. 85, 158 (under seal).

4015 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 190; P3225 (List of Vlasenica SJB reserve workers in September 1992); P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 159 (under seal). *See also* D3093 (Witness statement of Mane Đurić dated 3 March 2013), para. 49.

4016 P3227 (Witness statement of KDZ033 dated 7 April 2010), paras. 20, 28–29, 159 (under seal).

(b) Conditions of detention and treatment of detainees

1174. The Vlasenica prison was designed to hold approximately 20 to 50 detainees.[4018] Despite this capacity, about 150 Bosnian Muslim men were held in very poor conditions in five rooms of the Vlasenica prison.[4019] Osmanović was transferred to the Vlasenica prison on 2 June 1992 and was detained there until 18 June 1992.[4020] On his arrival Osmanović was searched, stripped of his valuables, and placed in a cell with other Bosnian Muslim men.[4021]

1175. The Bosnian Muslim detainees had to sleep on wooden pallets on the floor or on shelves as there were no beds.[4022] They received food from their homes and from acquaintances and once received left-over food in the prison.[4023] While at the Vlasenica prison the detainees did not have access to medical care or medication.[4024]

1176. Detainees were taken out of the Vlasenica prison by Bosnian Serbs in camouflage uniforms to loot valuables from Bosnian Muslim homes.[4025] The detainees were also taken out to bury bodies and dig trenches on the frontline between Vlasenica and Kladanj[4026] and also to carry out other work such as chopping wood.[4027]

1177. Detainees were either interrogated at the prison or taken to the nearby SJB building.[4028] Some detainees in the prison were subjected to prolonged and severe beatings. They were also

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4017 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 160 (under seal). For evidence on the arrest of these detainees in Bratunac, *see* para. 763. Đurić testified that the facility was used because there were people under investigation who had to be imprisoned. D3093 (Witness statement of Mane Đurić dated 3 March 2013), para. 49. The Chamber refers to its credibility assessment in fn. 3791 as to why Đurić's evidence is not reliable in this regard.

4018 P3227 (Witness statement of KDZ033 dated 7 April 2010), paras. 90, 158 (under seal); P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 83.

4019 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 83. *See also* Adjudicated Fact 2703.

4020 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 80.

4021 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 83.

4022 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 162 (under seal); P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 84.

4023 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 84.

4024 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 84.

4025 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), paras. 91–92. *See also* Adjudicated Fact 2704.

4026 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), paras. 89, 93–98. *See also* Adjudicated Fact 2704. Detainees were taken away in JNA military trucks by Bosnian Serbs in olive grey uniforms. The Chamber notes that there was no fighting at the time when detainees were taken to dig trenches. P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 61 (under seal).

4027 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 162 (under seal). The Chamber notes that this type of forced labour is not charged in the Indictment, which only covers forced labour at the frontlines.

4028 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 163 (under seal). For evidence on treatment at the Vlasenica SJB building, *see* Scheduled Detention Facility C.25.1.

threatened and subjected to intimidation.[4029] When the commander of the Vlasenica prison, Sokanović, was present, the detainees were treated fairly but when he was not there conditions worsened and the detainees were beaten.[4030] When Sokanović was absent, the detainees were only allowed to use the toilet once or twice a day and were beaten en route.[4031] Detainees were kicked and beaten with batons, rifle butts, machine guns, metal bars, sticks, and thick plastic pipes.[4032]

1178. After the death of Kraljević's brother, uniformed individuals came to the prison and proceeded to take revenge on the detainees and subjected them to further mistreatment.[4033] In addition civilians and uniformed individuals, were brought to or allowed to enter, the facility to beat the detainees and the guards did not provide the detainees with any protection.[4034]

(c) Conclusion

1179. Based on the above, the Chamber finds that Bosnian Muslim men were arrested and detained at the Vlasenica prison from May to June 1992 by Serb Forces. The detainees were held in poor conditions which included over-crowding, inadequate medical care and bedding. Detainees were forced to work at a number of locations and, for example, were used to bury bodies, and dig trenches. Detainees were subjected to beatings with batons, metal bars, guns, pipes, and other objects.

(3) Scheduled Detention Facility C.25.3

1180. The Indictment refers to the use of the Sušica camp as a detention facility at least between May and about 30 September 1992.

4029 P84 (Witness statement of Mirsad Kuralić dated 27 June 1996), p. 7 (stating that he was not beaten after the intervention by an individual who knew his family).

4030 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), paras. 83, 89, 191 (stating that he lost five teeth during these beatings). *See also* Adjudicated Fact 2705.

4031 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 84.

4032 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 88.

4033 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), paras. 89–90.

4034 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 90. The Chamber also received evidence about the killing and disappearance of detainees taken from the Vlasenica prison. P3227 (Witness statement of KDZ033 dated 7 April 2010), paras. 44, 159–160 (under seal); KDZ033, T. 18090–18091 (31 August 2011) (closed session); P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), paras. 55, 85–89, 185; Ibro Osmanović, T. 17943–17945 (25 August 2011). The Chamber notes that the above killings are not charged pursuant to Schedules A or B of the Indictment. *See* fn. 13.

(a) Arrival of detainees and control over the detention facility

1181. Sušica camp was close to the town of Vlasenica on the road from Sarajevo to Belgrade and consisted of sheds owned by a forestry company prior to the war.[4035] The facility was taken over and used for the storage of TO weapons and a hangar was then used to detain persons brought to the camp.[4036] The camp was established on 31 May 1992 by an order issued by the VRS 1st Infantry Brigade Commander, acting pursuant to a decision of the SAO Birač on regulating the "moving out of the Muslim population".[4037]

1182. Both the VRS and the Vlasenica SJB brought Bosnian Muslims to the camp and had responsibility over the facility, and the SJB determined in practice how the camp functioned.[4038] The camp warden was Veljko Bašić and the facility was guarded by members of the police, the Special Police Platoon, and the VRS.[4039] Bašić and his deputy would visit the camp almost every morning and update a list which recorded the personal details of any new detainees who had arrived

4035 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), paras. 104–105, 144; P3223 (Aerial photograph of Sušica camp marked by Ibro Osmanović); KDZ033, T. 18071 (31 August 2011) (closed session); P6459 (Map of Vlasenica); P6130 (Photographs of Sušica camp); Momir Deurić, T. 33922–33923 (18 February2013); P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 70 (under seal); P3231 (Aerial photograph of Vlasenica marked by KDZ033) (under seal).

4036 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 105, 144; P3223 (Aerial photograph of Sušica camp marked by Ibro Osmanović); KDZ044, P107 (Transcript from KDZ044's testimony), T. 465 (under seal). The facility was first used to house Serb refugees who arrived in the municipality and was then taken over by the army. *See* D2967 (Witness statement of Momir Deurić dated 16 February 2013), para. 17; Momir Deurić, T. 33919–33920 (18 February 2013); P3245 (Assessment report on Sušica camp), pp. 2–3.

4037 P3240 (Order of Birač Brigade, 31 May 1992); [REDACTED]. *See also* Adjudicated Fact 2706; D3886 (Witness statement of Svetozar Andrić dated 16 July 2013), para. 7. Defence witnesses testified that this order related to the organisation of the camp and the maintenance of law and order rather than to its establishment and that the SAO Birač was not involved in the moving out of the non-Serb population and there was no such decision. Svetozar Andrić, T. 41681–41684 (22 July 2013); Milenko Stanić, T. 34022–34024 (19 February 2013). Stanić maintained this position even when confronted with a magazine article which referred to the Government of the SAO Birač passing a decision on the movement of Bosnian Muslims from the area, *see* P6030 (Article from Javnost entitled "Serbian Region of Birač: Borders Determined", 6 June 1992). *See also* Tomislav Savkić, T. 33786–33787 (15 February 2013) (testifying that the author of the article was not properly informed). The Chamber refers to its credibility assessment in fns. 3796, 3813, and 3894 in concluding that the evidence of the relevant witnesses is not reliable in this regard.

4038 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 69 (under seal); KDZ033, T. 18071 (31 August 2011) (closed session). Defence witnesses testified that (i) it was only the army which brought Bosnian Muslims to the camp; (ii) the police only occasionally visited the facility; and (iii) the municipal authorities did not receive any information nor could they influence what happened at the facility. D2967 (Witness statement of Momir Deurić dated 16 February 2013), para. 19; Momir Deurić, T. 33921–33922 (18 February 2013); D2982 (Witness statement of Milenko Stanić dated 16 February 2013), para. 28. The Chamber refers to its credibility assessment in fns. 3791 and 3858 as to why it does not find the evidence of the relevant witnesses to be reliable in this regard.

4039 P3227 (Witness statement of KDZ033 dated 7 April 2010), paras. 71–72, 75–76 (under seal); P3245 (Assessment report on Sušica camp), pp. 7, 9. *See also* Adjudicated Fact 2707; D2967 (Witness statement of Momir Deurić dated 16 February 2013), para. 17; P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 110 (stating that the guards wore JNA uniforms and were mostly Bosnian Serbs from Vlasenica and nearby villages).

at the camp and would then deliver those updated lists to the Vlasenica SJB.[4040] The Sušica camp was equipped with a telephone and radio used for communicating with the Vlasenica Crisis Staff, the Vlasenica Battalion command, and the Vlasenica SJB.[4041] The SJB and the Vlasenica Crisis Staff received regular reports on the situation at the Sušica camp.[4042] The Vlasenica Crisis Staff also made decisions concerning the camp and detainees, such as decisions on release, visits by international representatives, and exchanges.[4043]

1183. In June 1992, Dragan Nikolić was put in charge of Sušica camp; he introduced himself to the detainees as the camp commander and said that he was "god and the law".[4044] Dragan Nikolić was a member of the Special Police Platoon and reported to Kraljević.[4045] Other members of the Special Police Platoon would also come to the camp and were involved in questioning the detainees.[4046]

1184. The Chamber took judicial notice that the camp operated for four months until September 1992.[4047] The first group of detainees which was brought to the facility included 300 male and female Bosnian Muslims from Šekovići municipality who had been detained by members of the MP and brought to Sušica in late May or early June 1992.[4048] The VRS and Bosnian Serb police, including members of the Special Police Platoon, then brought other Bosnian Muslims from

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4040 P3227 (Witness statement of KDZ033 dated 7 April 2010), paras. 75, 92 (under seal). The Chamber places no weight on KDZ033's speculation that the detainee list would most probably have been provided to the Vlasenica Crisis Staff.

4041 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 83 (under seal).

4042 *See* Adjudicated Fact 2708; P3227 (Witness statement of KDZ033 dated 7 April 2010), paras. 17, 75, 83–84 (under seal). *But see* D3093 (Witness statement of Mane Đurić dated 3 March 2013), para. 70 (stating that if reports were submitted they would have been submitted to the TO command and the brigade command after the VRS was established). Members of the Vlasenica Crisis Staff only infrequently visited the camp and thus relied on the reports received. P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 86 (under seal).

4043 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 84 (under seal). *See also* Adjudicated Fact 2709. *But see* D3093 (Witness statement of Mane Đurić dated 3 March 2013), para. 71 (stating that the Vlasenica Crisis Staff had been disbanded by 31 May 1992). The Chamber refers to its credibility assessment in fn. 3858 as to why it considers the evidence of Đurić to be unreliable in this regard.

4044 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), paras. 106–107, 111; Ibro Osmanović, T. 17998 (29 August 2011); P84 (Witness statement of Mirsad Kuralić dated 27 June 1996), p. 6; KDZ044, P107 (Transcript from KDZ044's testimony), T. 465 (under seal); KDZ044, P109 (Transcript from *Prosecutor v. Nikolić*), T. 267–269 (under seal); P111 (Witness statement of KDZ044 dated 28 September 1994), p. 2 (under seal); *see* Adjudicated Fact 2715. *See also* D2967 (Witness statement of Momir Deurić dated 16 February 2013), para. 18.

4045 [REDACTED]; P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), paras. 108–109, 112–113, 142, 183.

4046 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), paras. 183, 192; P3225 (List of Vlasenica SJB reserve workers in September 1992). *See also* P3227 (Witness statement of KDZ033 dated 7 April 2010), paras. 10, 12, 82 (under seal); P3257 (Annotated photograph of members of Vlasenica special police platoon) (under seal)

4047 *See* Adjudicated Fact 2711.

4048 P3227 (Witness statement of KDZ033 dated 7 April 2010), paras. 67, 112(under seal). *See also* P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 114; P3227 (Witness statement of KDZ033 dated

Vlasenica to the camp.[4049] These included large numbers of Bosnian Muslims who were arrested in their homes in Vlasenica and taken to the camp with their families and who had been told they would be exchanged for Bosnian Serbs who had been taken prisoner in Tuzla.[4050] In addition, inhabitants of villages who were captured after their villages were encircled and attacked by Serb Forces were also brought to Sušica.[4051] Other detainees were transferred from the Vlasenica prison and SJB building to the camp.[4052] Finally, people were also transported by Serb Forces to the Sušica camp from Rogatica[4053] and Kalesija.[4054]

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7 April 2010), para. 88 (under seal). The military police were formed by a decision of the Vlasenica Crisis Staff. P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 7 (under seal).

4049 P3227 (Witness statement of KDZ033 dated 7 April 2010), paras. 67, 80 (under seal). Defence witnesses testified that (i) the municipal authorities decided to convert the TO facilities into a reception centre where Bosnian Muslims who had not left the municipality could be housed for their own protection; (ii) most Bosnian Muslims accepted the offer made by the municipal authorities for their temporary accommodation in the Sušica camp, until they could be transported to their location of choice; (iii) Sušica was not a camp but a reception centre which also housed Bosnian Serbs and Bosnian Croats; (iv) some Bosnian Muslim families would go to Sušica at night and return to their homes during the day. D2922 (Witness statement of Savo Čeliković dated 10 February 2013), paras. 26–27; Savo Čeliković, T. 33565 (13 February 2013); D3093 (Witness statement of Mane Đurić dated 3 March 2013), paras. 50–54; Mane Đurić, T. 35023–35028 (7 March 2013); D2967 (Witness statement of Momir Deurić dated 16 February 2013), para. 18; D3101 (Vlasenica SJB report, 6 August 1992); D3102 (Vlasenica SJB report, 1 September 1992); D3007 (Witness statement of Zoran Jovanović dated 18 February 2013), para. 29; D2932 (Witness statement of Tomislav Savkić dated 11 February 2013), paras. 42–44. *See also* Svetozar Andrić, T. 41684 (22 July 2013); D2982 (Witness statement of Milenko Stanić dated 16 February 2013), paras. 26, 28. Having regard to the weight of evidence, including the surrounding circumstances in the municipality and considering the credibility assessments of the relevant witnesses in fn. 3791, 3813, 3858, and 3894, the Chamber does not consider this evidence to be reliable. The Chamber also received a report which described Sušica camp as a "holding centre" to receive both Bosnian Muslims and Bosnian Serbs who had voluntarily expressed a desire to leave the municipality and stated that the camp met the basic conditions for their temporary accommodation. P3250 (Report of Vlasenica SJB, 1 September 1992). In light of the weight of evidence and also considering KDZ033's testimony as to the accuracy of P3250, the Chamber does not rely on this report's characterisation of the nature, purpose of, and conditions at the Sušica camp. P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 91 (under seal). However, the Chamber finds that there were some people who came voluntarily to the camp as they expected faster transport from there out of Vlasenica to Bosnian Muslim controlled territory. KDZ033, T. 18074–18076 (31 August 2011) (closed session).

4050 KDZ044, P107 (Transcript from KDZ044's testimony), T. 461–463 (under seal); KDZ044, P109 (Transcript from *Prosecutor v. Nikolić*), T. 263–266 (under seal); P111 (Witness statement of KDZ044 dated 28 September 1994), p. 2 (under seal).

4051 Izet Redžić, P3189 (Transcript from *Prosecutor v. Krajišnik*), T. 5146; P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 59 (under seal). *See also* KDZ044, P107 (Transcript from KDZ044's testimony), T. 464 (under seal); KDZ044, P109 (Transcript from *Prosecutor v. Nikolić*), T. 266 (under seal). These detainees include Bosnian Muslim women, children and the elderly who were brought to the camp following the attack on the village of Drum on or about 2 June 1992. P3262 (Witness statement of KDZ603 dated 30 August 2011), paras. 21, 24 (under seal); KDZ603, T. 18159 (1 September 2011). On the arrival of this group from Drum, soldiers discussed and confirmed that Vlasenica "had been cleaned". P3262 (Witness statement of KDZ603 dated 30 August 2011), paras. 25–26 (under seal).

4052 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), paras. 100–101; Ibro Osmanović, T. 17999 (29 August 2011); P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 80 (under seal).

4053 Elvir Pašić, P59 (Transcript from *Prosecutor v. Tadić*), T. 870–872; KDZ033, T. 18073 (31 August 2011) (closed session).

4054 P84 (Witness statement of Mirsad Kuralić dated 27 June 1996), pp. 2, 6; Mirsad Kuralić, P63 (Transcript from *Prosecutor v. Krajišnik*), T. 12562–12564. *See also* D2982 (Witness statement of Milenko Stanić dated 16 February 2013), para. 28; P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 114.

1185. Approximately 1,000 Bosnian Muslims were brought to the Sušica camp in the space of a few days.[4055] During their transportation to the camp, Bosnian Muslims were threatened and subjected to racial slurs.[4056] On arrival at the camp, the details of the detainees were recorded in a notebook.[4057]

1186. The vast majority of the detainees were civilians.[4058] The women, children and elderly men were separated from the men and transported towards Kladanj while the men were detained in a hangar after being searched.[4059] The identification papers and valuables of the detainees were confiscated.[4060] The women were asked to sign a document saying that they were leaving Vlasenica of their own free will and those who refused to sign were threatened with being beaten or killed.[4061] Thereafter, only approximately 20 women remained at the camp, with approximately 800 women and children transported in buses, trucks and lorries from the camp over two days.[4062]

4055 P3262 (Witness statement of KDZ603 dated 30 August 2011), para. 28 (under seal); KDZ603, T. 18159 (1 September 2011); *see* Adjudicated Fact 2712. *See also* P84 (Witness statement of Mirsad Kuralić dated 27 June 1996), p. 6; Mirsad Kuralić, P63 (Transcript from *Prosecutor v. Krajišnik*), T. 12563–12564.

4056 Elvir Pašić, P59 (Transcript from *Prosecutor v. Tadić*), T. 870–872.

4057 P3227 (Witness statement of KDZ033 dated 7 April 2010), paras. 92–95 (under seal); P3251 (Handwritten document related to detainees) (under seal); P3252 (Handwritten document related to detainees) (under seal); P3253 (Handwritten list of non-Serbs brought to Sušica camp, 18 July 1992) (under seal).

4058 P3227 (Witness statement of KDZ033 dated 7 April 2010), paras. 53, 88 (under seal). *See also* P84 (Witness statement of Mirsad Kuralić dated 27 June 1996), p. 6; Mirsad Kuralić, P63 (Transcript from *Prosecutor v. Krajišnik*), T. 12563–12564; P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), paras. 116–117. Contrary to this finding that the vast majority of the detainees were civilians, the Accused submits that only those who had been "involved in activities against the Bosnian Serbs" were involuntarily detained at the camp. Defence Final Brief, confidential, para. 1437, [REDACTED]. However, the evidence cited by the Accused does not support this proposition. For example [REDACTED] testified that some men were released "after it was probably established that they had not been involved in any activities against the Serb authorities"; the Chamber finds this to be pure speculation. With respect to the evidence of [REDACTED] cited by the Accused, there is no reference to this issue in the witness's evidence.

4059 Izet Redžić, P3189 (Transcript from *Prosecutor v. Krajišnik*), T. 5067–5069, 5145–5146; P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 74 (under seal); KDZ044, P107 (Transcript from KDZ044's testimony), T. 463–464 (under seal); KDZ044, P109 (Transcript from *Prosecutor v. Nikolić*), T. 266 (under seal); P111 (Witness statement of KDZ044 dated 28 September 1994), p. 2 (under seal); P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 115.

4060 KDZ044, P109 (Transcript from *Prosecutor v. Nikolić*), T. 266 (under seal); P111 (Witness statement of KDZ044 dated 28 September 1994), p. 2 (under seal); KDZ044, P107 (Transcript from KDZ044's testimony), T. 467–468 (under seal); *see* Adjudicated Fact 2712.

4061 KDZ044, P107 (Transcript from KDZ044's testimony), T. 466–467 (under seal); P111 (Witness statement of KDZ044 dated 28 September 1994), p. 2 (under seal); *see* Adjudicated Fact 2712. *But see* D3093 (Witness statement of Mane Đurić dated 3 March 2013), para. 72 (stating that the Bosnian Serb authorities did not force anyone to leave the municipality and did not confiscate valuables from Bosnian Muslims).

4062 P3262 (Witness statement of KDZ603 dated 30 August 2011), paras. 31–32 (under seal); *see* Adjudicated Fact 2712; KDZ044, P107 (Transcript from KDZ044's testimony), T. 467, 497 (under seal); KDZ603, T. 18164–18165 (1 September 2011). KDZ044 also testified that detainees died during transportation, but the Chamber notes that these killings are not charged pursuant to Schedules A or B of the Indictment. *See* fn. 13.

Women were detained in a separate building near the hangar and with time there were fewer and fewer women detained there.[4063]

1187. On 7 June 1992, the Command of the Eastern Bosnia Corps reported to the Main Staff of the VRS, that in the area of Vlasenica they held around 800 prisoners.[4064] In mid June 1992, the Birač Brigade Command reported to the Command of the Eastern Bosnia Corps that it was "necessary to urgently resolve the issue of prisoner camps" given the large number of detainees which endangered the safety situation in the town.[4065] By mid June 1992 there were between 500 and 600 detainees at the camp.[4066] The number of detainees fluctuated with detainees brought in and others taken away, with on average between 150 and 200 detainees at the camp, reaching a peak towards the end of June and the beginning of July 1992. Approximately 400 detainees were then transferred to the Batković camp in Bijeljina.[4067] In total, approximately 2,000 to 2,500 Bosnian Muslim men, women, children and the elderly passed through the camp.[4068]

(b) Conditions of detention and treatment of detainees

1188. While Bašić and his deputy delivered updated lists of detainees to the company which prepared the food for camp detainees,[4069] detainees at the camp were insufficiently fed. Water was very scarce, sanitary conditions were poor, and medical care was not provided.[4070] In the first two or three days after his arrival, Osmanović and the detainees were brought food from their homes but this depended on the good will of the guards and the warden; if Nikolić was not in a good mood

4063 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 144; P3223 (Aerial photograph of Sušica camp marked by Ibro Osmanović); P3227 (Witness statement of KDZ033 dated 7 April 2010), paras. 88, 96 (under seal).

4064 P3237 (Report of the Eastern Bosnian Corps, 7 June 1992), p. 2; P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 90 (under seal). *See also* Svetozar Andrić, T. 41668 (22 July 2013).

4065 P3220 (Report of Birač Brigade, 14 June 1992); P3221 (Request of Birač Brigade, 17 June 1992). Ibro Osmanović observed that while these figures were not exactly the same as his estimates, they were overall the same given that detainees would come and go from the facility. P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 115; P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 90 (under seal).

4066 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 87 (under seal). *See also* P3262 (Witness statement of KDZ603 dated 30 August 2011), para. 27 (under seal).

4067 P3227 (Witness statement of KDZ033 dated 7 April 2010), paras. 87, 143 (under seal); P3262 (Witness statement of KDZ603 dated 30 August 2011), para. 35 (under seal). *See also* Adjudicated Fact 2251; P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 115; KDZ044, P109 (Transcript from *Prosecutor v. Nikolić*), T. 266 (under seal). For evidence on detention at Batković, *see* Scheduled Detention Facility C.2.1.

4068 P3227 (Witness statement of KDZ033 dated 7 April 2010), paras. 87–88 (under seal); KDZ033, T. 18073–18074 (31 August 2011) (closed session). *See also* Adjudicated Fact 2710.

4069 [REDACTED].

4070 *See* Adjudicated Fact 2714; P3262 (Witness statement of KDZ603 dated 30 August 2011), para. 30 (under seal); KDZ603, T. 18163 (1 September 2011). *See also* P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 74 (under seal); P3228 (Excerpt from CSCE's report on Sušica camp), e-court pp. 1–2.

they would not get any food.[4071] The detainees were provided with one meal a day which was served on 10 plates and the over 500 detainees had to eat from these plates which were not washed.[4072] The food was left-over from what the soldiers had eaten,[4073] which was sour.[4074] One cup of drinking water was distributed twice a day to the detainees.[4075]

1189. The detainees were held in a big hangar and slept on the concrete with planks[4076] with no heating in the camp.[4077] There were no beds in the camp[4078] and the detainees were forced to sit on the concrete floor.[4079] Some of the detainees had a blanket on which they slept.[4080] In mid-June there was a terrible stench due to the inadequate toilet facilities.[4081] In the morning the detainees were taken in groups, ordered by the guards to line up and run to urinate in the Sušica river and to defecate behind an improvised shelter of two blankets.[4082] Detainees were sometimes beaten so they could not relieve themselves.[4083] If detainees wanted to relieve themselves during the night they had to use a pot, which quickly filled which meant that the detainees simply relieved themselves in their pants and had no place to clean themselves.[4084] Over time the detainees were engaged in the construction of toilets, were given sponges and blankets and provided with food supplies.[4085]

1190. Dragan Nikolić subjected the detainees to all kinds of mistreatment, including frequent beatings.[4086] Some detainees would be beaten every day by Dragan Nikolić because they were

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4071 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), paras. 119, 137. *See also* KDZ603, T. 18163 (1 September 2011); P3228 (Excerpt from CSCE's report on Sušica camp), pp. 1–2. [REDACTED].

4072 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 119. *See also* KDZ044, P107 (Transcript from KDZ044's testimony), T. 487 (under seal); P111 (Witness statement of KDZ044 dated 28 September 1994), p. 5 (under seal).

4073 KDZ603, T. 18163 (1 September 2011).

4074 KDZ044, P109 (Transcript from *Prosecutor v. Nikolić*), T. 267, 273 (under seal).

4075 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 120

4076 P74 (Supplemental information sheet for Mirsad Kuralić), p. 2.

4077 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 120 (under seal).

4078 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 74 (under seal).

4079 KDZ603, T. 18159–18160 (1 September 2011); P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 118.

4080 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 123.

4081 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 71 (under seal). *See also* P3228 (Excerpt from CSCE's report on Sušica camp), pp. 1–2.

4082 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 122; P3262 (Witness statement of KDZ603 dated 30 August 2011), para. 30 (under seal).

4083 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 122. *See also* P111 (Witness statement of KDZ044 dated 28 September 1994), p. 6 (under seal).

4084 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 122.

4085 KDZ033, T. 18073 (31 August 2011) (closed session).

4086 *See* Adjudicated Fact 2715; P3262 (Witness statement of KDZ603 dated 30 August 2011) (under seal), para. 34; KDZ603, T. 18165–18166 (1 September 2011) (private session); P111 (Witness statement of KDZ044 dated 28 September 1994), p. 2 (under seal). Jovanović testified that he visited the facility on one occasion to give supplies to some friends and was told that the conditions were not bad and nobody was "disturbing" the

accused of being members of the SDA and having weapons. Dragan Nikolić also threatened to kill them if they did not reveal the location of weapons.[4087] He would beat the detainees with a truncheon, a pistol butt or kick them with his army boots. In one case he broke the ribs of a detainee.[4088] On other occasions, Nikolić would force detainees to kneel on the floor and put his knife or a bayonet into their mouths to scare them during interrogations.[4089]

1191. Galib Smajlović and Dževad Šarić were taken out on several occasions from the hangar and beaten.[4090] On or about 25 June 1992, Smajlović and Šarić were taken out by multiple guards including Dragan Nikolić, and then screaming was heard.[4091] Smaljović was dragged back into the hangar unconscious after being beaten outside.[4092] There were dark bruises on Smajlović's body and Šarić was very pale and was holding his stomach.[4093] On another occasion in June 1992, Reuf Rasidagić was questioned by Nikolić and told "you will piss blood if you don't talk".[4094] Rasidagić was beaten by Nikolić over four of five days and began to urinate blood and he begged Nikolić to kill him, but was told that one bullet cost money.[4095]

1192. Some detainees were also tied to a drain outside the hangar and had to kneel on sharp stones with their hands tied above their heads until they fainted.[4096] Some were ordered by Nikolić to sit for 40 hours in a puddle of water with their hands behind their heads and legs spread on the ground as they were kicked and beaten.[4097] On other occasions, Nikolić would cock an empty pistol, point

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detainees. D3007 (Witness statement of Zoran Jovanović dated 18 February 2013), para. 29; Zoran Jovanović, T. 34207–34209 (21 February 2013). Jovanović on cross-examination maintained that he was not told about the murder, torture and sexual assault of detainees and that he did not witness the rape of a woman contrary to the statement of a victim who identified a Zoran Jovanović at the scene. In light of this cross-examination and considering its credibility assessment in fn. 3813, the Chamber does not find Jovanović's evidence to be reliable in this regard.

4087 KDZ044, P107 (Transcript from KDZ044's testimony), T. 485 (under seal); P111 (Witness statement of KDZ044 dated 28 September 1994), p. 5 (under seal).

4088 KDZ044, P107 (Transcript from KDZ044's testimony), T. 485 (under seal); P111 (Witness statement of KDZ044 dated 28 September 1994), p. 5 (under seal); P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), paras. 100, 130; P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 108 (under seal).

4089 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 130; KDZ044, P109 (Transcript from *Prosecutor v. Nikolić*), T. 272 (under seal); KDZ044, P107 (Transcript from KDZ044's testimony), T. 485–486 (under seal); P111 (Witness statement of KDZ044 dated 28 September 1994), p. 5 (under seal).

4090 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 135.

4091 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 135; KDZ044, P107 (Transcript from KDZ044's testimony), T. 475 (under seal).

4092 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 135.

4093 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 136.

4094 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 125.

4095 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 125; Ibro Osmanović, T. 17945–17946 (25 August 2011). Rasidagić and Osmanović were transferred to Batković on 30 June 1992. For evidence on detention at Batković, *see* Scheduled Detention Facility C.2.1.

4096 KDZ044, P107 (Transcript from KDZ044's testimony), T. 486 (under seal); P111 (Witness statement of KDZ044 dated 28 September 1994), p. 5 (under seal).

4097 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), paras. 131–132.

the gun at detainees or put it into their mouths and pull the trigger; he once shot an automatic weapon at the wall above the heads of the detainees.[4098]

1193. Some detainees were interrogated at the camp itself while others were taken for interrogation to the Vlasenica SJB or other locations and some returned severely bruised after being beaten.[4099] The interrogations were for the most part conducted by members of the Special Police Platoon[4100] while members of the Vlasenica SJB would take notes.[4101] Some detainees were questioned about military operations and security issues while others were simply subjected to mistreatment for the purpose of obtaining their money.[4102] The group of detainees from the area of Šekovići were frequently interrogated and physically abused by members of the Šekovići unit.[4103]

1194. Between June and September 1992, Bosnian Serb guards, soldiers, and other men who had been given access to the camp raped and committed other acts of sexual violence against non-Serb women.[4104] Young women would be taken out in the evening and brought back in the morning in tears, with "their hair tousled and their clothes torn".[4105]

1195. The Vlasenica SJB issued orders for detainees at the camp to be taken out to perform work or to be released,[4106] which then required the approval of Dragan Nikolić.[4107] By the second half of

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4098 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 138; KDZ044, P109 (Transcript from *Prosecutor v. Nikolić*), T. 273–274 (under seal). Deurić denied seeing Nikolić mistreating a detainee despite being confronted with the statements of detainees who saw Deurić at the scene. Momir Deurić, T. 33926–33929 (18 February 2013). In light of Deurić's credibility assessment in fn. 3858, the Chamber does not find Deurić's denial and attempt to distance himself from the mistreatment to be reliable.

4099 P3227 (Witness statement of KDZ033 dated 7 April 2010), paras. 80, 111 (under seal); P3262 (Witness statement of KDZ603 dated 30 August 2011), para. 33 (under seal). *See also* P84 (Witness statement of Mirsad Kuralić dated 27 June 1996), p. 6. The Chamber also received evidence about detainees who were taken from the camp for interrogation or for purported exchanges but disappeared or were killed. P3227 (Witness statement of KDZ033 dated 7 April 2010), paras. 97, 110, 113, 119, 145–147 (under seal); P3260 (List of missing civilians in Vlasenica in 1992) (under seal); KDZ033, T. 18086 (31 August 2011) (closed session); P111 (Witness statement of KDZ044 dated 28 September 1994), p. 6 (under seal); KDZ044, P107 (Transcript from KDZ044's testimony), T. 484–485 (under seal); P3262 (Witness statement of KDZ603 dated 30 August 2011), paras. 27, 29 (under seal); P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), paras. 143, 148, 193; Ibro Osmanović, T. 17948–17950 (25 August 2011); Izet Redžić, P3189 (Transcript from *Prosecutor v. Krajišnik*), T. 5069. The Chamber notes that the above killings are not charged pursuant to Schedules A or B of the Indictment. *See* fn. 13.

4100 [REDACTED]. *See also* P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 71.

4101 P3251 (Handwritten document related to detainees) (under seal); P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 93 (under seal).

4102 [REDACTED].

4103 P3227 (Witness statement of KDZ033 dated 7 April 2010), paras. 82, 112 (under seal).

4104 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 108 (under seal). *See also* P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 114.

4105 KDZ044, P107 (Transcript from KDZ044's testimony), T. 498 (under seal); KDZ044, P109 (Transcript from *Prosecutor v. Nikolić*), T. 273 (under seal).

4106 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 85 (under seal); P3249 (Handwritten order, 18 August 1992) (under seal).

July 1992 most of the detainees were engaged in physical labour.[4108] The detainees who were taken for work left the camp at 7 a.m. and returned at about 5 p.m. or 6 p.m. in the evening.[4109] They performed several types of labour, including burial of bodies, digging of trenches, and carrying of munitions at frontlines.[4110]

1196. Further, each day a group of detainees was taken to the VRS barracks to work on renovations[4111] while others were sent for physical labour at factories, businesses and roads or were engaged in agricultural work while others were used to clean the houses abandoned by non-Serbs.[4112] These houses were looted and cleaned before Bosnian Serb refugees moved into them.[4113] On one occasion detainees were ordered to set fire to the goods which had been looted from a Bosnian Muslim house[4114] and on another occasion were forced to load onto a truck the rubble from the Vlasenica mosque which had been destroyed.[4115] The detainees were afraid for their lives and of being beaten if they refused to work.[4116] Some detainees taken for work

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4107 KDZ044, P107 (Transcript from KDZ044's testimony), T. 488 (under seal); P3227 (Witness statement of KDZ033 dated 7 April 2010), paras. 73, 92 (under seal); P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 107; P3251 (Handwritten document related to detainees) (under seal).

4108 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 99 (under seal).

4109 KDZ044, P107 (Transcript from KDZ044's testimony), T. 487 (under seal).

4110 *See* Adjudicated Fact 2713.

4111 P3227 (Witness statement of KDZ033 dated 7 April 2010), paras. 99, 103 (under seal); P3259 (Aerial photograph of Vlasenica). *See also* P3247 (Handwritten list of men working at Sušica camp, 8-12 September 1992) (under seal); KDZ033, T. 18080 (31 August 2011) (closed session); KDZ044, P107 (Transcript from KDZ044's testimony), T. 487 (under seal).

4112 P3227 (Witness statement of KDZ033 dated 7 April 2010), paras. 79, 93, 99, 103, 105–106 (under seal); P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 124; P3247 (Handwritten list of men working at Sušica camp, 8-12 September 1992) (under seal); P3253 (Handwritten list of non-Serbs brought to Sušica camp, 18 July 1992), pp. 2–3 (under seal); P3248 (Handwritten list of people who worked or visited Sušica camp) (under seal); P3251 (Handwritten document related to detainees) (under seal), p. 5; P3254 (Handwritten list of men 10-11 August 1992) (under seal); KDZ044, P107 (Transcript from KDZ044's testimony), T. 486–487 (under seal); P111 (Witness statement of KDZ044 dated 28 September 1994), pp. 2, 6 (under seal). The detainees were taken away by police and military commanders and members of the reserve police. P3227 (Witness statement of KDZ033 dated 7 April 2010), paras. 79, 93, 100, 107 (under seal); P3248 (Handwritten list of people who worked or visited Sušica camp) (under seal); P3251 (Handwritten document related to detainees), p. 5 (under seal). The Chamber notes that this type of forced labour is not charged in the Indictment, which only covers forced labour at the frontlines.

4113 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 99 (under seal).

4114 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 124.

4115 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 57 (under seal). The Chamber notes that the destruction of the mosque is not charged in Schedule D of the Indictment.

4116 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 124. *See also* P111 (Witness statement of KDZ044 dated 28 September 1994), p. 2 (under seal). *But see* KDZ033, T. 18081–18082, 18101 (31 August 2011) (closed session); KDZ603, T. 18166–18167 (1 September 2011), who testified that (i) detainees were asked to volunteer for work assignments; (ii) those who could not work for example for health reasons were not subject to any punishment or penalty; and (iii) detainees would often receive better food and provisions when taken for work assignments and were treated fairly. While the Chamber finds that detainees may have received better provisions while on work assignment, in light of the circumstances of detention including the beating and mistreatment, and the direct evidence of Osmanović that detainees were afraid to refuse work, the Chamber does not consider that the detainees from the camp voluntarily performed the work assignments. KDZ033 himself was equivocal and could not confirm whether or not the labour was forced or not.

assignments were insulted and called "Balija's mother" and some were beaten with tree branches.[4117]

1197. Every day a list was drawn up indicating the number of detainees needed on a given day for work.[4118] When the detainees returned, the detainees list would be checked to confirm that all the detainees had returned; if a detainee was missing, the camp would inform the Vlasenica SJB and the person who took the detainees away would then explain whether the detainee had been released, taken to the SJB or killed.[4119]

(c) Transfer of detainees and inspection of camp

1198. In June 1992 the VRS prepared a strictly confidential report on the security at Sušica camp.[4120] This report also indicated that it was "impossible to apply any disinformation or cover-up measures because it is a public place" and that everyone was practically informed about the "number and structure of prisoners".[4121] In this regard, the report suggested that in order to "prevent informing the public about the prisoners' appearance and the conditions they live in", any attempts to take in recording devices or conduct interviews must be prevented and "extensive movement must be prohibited".[4122] In addition, the report indicated that visits of any type and the bringing of food and other material to the prisoners "must be prohibited" and recommended relocation of the camp.[4123]

1199. Detainees were only released after receipt of written orders from officials, including the VRS security officer, the SJB chief, the Special Police Platoon commander.[4124] Despite being told they would be exchanged,[4125] able-bodied men were transferred to the Batković camp in three

4117 P111 (Witness statement of KDZ044 dated 28 September 1994), p. 6 (under seal).

4118 P3227 (Witness statement of KDZ033 dated 7 April 2010), paras. 101–104 (under seal). *See also* P3247 (Handwritten list of men working at Sušica camp, 8-12 September 1992) (under seal). Deurić denied being involved in making a list of detainees who would be forced to be taken for work. Momir Deurić, T. 33928–33932 (18 February 2013). Having considered its credibility assessment in fn. 3858, and given Deurić's attempts to distance himself from the mistreatment of detainees, the Chamber does not find his evidence in this regard to be reliable.

4119 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 101 (under seal).

4120 [REDACTED]; P3245 (Assessment report on Sušica camp).

4121 P3245 (Assessment report on Sušica camp), p. 4.

4122 P3245 (Assessment report on Sušica camp), p. 4.

4123 P3245 (Assessment report on Sušica camp), pp. 4–5.

4124 [REDACTED].

4125 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 142 (under seal); P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), paras. 145–146, 149; Ibro Osmanović, T. 17999 (29 August 2011); KDZ044, P107 (Transcript from KDZ044's testimony), T. 491 (under seal).

groups at the end of June 1992[4126] while women, children and elderly were taken to the frontlines at Kladanj or Cerska and released or taken to the Pelemiš camp in Šekovići.[4127]

1200. When representatives of an international organisation were scheduled to visit the Sušica camp, the Vlasenica SJB instructed those responsible for the camp that the detainees should be moved to another location urgently.[4128] In July 1992, representatives of international organisations visited Sušica camp.[4129] During these two visits, Nikolić managed to conceal many detainees and the true state of the conditions of detention.[4130] Before the arrival of international representatives, the detainees who remained in the camp were instructed to hide their belongings and were hidden in the forest.[4131] A similar visit was carried out on 2 September 1992 by the CSCE, but the guards at the camp did not have enough time to hide the detainees before the international representatives accompanied by a Bosnian Serb delegation arrived.[4132] However, there were only 30 or 40 detainees in the camp at the time and when questioned by the international representatives the detainees stated that they were just waiting for transport and had received fine treatment at the camp.[4133] However, the CSCE reported, *inter alia*, that the detainees had been held for more than two months, that they were fearful and reluctant to speak openly in front of the guards and seemed "haggard, pale and thin" but their state of nourishment could not be assessed as they were dressed in heavier clothing.[4134] After the visit Velibor Ostojić said that they would no longer have to hide

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4126 For evidence of detention at Batković, *see* Scheduled Detention Facility C.2.1.

4127 P3227 (Witness statement of KDZ033 dated 7 April 2010), paras. 140–144 (under seal); P3262 (Witness statement of KDZ603 dated 30 August 2011), para. 35 (under seal); KDZ044, P107 (Transcript from KDZ044's testimony), T. 488–489 (under seal) (testifying that he was told by a guard that being transferred to Batković was their only hope as they would all be killed if they remained at Sušica); P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), paras. 145–146, 148–149, 193; Ibro Osmanović, T. 17948–17949 (25 August 2001), 17999 (29 August 2011). *See also* P3241 (Report of Šekovići Military Post, 3 July 1992); P3213 (List of persons detained at Batković camp) where KDZ033 was able to identify a number of detainees at the Batković camp who had previously been detained at Sušica but who were transported on 30 June 1992. D3093 (Witness statement of Mane Đurić dated 3 March 2013), para. 55.

4128 [REDACTED].

4129 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 151 (under seal). *See also* Adjudicated Fact 2716.

4130 *See* Adjudicated Fact 2716.

4131 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 151 (under seal). *See also* Adjudicated Fact 2716. *But see* D2967 (Witness statement of Momir Deurić dated 16 February 2013), para. 21; Momir Deurić, T. 33924 (18 February 2013).

4132 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 154 (under seal); KDZ033, T. 18020 (29 August 2011) (closed session)

4133 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 155 (under seal). *See also* P3239 (Two photographs of a man) (under seal); P3243 (Photograph of man at hangar in Sušica camp); KDZ033, T. 18020 (29 August 2011) (closed session); P3228 (Excerpt from CSCE's report on Sušica camp), p. 1.

4134 P3228 (Excerpt from CSCE's report on Sušica camp), pp. 1–2; P6131 (Photographs of CSCE visit to Sušica camp).

evidence of the camp, and that it would soon be closed down.[4135] The camp was shut down by the end of September 1992.[4136]

(d) Conclusion on conditions of detention and treatment of detainees

1201. Based on the above, the Chamber finds that from late May until the end of September 1992, large numbers of Bosnian Muslim civilians, including women, children and the elderly, were brought to and detained at Sušica camp by Serb Forces. At one point, women, children and the elderly were transported out of the municipality while the men continued to be detained. Their identification papers, money, and valuables were confiscated. The detainees were held in poor conditions which included lack of food, limited access to water, no bedding, poor sanitary and hygienic facilities, and no medical care. Detainees were subjected to frequent beatings with truncheons, guns, knives and were also subjected to other mistreatment and threats. Women at the camp were raped. Detainees were also forced to dig trenches and to carry munitions at the frontlines.

(e) Scheduled Incident B.18.1

1202. The Prosecution alleges that approximately nine men from Sušica camp were killed between June and August 1992.[4137]

1203. The Chamber took judicial notice that nine detainees in the Sušica camp were killed by camp guards or died from mistreatment and that these deaths were reported to warden Bašić with no consequences.[4138] After these killings, the detainees were simply removed from the list of

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4135 [REDACTED]. *But see* Velibor Ostojić, D2361 (Transcript from *Prosecutor v. Krajišnik*), T. 26682–26683, 26726–26728; D2362 (Witness statement of Velibor Ostojić dated 6 June 2006), para. 43. Ostojić denied that he ever visited the facility. P1607 (RS Ministry of Justice report on prisons and camps on the RS territory, 22 October 1992), pp. 2; Slobodan Avlijaš, T. 35174, 35196 (11 March 2013); D3105 (Witness statement of Slobodan Avlijaš dated 9 March 2013), para. 26 (stating that by the time of his inspection in October 1992 the detainees had already been exchanged or transferred).

4136 P3227 (Witness statement of KDZ033 dated 7 April 2010), paras. 136, 138 (under seal); KDZ033, T. 18108–18109 (31 August 2011) (closed session). *See also* D1660 (Annex B, "Admitted, undisputed and contested facts"), (under seal), p. 2.

4137 The Prosecution submits that that the evidence shows that these killings occurred in June and July 1992. Prosecution Final Brief, Appendix B.

4138 *See* Adjudicated Fact 2717. *See also* P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 115 (under seal); P4856 (Appendix B to the Prosecution Pre-Trial Brief filed on 18 May 2009 marked by Amor Mašović), p. 29. The order which established the Sušica camp forbade the arbitrary "liquidation" of detainees. P3240 (Order of Birač Brigade, 31 May 1992); D3886 (Witness statement of Svetozar Andrić dated 16 July 2013), para. 7; Svetozar Andrić, T. 41684–41685 (22 July 2013). *See also* D3093 (Witness statement of Mane Đurić dated 3 March 2013), para. 53. However, this order was not followed in practice. P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 68 (under seal); KDZ033, T. 18100 (31 August 2011) (closed session).

detainees and recorded as deceased with no report.[4139] The nine detainees who were killed were buried in the Vlasenica town cemetery.[4140]

1204. During one of the nights on or about of 21 June 1992, Dragan Nikolić and Goran Tešić entered the hangar and took out a pensioner named Durmo Handžić and another detainee named Asim Zildžić, and then screaming was heard.[4141] Handžić was questioned about the location of his son. The two detainees were then beaten with a spade and a pipe and kicked while they were lying on the ground.[4142] Detainees were ordered to pour water over Handžić and Zildžić for them to regain consciousness. They were then carried back to the hangar.[4143] Zildžić's face was severely beaten, his eye was coming out of the socket, and he was spitting blood.[4144] Other detainees helped to wipe blood from Handžić's body as he moaned and sobbed.[4145] Zildžić and Handžić died shortly after being brought back to the hangar and other detainees were ordered to bury their bodies in unmarked graves.[4146]

1205. On or about 25 June 1992, Dževad Šarić was taken out and killed with a sub-machine gun[4147] and detainees were ordered to take away his body and wash and cover the traces of

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4139 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 115 (under seal). *But see* D2967 (Witness statement of Momir Deurić dated 16 February 2013), paras. 19–20; Momir Deurić, T. 33926–33927, 33931–33932 (18 February 2013). *See* P6132 (Verdict of BiH Court against Predrag Bastah and Goran Višković, 4 February 2010). Deurić testified that he was not aware of any killings, but then admitted he would go home at night, and that even when he was there during the day he tried to avoid seeing the detainees. He then acknowledged that he heard stories about crimes against detainees in the camp but that some were convicted for those crimes. The Chamber does not find Deurić's evidence in this regard to be consistent or reliable

4140 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 114 (under seal); KDZ033, T. 18106 (31 August 2011) (closed session).

4141 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 126; KDZ044, P107 (Transcript from KDZ044's testimony), T. 469 (under seal); P111 (Witness statement of KDZ044 dated 28 September 1994), p. 3 (under seal).

4142 KDZ044, P107 (Transcript from KDZ044's testimony), T. 469–470 (under seal); P111 (Witness statement of KDZ044 dated 28 September 1994), p. 3 (under seal); P3227 (Witness statement of KDZ033 dated 7 April 2010) (under seal), paras. 108, 114.

4143 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 127; KDZ044, P107 (Transcript from KDZ044's testimony), T. 470–471 (under seal); KDZ044, P109 (Transcript from *Prosecutor v. Nikolić*), T. 270 (under seal).

4144 KDZ044, P107 (Transcript from KDZ044's testimony), T. 471 (under seal).

4145 KDZ044, P107 (Transcript from KDZ044's testimony), T. 471 (under seal); P111 (Witness statement of KDZ044 dated 28 September 1994), p. 3 (under seal).

4146 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 127; KDZ044, P107 (Transcript from KDZ044's testimony), T. 471–472, 474 (under seal); KDZ044, P109 (Transcript from *Prosecutor v. Nikolić*), T. 269–270 (under seal); P111 (Witness statement of KDZ044 dated 28 September 1994), pp. 3–4 (under seal). Both Zildžić and Handžić were exhumed from individual graves. P4853 (Updated Table 2 to the Report of Amor Mašović), pp. 94–95. Detainees were also ordered to tell Zildžić's wife that he had died of a heart attack. A false report was also drawn up to suggest that both Handžić and Zildžić had died of heart attacks. P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 128; P3222 (Report of Sušica Military Prison, 22 June 1992); [REDACTED]. The Accused cites to this evidence to suggest that [REDACTED] was concealing the truth about the deaths from his superiors. Defence Final Brief, confidential, para. 1437.

4147 P3227 (Witness statement of KDZ033 dated 7 April 2010), paras. 108, 114 (under seal); KDZ044, P107 (Transcript from KDZ044's testimony), T. 475 (under seal); P113 (Witness statement of KDZ044 dated 7

blood.[4148] Muharem Kolarević was also taken out of the hangar and badly beaten but was still alive when the detainees moved his body.[4149] Kolarević's body was later discovered entangled on a wire fence.[4150] Tešić then took a sub machine gun and shot him.[4151] On or about 26 June 1992, "Musa" Zekić, who was accused of killing a Bosnian Serb, was taken out of the hangar and interrogated in a chair before Goran Tešić shot him with a machine gun.[4152] Rašid Ferhatbegović who was about 60 years old was accused of attempting to escape; he was taken out of the hangar and shot.[4153] Detainees were ordered to bury the bodies of Šarić, Kolarević and Ferhatbegović in a forest.[4154]

1206. In June 1992, Ismet Dedić was repeatedly beaten over a number of days before he died and his body was taken by a car sent by the Vlasenica SJB and buried at the Muslim cemetery.[4155] In the first half of July 1992, Mevludin Hatunić was taken out of the hangar, beaten, and kicked by Dragan Nikolić and fell to the ground.[4156] Hatunić was carried back to the hangar as he could not walk on his own and later died. Nikolić then ordered that the body be removed from the hangar,

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October 1997), p. 2 (under seal); P3227 (Witness statement of KDZ033 dated 7 April 2010), paras. 108, 114 (under seal); P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 139; Ibro Osmanović, T. 17945 (25 August 2011).

4148 KDZ044, P107 (Transcript from KDZ044's testimony), T. 476 (under seal); P113 (Witness statement of KDZ044 dated 7 October 1997), p. 2 (under seal).

4149 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 139; Ibro Osmanović, T. 17945 (25 August 2011); KDZ044, P107 (Transcript from KDZ044's testimony), T. 475–476 (under seal); P111 (Witness statement of KDZ044 dated 28 September 1994), p. 4 (under seal); P113 (Witness statement of KDZ044 dated 7 October 1997), p. 2 (under seal).

4150 KDZ044, P107 (Transcript from KDZ044's testimony), T. 480–481 (under seal); P111 (Witness statement of KDZ044 dated 28 September 1994), p. 5 (under seal).

4151 KDZ044, P107 (Transcript from KDZ044's testimony), T. 481 (under seal); P111 (Witness statement of KDZ044 dated 28 September 1994), p. 5 (under seal); P3227 (Witness statement of KDZ033 dated 7 April 2010) (under seal), para. 108.

4152 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 139; Ibro Osmanović, T. 17998 (29 August 2011); P111 (Witness statement of KDZ044 dated 28 September 1994), p. 5 (under seal); KDZ044, P107 (Transcript from KDZ044's testimony), T. 476–477 (under seal); KDZ044, P109 (Transcript from *Prosecutor v. Nikolić*), T. 271 (under seal); P113 (Witness statement of KDZ044 dated 7 October 1997), p. 2 (under seal); P3227 (Witness statement of KDZ033 dated 7 April 2010) (under seal), para. 108.

4153 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 140; KDZ044, P107 (Transcript from KDZ044's testimony), T. 479–481 (under seal); P111 (Witness statement of KDZ044 dated 28 September 1994), p. 5 (under seal); P113 (Witness statement of KDZ044 dated 7 October 1997), p. 3 (under seal); P3227 (Witness statement of KDZ033 dated 7 April 2010), paras. 108, 114 (under seal). The three bodies were exhumed from individual graves. P4853 (Updated Table 2 to the Report of Amor Mašović), pp. 94–95; P4109 (John Clark's expert report entitled "Report of the Chief Pathologist, Vlasenica Grave-Site (2000)", 30 September 2002), pp. 1–5.

4154 KDZ044, P107 (Transcript from KDZ044's testimony), T. 482–483 (under seal); P111 (Witness statement of KDZ044 dated 28 September 1994), p. 5 (under seal); P113 (Witness statement of KDZ044 dated 7 October 1997), p. 3 (under seal).

4155 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 117 (under seal).

4156 P3227 (Witness statement of KDZ033 dated 7 April 2010), paras. 108, 118 (under seal).

the SJB was informed and the body was buried at the Muslim cemetery.[4157] Galib Musić was also beaten to death in the first half of July 1992.[4158]

1207. Based on the above, the Chamber therefore finds that nine men from Sušica camp were killed by Serb Forces in June and July 1992.

(f) Scheduled Incident B.18.2

1208. The Prosecution alleges that up to 140 detainees were killed in Sušica camp on or about 30 September 1992.

1209. By way of background to this incident, the Chamber notes that on 29 September 1992, the funeral for 29 Bosnian Serb soldiers killed by ABiH forces, was held at the Orthodox church in Vlasenica.[4159] Over 1,000 people attended the funeral, including the Bosnian Serb leadership from the municipality and from Pale, namely the Accused, Velibor Ostojić, Nikola Koljević and Svetozar Andrić, amongst others.[4160] Speeches were given at the funeral; the speakers and the crowd "were very agitated and embittered" by the death of the Bosnian Serb soldiers.[4161] The Accused in his speech said: "Nor must we forget their executioners and attackers. I do not know if I am allowed to say that we must not forgive either. Who knows how many times this century our brothers, who are no brothers at all, have been at our throats. They assault our good men. But the Lords sees that and has given us strength to resist [...]".[4162]

1210. The Accused gave an interview on the day of the funeral and said "We are concerned about Muslims, we want them to have their own territory. Since we wanted to separate from them, since we see that we can't live together any longer. But, if they do not proclaim a realistic objective concerning territories, they may lose everything."[4163]

4157 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 118 (under seal).

4158 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 108 (under seal).

4159 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 121 (under seal); D1662 (Article from SRNA entitled "Vlasenica: Serbs- victims of moslem terrorists vandal crime buried today", 29 September 1992); KDZ033, T. 18121 (29 August 2011) (closed session); P810 (Sky news report re Vlasenica, with transcript). *See* Adjudicated Fact 2718.

4160 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 121, 125–126 (under seal); P810 (Sky news report re Vlasenica, with transcript). *See also* D2967 (Witness statement of Momir Deurić dated 16 February 2013), paras. 24, 27.

4161 P3227 (Witness statement of KDZ033 dated 7 April 2010), paras. 122–124, 126 (under seal); KDZ033, T. 18124, 18134 (31 August 2011) (closed session).

4162 P3261 (Excerpt of video footage of Radovan Karadžić's speech, with transcript); P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 123 (under seal).

4163 P3230 (Video footage re excerpt of interview with Radovan Karadžić, with transcript); KDZ033, T. 18024 (29 August 2011) (closed session)

1211. After the funeral at around 9 or 10 p.m., Bosnian Serb police officers carrying automatic rifles arrived at the Sušica camp with a truck.[4164] At that time, approximately 140 to 150 non-Serb detainees remained at Sušica camp.[4165] The police officers said that they had been instructed by Mane Đurić to remove the detainees as soon as possible, that they should pack their belongings and that they would probably be transported to the frontline where they would be released.[4166] The police officers also presented a written order from the SJB Chief to the guards instructing them to hand over the detainees.[4167] The detainees were hurried to gather their belongings as quickly as possible and were loaded onto the truck in groups of 30 to 40 persons and taken towards Vlasenica town.[4168] The detainees who were taken in the first group were called out from a list of names.[4169] Approximately one and a half or two hours later the police officers returned with the empty truck and called out the names of the next group of detainees who were also loaded onto the truck.[4170] This process repeated itself with three or four groups of detainees taken away in the truck in this manner with the last group taken away in a small bus accompanied by a group of Bosnian Serbs wearing police and military uniforms.[4171]

1212. The Chamber took judicial notice that three MUP officers arrived at the Sušica camp, removed all 140 to 150 inmates in four loads, and killed them.[4172] This included 41 non-Serb detainees who were taken away and killed by the Bosnian Serb police at Debelo Brdo.[4173] This

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4164 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 129 (under seal); KDZ033, T. 18122 (29 August 2011) (closed session).

4165 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 120 (under seal).

4166 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 128 (under seal).

4167 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 128 (under seal). *But see* D2967 (Witness statement of Momir Deurić dated 16 February 2013), para. 25; Momir Deurić, T. 33933–33934 (18 February 2013) who denied knowledge of what happened to the detainees. *See also* D3886 (Witness statement of Svetozar Andrić dated 16 July 2013), para. 7, who also denied knowledge about the incident but then testified that the Brigade did not have the responsibility or strength to protect the detainees. The Chamber refers to its credibility assessment in fns. 3858 and 3894 as to why the evidence of the relevant witnesses is not reliable in this regard.

4168 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 129 (under seal).

4169 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 129 (under seal).

4170 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 130 (under seal).

4171 P3227 (Witness statement of KDZ033 dated 7 April 2010), paras. 130–132 (under seal).

4172 P3227 (Witness statement of KDZ033 dated 7 April 2010), paras. 135, 137 (under seal). *See* Adjudicated Fact 2719 (the Chamber notes that the Adjudicated Fact refers to the night of 30 September 1992 while the evidence received in this case indicates that they were taken away on the night of 29 September 1992). *But see* D3093 (Witness statement of Mane Đurić dated 3 March 2013), para. 73 (stating that to his knowledge no police officer was involved in the murder of detainees). The Chamber refers to its credibility assessment in fn. 3858 as to why Đurić's evidence in this regard is found to be unreliable. The Accused acknowledged that 140 to 150 people were taken from Sušica and killed but submitted that this was an impulsive act of revenge which was not the result of his visit or speech. Defence Final Brief, confidential, para. 1438.

4173 P3227 (Witness statement of KDZ033 dated 7 April 2010), paras. 97, 103–104, 106, 134, 137, 157 (under seal); P3260 (List of missing civilians in Vlasenica in 1992) (under seal). *See also* P3253 (Handwritten list of non-Serbs brought to Sušica camp, 18 July 1992) (under seal). The individuals identified by KDZ033 as having been removed by the police from the Sušica camp that night were Nedžmin Aganović, Amir Alihodžić, Jakub Alihodžić, Salko Arifhodžić, Naser Atalov, Šaban Durmanović, Osmo Efendić, Salko Efendić, Jasmin

incident was reported to members of the Vlasenica Crisis Staff, who took no action except to order the dismantling of the camp, the destruction of any documents, and the concealment of any traces of the existence of the camp.[4174]

1213. The Chamber therefore finds that approximately 140 detainees were taken from Sušica camp on or about 30 September 1992 and killed by Serb Forces.

(F) Movement of the population from Vlasenica and appropriation of property

1214. A large number of both Bosnian Muslims and Bosnian Serbs left Vlasenica in the lead-up to 21 April 1992.[4175] The departure of both Bosnian Serbs and Bosnian Muslims increased when conflict began in Bijeljina and Zvornik.[4176] The mass departure of the Bosnian Muslim population from Vlasenica started at the beginning of April 1992 with most people leaving for Kladanj, Tuzla, and Živinice.[4177] Bosnian Serb and Bosnian Muslim representatives went to Tuzla and appealed to the population to return, but when this failed the Bosnian Muslim leadership also left Vlasenica.[4178]

Ferhatbegović, Ragib Ferhatbegović, Jusuf Gruhonjić, Bernes Hadžić, Enes Hadžić, Namko Hadžić, Suljo Handžić, Armin Hasanbegović, Mensur Hasanbegović, Mevludin Hasanbegović, Šemsudin Hasanbegović, Mevludin Hodžić, Sead Mehanović, Seid Mehanović, Sejfo Mehanović, Mehmed Mlačo, Hasan Parić, Osman Saračević, Alija Smajlović, Hazim Smaljović, Mujo Smaljović, Edhem Šahbegović, Esad Šahinpašić, Mersudin Šahinpašić, Nedim Šahinpašić, Senahid Šahinpašić, Ahmet Taljić, Muhamed Telalović, Sejfo Telalović, Bego Topčić, Enver Topčić, Mensur Tutić, Ibrahim Zlatić, and Suljo Hajdarević (this name was added by the witness during direct examination). KDZ033, T. 18016 (29 August 2011) (closed session). Of these named individuals, 18 were identified as having been exhumed from a mass grave. P4853 (Updated Table 2 to the Report of Amor Mašović), pp. 52–55, 95. *See also* P4856 (Appendix B to the Prosecution Pre-Trial Brief filed on 18 May 2009 marked by Amor Mašović), p. 29.

4174 [REDACTED]. *See also* Adjudicated Fact 2720. *But see* D3093 (Witness statement of Mane Đurić dated 3 March 2013), para. 74 (stating that the municipal authorities were not involved in hiding this incident and that the Vlasenica Crisis Staff has already ceased to exist). The Chamber refers to its credibility assessment in fn. 3858 as to why Đurić's evidence in this regard is found to be unreliable.

4175 Ibro Osmanović, T. 17959 (29 August 2011); D2922 (Witness statement of Savo Čeliković dated 10 February 2013), paras. 4, 23; Savo Čeliković, T. 33550 (13 February 2013); D3093 (Witness statement of Mane Đurić dated 3 March 2013), paras. 19, 41; Mane Đurić, T. 35023–35024 (7 March 2013); D2982 (Witness statement of Milenko Stanić dated 16 February 2013), paras. 16–17; D3007 (Witness statement of Zoran Jovanović dated 18 February 2013), para. 27; D2932 (Witness statement of Tomislav Savkić dated 11 February 2013), paras. 26, 45.

4176 D2982 (Witness statement of Milenko Stanić dated 16 February 2013), para. 17; Izet Redžić, P3189 (Transcript from *Prosecutor v. Krajišnik*), T. 5111–5112; Izet Redžić, T. 17739–17740 (23 August 2011); KDZ033, T. 18031 (29 August 2011) (closed session); P3262 (Witness statement of KDZ603 dated 30 August 2011), para. 5 (under seal); KDZ603, T. 18142 (1 September 2011). *See also* P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 16; D2967 (Witness statement of Momir Deurić dated 16 February 2013), para. 12.

4177 Izet Redžić, P3189 (Transcript from *Prosecutor v. Krajišnik*), T. 5105. *See also* D2967 (Witness statement of Momir Deurić dated 16 February 2013), para. 14; D3093 (Witness statement of Mane Đurić dated 3 March 2013), para. 19; D2982 (Witness statement of Milenko Stanić dated 16 February 2013), para. 17. Defence witnesses testified that Bosnian Muslims took their families to areas where there was a Bosnian Muslim majority and then military aged men returned to the villages around Vlasenica. D2922 (Witness statement of Savo Čeliković dated 10 February 2013), para. 32. *See also* D3093 (Witness statement of Mane Đurić dated 3 March 2013), para. 19. The Chamber does not consider this to be inconsistent with the evidence regarding the movement of the population. Similarly the Chamber places no weight on the assessment that Bosnian Serb and Bosnian Muslim populations relocated of their own initiative to villages where they were a majority and that this

1215. Redžić had contact with Izetbegović about allowing Bosnian Muslims a chance to flee Vlasenica.[4179] After the Bosnian Serb TO entered Vlasenica on 21 April 1992, some of the Bosnian Muslim population left for Kladanj and Tuzla.[4180] The Bosnian Serb authorities were asked for help in providing transport for people who were requesting to leave the municipality. Many inhabitants were then transported in the direction of Kladanj while others left in their own vehicles or by bus.[4181]

1216. The day after the JNA left Vlasenica in May 1992, local Bosnian Serbs fired mortar shells at the Bosnian Muslim villages of Pijuci, Džamdžići and Bare.[4182] Following these attacks the Bosnian Muslims from these villages headed in the direction of Kladanj, Živinice and Cerska.[4183] Paramilitaries also used force which placed pressure on Bosnian Muslims to leave the municipality.[4184] Before being transferred from Vlasenica in May 1992, women from Zaklopača were made to sign statements that they would give their houses and property to the Bosnian Serbs.[4185]

1217. On 19 May 1992, the Vlasenica Crisis Staff instructed the Commander of the TO and the Chief of the SJB that those who wanted to leave Vlasenica and who are "of no interest" to the SJB could do so after obtaining a permit.[4186] In order to be issued a pass to leave an individual had to sign a statement saying that they were leaving of their own free will.[4187] In accordance with this instruction, Bosnian Muslims queued outside the municipality building and before being issued a pass to leave the municipality had to sign a statement saying they were leaving of their own free

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demonstrated that war in Vlasenica was defensive. D2922 (Witness statement of Savo Čeliković dated 10 February 2013), para. 29.

4178 D2922 (Witness statement of Savo Čeliković dated 10 February 2013), para. 33; D2982 (Witness statement of Milenko Stanić dated 16 February 2013), paras. 19, 21, 36. *See also* D2932 (Witness statement of Tomislav Savkić dated 11 February 2013), paras. 29, 39.

4179 Izet Redžić, P3189 (Transcript from *Prosecutor v. Krajišnik*), T. 5107–5111.

4180 D2932 (Witness statement of Tomislav Savkić dated 11 February 2013), para. 40 (testifying that by this date at least 50% of the Bosnian Muslim population had already left Vlasenica).

4181 Izet Redžić, P3189 (Transcript from *Prosecutor v. Krajišnik*), T. 5058, 5060, 5148; D2982 (Witness statement of Milenko Stanić dated 16 February 2013), paras. 23, 27; D2932 (Witness statement of Tomislav Savkić dated 11 February 2013), para. 40; P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 57 (stating that the Bosnian Muslim population left after they heard about the attack on the village of Zaklopača). For evidence on the attack on Zaklopača, *see* Scheduled Incident A.15.2.

4182 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), paras. 53, 56. The Chamber places no weight on Osmanović's speculation that the shells possibly contained "white phosphorous type compound".

4183 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 56.

4184 Izet Redžić, P3189 (Transcript from *Prosecutor v. Krajišnik*), T. 5043. Stanić testified that the Bosnian Muslim population left because of the tense situation and not because they were expelled. D2982 (Witness statement of Milenko Stanić dated 16 February 2013), para. 19. The Chamber refers to its credibility assessment in fn. 3791 above as to why it does not consider Stanić's evidence to be reliable in this regard.

4185 P418 (Witness statement of Mersudina Saim-Hodžić dated 24 May 2002), p. 6. For further evidence on events in Zaklopača, *see* Scheduled Incident A.15.2.

4186 P3218 (Letter from Vlasenica Crisis Staff to TO commander and SJB chief, 19 May 1992).

will and that they were voluntarily surrendering their rights to their property.[4188] Osmanović's mother, who refused to sign this document, was denied permission to leave the municipality, was forcibly moved out of her house, and taken to Sušica.[4189]

1218. From May to October 1992, non-Serbs moved from Vlasenica and this movement related mainly to the town of Vlasenica and the central and central-northern parts of the municipality which had a majority Bosnian Muslim population.[4190]

1219. Bosnian Muslims from villages that were taken over Serb Forces in May 1992 gathered at the Vlasenica bus station or football stadium with their belongings waiting for an opportunity to leave the municipality.[4191] While the Bosnian Serb authorities referred to this as "voluntary departure", these people were fleeing the municipality out of fear for their lives.[4192] At some point the Bosnian Serb authorities did allow some Bosnian Muslims to return to their villages, but their homes had already been burnt down and almost destroyed.[4193]

1220. In October 1992 there were very few non-Serbs,[4194] who had married Bosnian Serbs, who remained in Vlasenica town and by the end of 1992 there were approximately 150 Bosnian

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4187 P3218 (Letter from Vlasenica Crisis Staff to TO commander and SJB chief, 19 May 1992).

4188 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 23 (under seal); P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 58. Đurić acknowledged that Bosnian Muslims left fearing for their safety but they did so voluntarily and did not have any pressure put on them and that both Bosnian Serbs and Bosnian Muslims had to sign documents saying they were leaving voluntarily. D3093 (Witness statement of Mane Đurić dated 3 March 2013), paras. 40–41. The Chamber does not find Đurić's evidence in this regard to be reliable. In reaching that conclusion, the Chamber refers to its credibility assessment in fn. 3858. Defence witnesses testified that (i) a commission was formed which sealed and subsequently assigned abandoned Bosnian Muslim homes for the temporary accommodation of Serb refugees to prevent property from being stolen; (ii) citizens could request that their houses be exchanged and the municipal authorities would approve such exchanges after checking to see that such contracts were done properly and not under coercicion; and (iii) when the conditions were right, properties were returned to their original occupants. D2982 (Witness statement of Milenko Stanić dated 16 February 2013), paras. 23–25; Milenko Stanić, T. 33992–33993 (19 February 2013); D2985 (List of persons for the exchange of houses and apartments); D2922 (Witness statement of Savo Čeliković dated 10 February 2013), paras. 24–25; Savo Čeliković, T. 33563–33564. 33569–33570 (13 February 2013); D3007 (Witness statement of Zoran Jovanović dated 18 February 2013), para. 28. The Chamber refers to its credibility assessment in fn. 3791 and 3813 as to why it does not find the evidence of these witnesses to be reliable to the extent that this suggests that these measures were taken to prevent property from being stolen, to prevent coercion, and to facilitate the return of property.

4189 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 58. She only managed to leave for Tuzla in February 1993.

4190 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 52 (under seal). [REDACTED] testified about the involvement of Savo Bačić in "cleansing" operations against Bosnian Muslim villages. However, the Chamber finds that the evidence about his involvement is somewhat equivocal and does not consider this evidence to be of sufficient specificity to make findings in this regard. [REDACTED].

4191 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 54 (under seal); KDZ033, T. 18077, 18094–18095 (31 August 2011) (closed session).

4192 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 54 (under seal).

4193 P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 54 (under seal).

4194 For evidence on the mass departure of the Bosnian Muslim population, *see* para. 1214.

Muslims left in Vlasenica[4195] who had not been taken into detention.[4196] The Chamber has discussed above the detention of Bosnian Muslims in Vlasenica.[4197]

1221. As discussed in more detail in Section IV.C.1.a, while Serb Forces were successful in taking over and holding town centres in municipalities including Vlasenica, pockets in the surrounding countryside, which had a Bosnian Muslim majority population, remained under the control of Bosnian Muslim forces.[4198] Bosnian Muslim forces in the second half of 1992 and early 1993 launched an offensive in which they took control of territory in Vlasenica and tried to link with Bosnian Muslim forces in Cerska.[4199] The counter-offensive by the VRS in spring 1993, prompted the movement of the vast majority of the Bosnian Muslim civilians who remained in Cerska and thousands fled towards Srebrenica.[4200]

1222. The Chamber finds that Bosnian Muslims were forced to leave the municipality, albeit in some cases, they may have left out of fear following the arrival of Bosnian Serb refugees or even requested to leave the municipality.[4201] Even if the Bosnian Muslims requested to leave the municipality the Chamber finds that this was still involuntary considering the surrounding circumstances in which they left the municipality.

ix. Zvornik

(A) Charges

1223. Under Count 3, the Prosecution alleges that persecution, a crime against humanity, was committed in Zvornik as part of the objective to permanently remove Bosnian Muslims and/or Bosnian Croats from the Municipalities.[4202] Under Count 1, the Prosecution further alleges that in certain municipalities, including Zvornik, this persecutory campaign included or escalated to

4195 P3227 (Witness statement of KDZ033 dated 7 April 2010), paras. 56, 58 (under seal). *See also* P4994 (Addendum to Ewa Tabeau's expert report entitled "Ethnic Composition in Internally Displaced Persons and Refugees from 27 Municipalities of BiH 1991 to 1997", 3 February 2009), p. 31 (reporting that by 1997 the Bosnian Muslim population in Vlasenica had dropped to 0.2% of the total population); D4002 (Letter from BiH MUP to Vasvija Vidović, 4 July 1995), p. 34 (referring to the expulsion of 15,000 non-Serbs from Vlasenica and surrounding villages).

4196 P3212 (Witness statement of Ibro Osmanović dated 23 August 2011), para. 181. *See also* P3227 (Witness statement of KDZ033 dated 7 April 2010), para. 56 (under seal).

4197 *See* Section IV.A.1.a.viii.E: Detention facilities in Vlasenica.

4198 *See* para. 4946.

4199 *See* para. 4946.

4200 *See* paras. 4947–4949, 4954–4956, 4962.

4201 D3093 (Witness statement of Mane Đurić dated 3 March 2013), paras. 42–43; D2932 (Witness statement of Tomislav Savkić dated 11 February 2013), paras. 32–42, 45.

4202 Indictment, paras. 48–49.

include conduct that manifested an intent to destroy in part the national, ethnical and/or religious groups of Bosnian Muslims and/or Bosnian Croats as such.[4203]

1224. Acts alleged to have been committed in Zvornik by Serb Forces and Bosnian Serb Political and Governmental Organs include killings during and after the take-over;[4204] killings related to detention facilities; and killings committed during, and deaths resulting from, cruel and inhumane treatment at scheduled detention facilities.[4205] The Prosecution characterises these acts as killing, an underlying act of genocide, under Count 1; persecution, a crime against humanity, under Count 3; extermination, a crime against humanity, under Count 4, murder, a crime against humanity, under Count 5; and murder, a violation of the laws or customs of war, under Count 6.[4206]

1225. Other acts alleged to have been committed in Zvornik by Serb Forces and Bosnian Serb Political and Governmental Organs include torture, beatings, and physical and psychological abuse, rape and other acts of sexual violence, during and after the take-over and in scheduled detention facilities, as well as the establishment and perpetuation of inhumane living conditions in detention facilities, as cruel or inhumane treatment, an act of persecution under Count 3.[4207]. In relation to Count 1, the Prosecution alleges that in scheduled detention facilities in Zvornik thousands of Bosnian Muslims and Bosnian Croats were subjected to cruel or inhumane treatment, including torture, physical and psychological abuse, rape, other acts of sexual violence, and beatings by Serb Forces and Bosnian Serb Political and Governmental Organs; the Prosecution characterises this inhumane treatment as causing serious bodily or mental harm to members of the Bosnian Muslim and Bosnian Croat groups, an underlying act of genocide.[4208] In addition, under Count 1, the Prosecution alleges that members of the Bosnian Muslim and Bosnian Croat groups were detained under conditions of life calculated to bring about physical destruction, namely through cruel and inhumane treatment, including torture, physical and psychological abuse, rape, other acts of sexual violence, inhumane living conditions, forced labour and the failure to provide adequate accommodation, shelter, food, water, medical care or hygienic sanitation facilities.[4209]

4203 Indictment, paras. 37–38.

4204 Indictment, para. 60(a)(i). *See* Scheduled Incidents A.16.1, A.16.3.

4205 Indictment, para. 60(b). *See* Scheduled Detention Facilities C.27.1, C.27.2, C.27.3, C.27.4, C.27.5, C.27.6, C.27.7.

4206 Indictment, paras. 40(a)(i), 40(a)(ii), 63(a), 63(b).

4207 Indictment, para. 60(b), 60(c). *See* Scheduled Detention Facilities C.27.1, C.27.2, C.27.3, C.27.4, C.27.5, C.27.6, C.27.7.

4208 Indictment, para. 40(b).

4209 Indictment, paras. 40(c), 60(d), 60(h). *See* Scheduled Detention Facilities C.27.1, C.27.2, C.27.3, C.27.4, C.27.5, C.27.6, C.27.7.

1226. Under Count 3, other acts of persecution alleged to have been committed in Zvornik by Serb Forces and Bosnian Serb Political and Governmental Organs, include (i) forcible transfer or deportation of Bosnian Muslims and Bosnian Croats from their homes;[4210] (ii) unlawful detention in scheduled detention facilities;[4211] (iii) appropriation or plunder of property, during and after the take-over, during arrests and detention and in the course of or following acts of deportation or forcible transfer;[4212] (iv) the wanton destruction of private property including homes and business premises and public property including cultural monuments and sacred sites;[4213] and (v) the imposition and maintenance of restrictive and discriminatory measures.[4214]

1227. Under Counts 7 and 8, the Prosecution alleges deportation and inhumane acts (forcible transfer), respectively, as crimes against humanity.[4215] The Prosecution alleges that, by the end of 1992, Serb Forces as well as Bosnian Serb Political and Governmental Organs forcibly displaced Bosnian Muslims and Bosnian Croats from areas in Zvornik in which they were lawfully present.[4216] It is alleged that from March 1992, restrictive and discriminatory measures, arbitrary arrest and detention, harassment, torture, rape and other acts of sexual violence, killing, destruction of houses, cultural monuments and sacred sites, as well as the threat of further such acts caused Bosnian Muslims and Bosnian Croats to flee in fear while others were physically driven out.[4217]

(B) Lead-up

1228. Zvornik is a municipality in eastern BiH.[4218] It is located on the Drina river, which marks the boundary between BiH and Serbia.[4219] Prior to the war approximately 60% of the population in the municipality were Bosnian Muslims and approximately 38% were Bosnian Serbs.[4220]

4210 Indictment, para. 60(f).

4211 Indictment, para. 60(g). *See* Scheduled Detention Facilities C27.1, C.27.2, C.27.3, C.27.4, C.27.5, C.27.6, C.27.7.

4212 Indictment, para. 60(i).

4213 Indictment, para. 60(j). *See* Scheduled Incident D.22.

4214 Indictment, para. 60(k). The restrictive and discriminatory measures alleged include the denial of freedom of movement; the removal from positions of authority; the invasion of privacy through arbitrary searches of homes; unlawful arrest and/or the denial of the right to judicial process; and/or the denial of equal access to public services.

4215 Indictment, paras. 68–75.

4216 Indictment, paras. 69, 72.

4217 Indictment, para. 71.

4218 D484 (Map of BiH); P3175 (Map of Zvornik).

4219 P2919 (Witness statement of KDZ023 dated 29 September 1996), p. 2; P96 (Witness statement of KDZ059 dated 5 December 1998), p. 2. (under seal); D1627 (Video footage re view of Zvornik from Kula); P3165 (Witness statement of KDZ340 undated), p. 51 (under seal); P3175 (Map of Zvornik).

4220 P6199 (Excerpt from censuses records of 1971, 1981 and 1991), p. 2; P62 (Witness statement of Nedžad Hadžiefendić dated 3 October 1997), p. 2; Momčilo Mandić, T. 5299 (16 July 2010); KDZ555, T. 17221 (16 August 2011); D3693 (Witness statement of Marinko Vasilić dated 9 June 2013), para. 5; Marinko Vasilić, T. 39923 (13 June 2013); D3723 (Witness statement of Čedomir Zelenović dated 22 June 2013), para. 3; D3724

1229. Prior to the formation of national parties in mid-1990 inter-ethnic relations in Zvornik were good.[4221] The SDS in Zvornik was formed in September 1990 and Branko Grujić was elected president.[4222] Following the multi-party elections, in November 1990, the SDA won an absolute majority of the votes in Zvornik but a coalition government was formed between the SDA and the SDS.[4223] Official positions were divided between Bosnian Muslims and Bosnian Serbs in accordance with the election results. For example, Abdulah Pašić was appointed president of the municipality, Jovan Ivanović was appointed chairman of the Executive Board of the Municipal Assembly, Osman Mustafić was appointed chief of the SJB while Dragan Spasojević was appointed commander of the SJB.[4224]

1230. In the summer of 1991, the Accused attended an SDS rally in Zvornik,[4225] after which the SDS and SDA issued a joint declaration which expressed the need to maintain peace in the municipality and called for greater tolerance between ethnic groups there.[4226] However, tensions in Zvornik increased from then on, caused by a number of factors including (i) SDA political rallies calling for the secession of BiH;[4227] (ii) disputes about the SDA outvoting the SDS and personnel

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(Witness statement of Branko Grujić dated 22 June 2013), para. 5; D3692 (Witness statement of Jovan Ivanović dated 9 June 2013), para. 8; P6370 (Excerpt from 1991 census re Zvornik). *See also* P4994 (Addendum to Ewa Tabeau's expert report entitled "Ethnic Composition, Internally Displaced Persons and Refugees from 27 Municipalities of BiH 1991 to 1997", 3 February 2009), pp. 32. Similarly, approximately 64% of the population in the town of Zvornik were Bosnian Muslims with the remainder Bosnian Serbs. Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2869.

4221 P62 (Witness statement of Nedžad Hadžiefendić dated 3 October 1997), p. 2; KDZ555, T. 17222 (16 August 2011); D3693 (Witness statement of Marinko Vasilić dated 9 June 2013), para. 6; D3723 (Witness statement of Čedomir Zelenović dated 22 June 2013), para. 5; D3724 (Witness statement of Branko Grujić dated 22 June 2013), para. 4; D3692 (Witness statement of Jovan Ivanović dated 9 June 2013), para. 7; KDZ072, P425 (Transcript from *Prosecutor v. Šešelj*), T. 8691–8692.

4222 D3724 (Witness statement of Branko Grujić dated 22 June 2013), paras. 3, 6; D3692 (Witness statement of Jovan Ivanović dated 9 June 2013), para. 4; P96 (Witness statement of KDZ059 dated 5 December 1998), p. 3 (under seal); KDZ228, P324 (Transcript from *Prosecutor v. Popović et al.*), T. 14935; D3654 (Witness statement of KW317 dated 26 September 2012), paras. 5–8 (under seal). The Chamber notes that Branko Grujić is also referred to as Brano Grujić.

4223 D3693 (Witness statement of Marinko Vasilić dated 9 June 2013), para. 5; D3724 (Witness statement of Branko Grujić dated 22 June 2013), paras. 5, 7; D3692 (Witness statement of Jovan Ivanović dated 9 June 2013), paras. 3, 9; D3654 (Witness statement of KW317 dated 26 September 2012), para. 12 (under seal); D3723 (Witness statement of Čedomir Zelenović dated 22 June 2013), para. 4.

4224 D3692 (Witness statement of Jovan Ivanović dated 9 June 2013), para. 9; D3724 (Witness statement of Branko Grujić dated 22 June 2013), paras. 7–8; KDZ059, P67 (Transcript from *Prosecutor v. S. Milošević*), T. 29094; D3723 (Witness statement of Čedomir Zelenović dated 22 June 2013), para. 6; D3654 (Witness statement of KW317 dated 26 September 2012), para. 20 (under seal); D3693 (Witness statement of Marinko Vasilić dated 9 June 2013), para. 7; P34 (Structure of Serbian SDB and Zvornik/Bijeljina MUP) (under seal).

4225 D3693 (Witness statement of Marinko Vasilić dated 9 June 2013), paras. 17–18; D3723 (Witness statement of Čedomir Zelenović dated 22 June 2013), para. 18; KDZ320, T. 28092 (25 April 2012).

4226 D3724 (Witness statement of Branko Grujić dated 22 June 2013), para. 15; D3725 (Joint declaration of Zvornik SDS and SDA, undated).

4227 D3693 (Witness statement of Marinko Vasilić dated 9 June 2013), para. 7; D3724 (Witness statement of Branko Grujić dated 22 June 2013), paras. 6, 22; D3692 (Witness statement of Jovan Ivanović dated 9 June 2013), paras. 4–6, 11. *See also* D3723 (Witness statement of Čedomir Zelenović dated 22 June 2013), paras. 6, 8–9, 16–17; D3654 (Witness statement of KW317 dated 26 September 2012), para. 6 (under seal); D3693 (Witness statement of Marinko Vasilić dated 9 June 2013), paras. 8–10.

changes in enterprises and organisations;[4228] (iii) the outbreak of war in Slovenia and Croatia and the Bosnian Muslim boycott of JNA mobilisation;[4229] (iv) acts of violence against Bosnian Serbs and Bosnian Serb villages;[4230] and (v) sporadic shooting in the centre of town and around Zvornik.[4231] This led to violent incidents and greater divisions and ill-feeling between Bosnian Muslims and Bosnian Serbs.[4232] Some Bosnian Serb women and children chose to cross-over the Drina to Serbia to sleep at night.[4233]

(1) Division of municipal structures

1231. In December 1991 at an SDS meeting in Sarajevo attended by SDS officials including the Accused, representatives of municipal authorities, including Zvornik, received the Variant A/B Instructions.[4234] These instructions were also discussed by the Accused at a meeting of the SDS Deputies Club, which was also attended by representatives from Zvornik.[4235] Given that Zvornik had a majority Muslim population, the Variant B instructions were to be implemented.[4236]

4228 D3693 (Witness statement of Marinko Vasilić dated 9 June 2013), para. 11. *See also* D3723 (Witness statement of Čedomir Zelenović dated 22 June 2013), paras. 6, 8–9; D3724 (Witness statement of Branko Grujić dated 22 June 2013), paras. 8–9; D3692 (Witness statement of Jovan Ivanović dated 9 June 2013), paras. 10–11; D3654 (Witness statement of KW317 dated 26 September 2012), paras. 21–22 (under seal).

4229 D3723 (Witness statement of Čedomir Zelenović dated 22 June 2013), para. 10; D3724 (Witness statement of Branko Grujić dated 22 June 2013), paras. 10, 13; D3654 (Witness statement of KW317 dated 26 September 2012), para. 13 (under seal); KDZ072, P425 (Transcript from *Prosecutor v. Šešelj*), T. 8692. *See also* D3693 (Witness statement of Marinko Vasilić dated 9 June 2013), para. 20; D3723 (Witness statement of Čedomir Zelenović dated 22 June 2013), paras. 11–12; P925 (JNA 2nd Military District combat report, 10 April 1992), p. 2.

4230 D3654 (Witness statement of KW317 dated 26 September 2012), para. 27 (under seal); D3693 (Witness statement of Marinko Vasilić dated 9 June 2013), paras. 12, 19. *See also* D3723 (Witness statement of Čedomir Zelenović dated 22 June 2013), para. 15; D3724 (Witness statement of Branko Grujić dated 22 June 2013), paras. 13–14, 45 referring for example to D48 (Zvornik Lower Court's on-site investigation report); Branko Grujić, T. 40378 (25 June 2013); D3692 (Witness statement of Jovan Ivanović dated 9 June 2013), para. 15; D2944 (Witness statement of Zoran Durmić dated 12 February 2013), paras. 7–9, 12-17, 25–26.

4231 KDZ059, P67 (Transcript from *Prosecutor v. S. Milošević*), T. 29085–29087.

4232 P133 (Witness statement of Matija Bošković dated 20 November 2003), para. 10; P96 (Witness statement of KDZ059 dated 5 December 1998), p. 3 (under seal); KDZ059, P67 (Transcript from *Prosecutor v. S. Milošević*), T. 29085–29086. *See also* Petko Panić, T. 19160 (20 September 2011).

4233 P4837 (Witness statement of KDZ610 dated 27 March 2012), para. 4 (under seal); P4838 (Map of ethnic composition of Zvornik); KDZ610, T. 27180, 27184 (29 March 2012); D3723 (Witness statement of Čedomir Zelenović dated 22 June 2013), para. 17; KDZ240, P2935 (Transcript from *Prosecutor v. Krajišnik*), T. 6755–6756, 6913 (under seal); KDZ240, T. 16083–16084 (5 July 2011) (closed session).

4234 KDZ555, T. 17223, 17227 (16 August 2011); P5 (SDS Instructions for Organisation of Organs of the Serbian People in BiH, 19 December 1991); Branko Grujić, T. 40448–40449 (26 June 2013); Jovan Ivanović, T. 39844–39845 (12 June 2013); P6402 (Excerpt from Jovan Ivanović's statement to OTP, 27 March 2002), p. 2; P6403 (Excerpt from Jovan Ivanović's testimony before Belgrade District Court, 29 September 2006), p. 3. *See also* KW317, T. 39329 (5 June 2013); P6369 (Excerpts from KW317's statement to OTP, 14 June 2002), e–court p. 2 (under seal).

4235 P6369 (Excerpts from KW317's statement to OTP, 14 June 2002), p. 2 (under seal); KW317, T. 39337 (5 June 2013).

4236 P104 (Witness statement of Fadil Banjanović dated 30 March 2002), paras. 10–11.

1232. On 22 December 1991, a crisis staff was formed in Zvornik and Branko Grujić was appointed as its President.[4237] The Zvornik Crisis Staff consisted of leading SDS officials from the municipality and the municipal command staff of the JNA.[4238]

1233. The Variant A/B Instructions were implemented by the Zvornik Crisis Staff.[4239] On 26 December 1991, the Zvornik SDS issued a statement that a decision would be adopted the following day to form the Serb Municipality of Zvornik and that a team of negotiators should be formed to decide on partitions.[4240] The decision to form the Serb Municipality of Zvornik directly cited to the Variant A/B Instructions and included the separation of certain parts of the municipality.[4241] On 27 December 1991, the Serb Assembly of Zvornik was formed along with all

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4237 D3654 (Witness statement of KW317 dated 26 September 2012), para. 25 (under seal); P2590 (Conclusions of Zvornik's SDS Municipal Board, 22 December 1991); P3165 (Witness statement of KDZ340 undated) (under seal), p. 35. Bosnian Muslims also created a crisis staff in Zvornik. D3724 (Witness statement of Branko Grujić dated 22 June 2013), para. 20; KW317, T. 39411 (6 June 2013). Defence witnesses disputed the date when the Zvornik Crisis Staff was created and testified that the purpose of its creation was to find a peaceful solution and to normalise relations through political discussions and to prepare for the danger that elected bodies could be blocked from discharging their functions. D3724 (Witness statement of Branko Grujić dated 22 June 2013), paras. 18, 20, 28; D3692 (Witness statement of Jovan Ivanović dated 9 June 2013), para. 15; D3654 (Witness statement of KW317 dated 26 September 2012), paras. 26, 33 (under seal); D3723 (Witness statement of Čedomir Zelenović dated 22 June 2013), para. 13; Čedomir Zelenović, T. 40317–40321 (24 June 2013). Having analysed this evidence, the Chamber does not find it to be reliable in this regard. In reaching that conclusion, the Chamber noted that the evidence of Grujić, Ivanović and Zelenović was marked by indicators of bias, evasiveness, insincerity and extensive contradictions.

4238 *See* Adjudicated Fact 2210; D3654 (Witness statement of KW317 dated 26 September 2012) (under seal), para. 25; P2590 (Conclusions of Zvornik's SDS Municipal Board, 22 December 1991).

4239 KDZ555, T. 17227 (16 August 2011); KW317, T. 39333–39334 (5 June 2013). However, witnesses also testified that there was no monitoring of the implementation of these instructions from a higher level, and that it was only selectively implemented in Zvornik after identifying elements which suited the municipality and excluding those aspects which could not be implemented in the municipality. KDZ555, T. 17234–17235 (16 August 2011) (private session), T. 17280 (16 August 2011), T. 17339 (17 August 2011); D3724 (Witness statement of Branko Grujić dated 22 June 2013), para. 18; Branko Grujić, T. 40367 (25 June 2013); KW317, T. 39333–39334 (5 June 2013). The Chamber does not find the evidence of these witnesses to be reliable with respect to the manner in which the Variant A/B Instructions were implemented in Zvornik. In reaching that conclusion the Chamber noted that the testimony of the relevant witnesses was marked by extreme evasiveness, attempts to distance themselves from prior statements, and indicators of bias. For example Grujić was contradicted on cross-examination by reference to his prior testimony and interview where he suggested that the Variant A/B Instructions were mandatory and that the Zvornik Crisis Staff reported back, received, and implemented additional instructions from the republic level. Grujić ultimately acknowledged that Jovo Mijatović was tasked with conveying all conclusions and decisions of the Zvornik Crisis Staff to the appropriate levels and would convey all instructions from the republic level. Branko Grujić, T. 40371–40373 (25 June 2013); P6415 (Excerpt from Branko Grujić's testimony before Belgrade District Court, 30 November 2005), pp. 2–3.

4240 D3726 (Letter from Zvornik SDS, 26 December 1991); D3724 (Witness statement of Branko Grujić dated 22 June 2013), para. 19. *See also* P104 (Witness statement of Fadil Banjanović dated 30 March 2002), paras. 10–11.

4241 P2591 (Decision regarding the formation of the Serbian Municipality of Zvornik, 27 December 1991), pp. 1–2. Witnesses testified the establishment of the Serbian Municipality of Zvornik and its Assembly was not for the purpose of creating a Serbian state or to take-over Bosnian Muslim territory, but to assist with negotiations, to allow the municipality to function in a crisis situation, and to ensure the protection of Bosnian Serbs. They also testified that while preparations were made, individuals were appointed to their positions and Serb institutions were created, they were not activated until 1992 when the conflict broke out. D3724 (Witness statement of Branko Grujić dated 22 June 2013), paras. 19, 21; KDZ555, T. 17344 (17 August 2011); D3654 (Witness statement of KW317 dated 26 September 2012), paras. 23–24, 26 (under seal); KW317, T. 39409–39410 (6 June 2013); Jovan Ivanović, T. 39844–39845 (12 June 2013); D3692 (Witness statement of Jovan Ivanović dated 9

organs and it identified the territory that would belong to the Serb Municipality of Zvornik.[4242] Jovo Mijatović was elected President of the Serb Municipality of Zvornik[4243] and appointed co-ordinator for discussions with the SDA.[4244]

1234. From early January 1992, employees of the SJB were in regular contact with the Steering Committee of the SDS and were instructed to gather support and prepare for the formation of a Serb SJB.[4245]

1235. The SDS took the position that the municipality and town should be divided geographically between Bosnian Serbs and Bosnian Muslims but could not reach an agreement with the SDA.[4246] On 15 March 1992, the Assembly of the Serb Municipality of Zvornik proclaimed the Serb Municipality of Zvornik, consisting of parts of the town, villages and communes where Bosnian Serbs were in the majority.[4247] On the same date the Serb Assembly of Zvornik decided to join the SAO Majevica-Semberija.[4248] These decisions were made in accordance with the second level of the Variant A/B Instructions, which had been activated by the Accused at a meeting attended by a representative from Zvornik.[4249]

1236. Also on 15 March 1992, the Assembly of the Serb Municipality of Zvornik passed a decision banning the sale or trade of real estate within the municipality unless it was between

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June 2013), para. 15; P6402 (Excerpt from Jovan Ivanović's statement to OTP, 27 March 2002), p. 2; P6403 (Excerpt from Jovan Ivanović's testimony before Belgrade District Court, 29 September 2006), p. 3. The Chamber refers to its assessment in fns. 4237 and 4239 as to why it cannot rely on the evidence of these witnesses with respect to the purpose of creating the Serb Municipality of Zvornik and when the Serb institutions were activated. Similarly the evidence of KW317 in this respect was also marked by attempts to distance himself from prior statements and contradictions which undermined his evidence in this regard.

4242 D3724 (Witness statement of Branko Grujić dated 22 June 2013), para. 19.

4243 Branko Grujić, T. 40367, 40370, 40372 (25 June 2013); P2590 (Conclusions of Zvornik's SDS Municipal Board, 22 December 1991), p. 1–2; KDZ555, T. 17228–17230 (16 August 2011) (private session).

4244 D3655 (Decision of Zvornik Municipal Assembly, 27 December 1991); D3654 (Witness statement of KW317 dated 26 September 2012), para. 24 (under seal).

4245 P3390 (Report on activities of Zvornik SJB for 1993), p. 20; P3183 (Excerpt from Report on the work of the Zvornik SJB for the year 1992), p. 2; P2761 (RS MUP report on work for period April to December 1992), p. 5. *See also* P104 (Witness statement of Fadil Banjanović dated 30 March 2002), paras. 10–11.

4246 KDZ320, T. 28093 (25 April 2012). *See also* D3723 (Witness statement of Čedomir Zelenović dated 22 June 2013), para. 19. The Chamber notes that when Vasilić was cross-examined about the percentage of the territory of Zvornik which was identified as being Serb he distanced himself from his prior interview where he estimated that it was 80%. Marinko Vasilić, T. 39920–39924 (13 June 2013); P6405 (Excerpt from Marinko Vasilić's interview with OTP, 21 October 2002), p. 2. The Chamber notes that Vasilić was extremely evasive when questioned and claimed he was not aware of the decision to form the Serb Municipality of Zvornik which listed the territories which it would comprise even though he had previously stated that he heard about the decision. In light of these contradicitons and evasiveness the Chamber does not find Vasilić's evidence to be reliable in this regard.

4247 D1693 (Decision of Zvornik Assembly, 15 March 1992), p. 1. *See also* Marinko Vasilić, T. 39920–39922 (13 June 2013); D3654 (Witness statement of KW317 dated 26 September 2012), para. 28 (under seal).

4248 D3654 (Witness statement of KW317 dated 26 September 2012), para. 29 (under seal); D3656 (Decision of Zvornik Municipal Assembly, 15 March 1992).

4249 KW317, T. 39334–39337 (5 June 2013).

"ethnic Serbs".[4250] In late March 1992, local youth were given assignments by Bosnian Serb police to erect barricades at specific locations, secure important facilities in Karakaj, and seize bridges.[4251]

1237. At the end of March 1992, a decision was adopted by the Bosnian Serb Assembly, calling on the Bosnian Serb police to separate by 1 April 1992.[4252] On 4 April 1992, Bosnian Muslim forces attacked a column of JNA soldiers in Sapna, Zvornik municipality.[4253] Following this incident, the Bosnian Serb authorities decided barricades would be erected in Karakaj and active and reserve SJB personnel who were Bosnian Serbs would be called up.[4254] On 5 April 1992, Mandić sent a dispatch to Zvornik, noting that the MUP was being divided into Serb and Muslim components and ordered the movement of the Bosnian Serb institutions to Karakaj.[4255] Karakaj was an industrial settlement located to the northeast of Zvornik.[4256] Following this instruction, the police stations in the municipality, were divided into Serb and Muslim parts.[4257]

4250 P3151 (Decision of Zvornik's Assembly, 15 March 1992), pp. 1–2. KDZ555 testified that this was a local measure that was not connected with the Variant B instructions. KDZ555, T. 17237–17239 (16 August 2011); KDZ555, T. 17344 (17 August 2011). However, the Chamber does not find KDZ555's evidence to be reliable with respect to this issue. In reaching that conclusion the Chamber noted that the evidence of KDZ555 was marked by indicators of extreme evasiveness, bias and contradictions.

4251 P3390 (Report on activities of Zvornik SJB for 1993), p. 21.

4252 Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2869–2870; P1116 (Letter from Momčilo Mandić to SRBiH MUP re division of MUP, 31 March 1992); *see* Adjudicated Fact 2729. *See also* KDZ555, T. 17263–17264 (16 August 2011) (private session); KDZ555, T. 17346–17347 (17 August 2011).

4253 P3390 (Report on activities of Zvornik SJB for 1993), pp. 21–22; KDZ555, T. 17266 (16 August 2011) (private session); D3723 (Witness statement of Čedomir Zelenović dated 22 June 2013), paras. 19–20; D3654 (Witness statement of KW317 dated 26 September 2012), para. 35 (under seal); D3693 (Witness statement of Marinko Vasilić dated 9 June 2013), para. 21; D3724 (Witness statement of Branko Grujić dated 22 June 2013), para. 24; D3692 (Witness statement of Jovan Ivanović dated 9 June 2013), para. 15.

4254 P3390 (Report on activities of Zvornik SJB for 1993), p. 22.

4255 P104 (Witness statement of Fadil Banjanović dated 30 March 2002), para. 11. Grujić testified that he did not know about the dispatch from Mandić about the division of the police but was presented with his prior testimony where he said that the dispatch is what caused the police to separate and move. Branko Grujić, T. 40381–40383 (25 June 2013); P6415 (Excerpt from Branko Grujić's testimony before Belgrade District Court, 30 November 2005), p. 6. The Chamber finds that Grujić was contradicted with respect to his evidence pertaining to this dispatch and does not find his evidence with respect to this issue to be credible. The Chamber finds however, that in the lead-up to the split of the police force, there had been increasing divisions and disputes between Bosnian Serb and Bosnian Muslim police including on issues relating to training in Croatia and moblisation of reserve police stations. Petko Panić, T. 19151–19155 (20 September 2011); Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2971–2974; P3390 (Report on activities of Zvornik SJB for 1993), pp. 20–21; P2761 (RS MUP report on work for period April to December 1992), p. 5. *See also* D3724 (Witness statement of Branko Grujić dated 22 June 2013), para. 12; D3692 (Witness statement of Jovan Ivanović dated 9 June 2013), para. 12; D3693 (Witness statement of Marinko Vasilić dated 9 June 2013), paras. 13, 18; D3723 (Witness statement of Čedomir Zelenović dated 22 June 2013), para. 19; P1154 (Witness statement of KDZ088 dated 27–29 April 2010), pp. 152–153 (under seal); P4848 (Map of Zvornik marked by KDZ610); P4837 (Witness statement of KDZ610 dated 27 March 2012), para. 81 (under seal).

4256 Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2871; D1613 (Map of Zvornik marked by KDZ555); KDZ555, T. 17418 (18 August 2011).

4257 P104 (Witness statement of Fadil Banjanović dated 9 February 1998), paras. 2–13, 2–14; Fadil Banjanović, P57 (Transcript from *Prosecutor v S. Milošević*), T. 20675; *see* Adjudicated Facts 2729, 2738. KDZ555 testified that before the conflict there was agreement within the MUP on the division of assets and premises to transform the MUP. KDZ555, T. 17347 (17 August 2011). However, in light of its credibility assessment in fn. 4239, the Chamber does not consider that it can rely on KDZ555's evidence in this regard.

1238. At a meeting of the SDS on 5 April 1992, Mile Mijić was appointed as chief of the SJB and Spasojević as its commander.[4258] By 6 April 1992, following the orders of Spasojević who ordered the withdrawal of all Bosnian Serb police with their vehicles and equipment,[4259] the Bosnian Serb MUP, the TO and the Zvornik Crisis Staff relocated to the Alhos building in Karakaj.[4260] The Zvornik Crisis Staff met every day starting from 4 or 5 April 1992 and discussed how to take control of Zvornik, how to restore organs and authorities and how to organise armed formations.[4261]

1239. On 10 April 1992, following the suggestion of Marko Pavlović,[4262] the Zvornik Crisis Staff formed the Interim Government of the Serb Municipality of Zvornik, after which the Zvornik Crisis Staff ceased operating and the other bodies of government were disbanded.[4263] Grujić was chosen as acting chairman of the Interim Government which consisted of members of the SDS.[4264]

4258 Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2872–2875, 2930, 2978, 2998–2999. Mijić was replaced by Miloš Pantelić and Spasojević was replaced by Marinko Vasilić. In mid-June 1992, Pantelić was replaced by Vasilić and Momčilo Marić became the new commander. In turn, Vasilić was replaced by Milorad Lokanjcević at the end of July 1992.

4259 Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2870, 2977; P2764 (Bijeljina CSB report), p. 2; P104 (Witness statement of Fadil Banjanović dated 9 February 1998), para. 2–14; Fadil Banjanović, P57 (Transcript from *Prosecutor v S. Milošević*), T. 20675; P3390 (Report on activities of Zvornik SJB for 1993), p. 22. Defence witnesses testified, *inter alia*, that the Bosnian Serb police only moved to Alhos after they had been disarmed by the Bosnian Muslim police and the Bosnian Serb police only withdrew their personal weapons, communications equipment and two or three cars while the Bosnian Muslims retained the arms depot. D3654 (Witness statement of KW317 dated 26 September 2012) (under seal), para. 40; D3693 (Witness statement of Marinko Vasilić dated 9 June 2013), para. 22; KDZ555, T. 17349–17350 (17 August 2011). The Chamber refers to its assessment in fns. 4237 and 4239 as to why it cannot rely on the evidence of these witnesses in this regard. Vasilić's evidence was also marked by contradictions and inconsistencies which undermined the reliability of his evidence in this regard.

4260 P3165 (Witness statement of KDZ340 undated), p. 3 (under seal); *see* Adjudicated Fact 2729; P2761 (RS MUP report on work for period April to December 1992), p. 5. *See also* KDZ555, T. 17235, 17264 (16 August 2011) (private session); D3692 (Witness statement of Jovan Ivanović dated 9 June 2013), para. 16; KDZ446, P28 (Transcript from *Prosecutor v. S. Milošević*), T. 21020–21021 (under seal).

4261 KDZ555, T. 17234 (16 August 2011) (private session).

4262 KW317, T. 39343–39344 (5 June 2013). Marko Pavlović's real name was Branko Popović; he was a security official of the federal organs of the SFRY and came to Zvornik from Serbia. Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2887–2888; KW317, T. 39342 (5 June 2013); P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 128. *See also* KDZ446, P28 (Transcript from *Prosecutor v. S. Milošević*), T. 23620, 23626, 23634 (under seal); D3724 (Witness statement of Branko Grujić dated 22 June 2013), paras. 48, 51; Branko Grujić, T. 40361 (25 June 2013).

4263 P3381 (Decision of the Zvornik Crisis Staff, 10 April 1992), pp. 2–3; D3723 (Witness statement of Čedomir Zelenović dated 22 June 2013), paras. 13–14; D3692 (Witness statement of Jovan Ivanović dated 9 June 2013), para. 24; D3654 (Witness statement of KW317 dated 26 September 2012) (under seal), para. 47; KW317, T. 39402 (6 June 2013). *See also* KDZ555, T. 17219, 17233, 17235–17236 (16 August 2011) (private session). For more detail on the actions taken by the Interim Government, *see* P3381 (Decision of the Zvornik Crisis Staff, 10 April 1992), pp. 2–3; D3692 (Witness statement of Jovan Ivanović dated 9 June 2013), para. 24; D1714 (Conclusion of Zvornik Interim Government, 25 June 1992), p. 1; Petko Panić, T. 19208–19209 (20 September 2011); D1709 (Decision of Zvornik Interim Government, 18 May 1992), pp. 3–4; P314 (Decision of interim Zvornik government, 20 May 1992); Milorad Davidović, T. 15650 (29 June 2011); P3393 (Decision of Zvornik Interim Government, 14 April 1992), p. 1. The Accused acknowledged that a Bosnian Serb Crisis Staff was formed but that it was only operational from 6 to 10 April 1992 until the Interim Government was formed. Defence Final Brief, confidential, para. 1444.

4264 D3724 (Witness statement of Branko Grujić dated 22 June 2013), para. 36; KW317, T. 39343 (5 June 2013); KDZ555, T. 17282–17283 (16 August 2011).

(2) Militarisation of Zvornik

1240. From early 1992, both Bosnian Serbs and Bosnian Muslims were arming themselves, but the Bosnian Serbs were better armed as they received support from the JNA.[4265] The Bosnian Serb police also enabled the transport of weapons, ammunition and other material.[4266] Towards the end of February 1992, at a meeting chaired by Grujić and attended by JNA officers and the military commander for Zvornik, Zoran Jovanović, there was a discussion about the formation of a military unit for the area of Zvornik.[4267] Grujić also discussed the possibility of a Bosnian Serb attack on the town.[4268] After this meeting, weapons were distributed by Jovanović to the homes of Bosnian Serb managers of businesses, factories, and municipal organs.[4269] In early spring 1992, Bosnian Serb officials from Zvornik received weapons from Croatia and Serbia, which were distributed to the villages around Zvornik.[4270]

4265 KDZ059, P67 (Transcript from *Prosecutor v. S. Milošević*), T. 29088–29089, 29101; P4837 (Witness statement of KDZ610 dated 27 March 2012), para. 4 (under seal); KDZ610, T. 27179 (29 March 2012). *See also* Marinko Vasilić, T. 39918–39919 (13 June 2013); KDZ555, T. 17238, 17246–17247 (16 August 2011). The Chamber finds that the level of military organisation by Bosnian Muslims in Zvornik was limited. KDZ610, T. 27179 (29 March 2012). *See also* P1996 (Witness statement of Martin Bell dated 8 March 2010), para. 24 (testifying that Bosnian Muslims in Zvornik had no defence). However, it finds that there were armed Bosnian Muslim formations and that the SDA was involved in arming of the Bosnian Muslim population. Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2974–2976; Petko Panić, T. 19156–19157 (20 September 2011); KDZ555, T. 17246 (16 August 2011), T. 17331–17332, 17334–17335. 17363 (17 August 2011), T. 17402 (18 August 2011); D3693 (Witness statement of Marinko Vasilić dated 9 June 2013), paras. 13–15, 20; D3724 (Witness statement of Branko Grujić dated 22 June 2013), paras. 11–12, 26; Branko Grujić, T. 40352–40354 (25 June 2013); D2944 (Witness statement of Zoran Durmić dated 12 February 2013), para. 10; D3692 (Witness statement of Jovan Ivanović dated 9 June 2013), para. 13; KDZ059, P67 (Transcript from *Prosecutor v. S. Milošević*), T. 29089–29090. *See also* D1657 (Excerpt from book entitled "The Truth about Bratunac"); D3729 (Photograph of a board); D38 (ABiH Report on units in Zvornik, 5 November 1992), pp. 3, 5–6; D1607 (List of paramilitary groups operating in support of BiH), p. 11; KDZ320, T. 28093 (25 April 2012); KDZ340, T. 17500–17501 (19 August 2011) (private session).

4266 P3390 (Report on activities of Zvornik SJB for 1993), p. 20; P3183 (Excerpt from Report on the work of the Zvornik SJB for the year 1992), p. 2.

4267 P96 (Witness statement of KDZ059 dated 5 December 1998), pp. 3–4 (under seal); KDZ059, P67 (Transcript from *Prosecutor v. S. Milošević*), T. 29107–29108.

4268 P96 (Witness statement of KDZ059 dated 5 December 1998), p. 4 (under seal).

4269 P96 (Witness statement of KDZ059 dated 5 December 1998), p. 4 (under seal).

4270 KDZ555, T. 17248–17250, 17254–17255, 17257, 17259, 17261–17262 (16 August 2011) (private session) (testifying that Pavlović provided logistical support in bringing arms into BiH from Serbia); KDZ555, T. 17375–17377 (17 August 2011); KDZ555, T. 17397 (18 August 2011); KDZ555, T. 17248–17250, 17254–17255, 17257 (16 August 2011) (private session); KDZ446, P28 (Transcript from *Prosecutor v. S. Milošević*), T. 21007, 21025–21026 (under seal). *See also* Jovan Ivanović, T. 39854–39855 (12 June 2013). The Chamber notes evasiveness and contradictions in Grujić's testimony about the extent to which the SDS and he were involved in the arming of Bosnian Serbs and does not consider his evidence to be reliable in this regard. P6414 (Excerpt from Branko Grujić's interview with OTP, 15 July 2002), pp. 1–3; Branko Grujić, T. 40356–40360 (25 June 2013).

1241. On 4 April 1992, the Command of the 17th Corps of the JNA reported that in municipalities, including Zvornik, there was a real danger of deterioration in the security situation and there was a threat of inter-ethnic conflict.[4271]

1242. Following the attack against the JNA column on 4 April 1992,[4272] Arkan's men were asked to come urgently to the municipality.[4273] On the night between 5 and 6 April 1992, Arkan's men, other paramilitaries, soldiers from Serbia, and local Bosnian Serb police constructed barricades and check-points.[4274] These check-points were manned by Serbs wearing camouflage uniforms[4275] and some Bosnian Muslims were stopped at check-points, searched, and beaten.[4276] Bosnian Muslims also erected barricades on the bridge from Zvornik to Serbia.[4277] Bosnian Serbs also formed village guards in areas where they lived and set up barricades around their villages.[4278]

1243. On 5 April 1992, the Zvornik Crisis Staff ordered that all TO units in the Serb Municipality of Zvornik be mobilised.[4279] On 10 April 1992, the Interim Government decided to form the

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4271 P5474 (Report of JNA 17th Corps, 4 April 1992), p. 2.

4272 *See* para. 1237.

4273 Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2878–2879; KDZ555, T. 17266, 17269 (16 August 2011) (private session); KDZ446, P28 (Transcript from *Prosecutor v. S. Milošević*), T. 23675–23676 (under seal); D1612 (Video footage of Arkan in "My Guest, His Truth", July/August 1994), transcript, p. 13. On or about 5 April 1992, Arkan appointed his deputy Marko Pejić (a.k.a "Peja") as the person in charge of the municipality. KDZ446, P28 (Transcript from *Prosecutor v. S. Milošević*), T. 21006 (under seal). *See also* KDZ555, T. 17266–17267, 17269 (16 August 2011) (private session). Peja went to the Alhos factory on 6 April 1992 and met with the Bosnian Serb leadership. D3693 (Witness statement of Marinko Vasilić dated 9 June 2013), para. 25; D3692 (Witness statement of Jovan Ivanović dated 9 June 2013), para. 19. *See also* D3654 (Witness statement of KW317 dated 26 September 2012), paras. 38–39 (under seal); D3723 (Witness statement of Čedomir Zelenović dated 22 June 2013), para. 24; Čedomir Zelenović, T. 40315 (24 June 2013).

4274 P96 (Witness statement of KDZ059 dated 5 December 1998), p. 5 (under seal); KDZ059, P67 (Transcript from *Prosecutor v. S. Milošević*), T. 29112; P62 (Witness statement of Nedžad Hadžiefendić dated 3 October 1997), p. 2; *see* Adjudicated Fact 2729; Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2870–2871. *See also* P62 (Witness statement of Nedžad Hadžiefendić dated 3 October 1997), p. 2; D3693 (Witness statement of Marinko Vasilić dated 9 June 2013), para. 42.

4275 P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), p. 3; P133 (Witness statement of Matija Bošković dated 20 November 2003), para. 11.

4276 P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), p. 3.

4277 *See* Adjudicated Fact 2730. The Chamber finds that Bosnian Muslims also erected barricades. D3724 (Witness statement of Branko Grujić dated 22 June 2013), paras. 23, 56–57; D3723 (Witness statement of Čedomir Zelenović dated 22 June 2013), paras. 20–24; Čedomir Zelenović, T. 40340–40341 (25 June 2013); D3693 (Witness statement of Marinko Vasilić dated 9 June 2013), paras. 19, 21; D3692 (Witness statement of Jovan Ivanović dated 9 June 2013), paras. 15–16, 18.

4278 D3693 (Witness statement of Marinko Vasilić dated 9 June 2013), para. 21. *See also* Jovan Ivanović, T. 39854–39855 (12 June 2013); P6404 (Excerpt from Jovan Ivanović's statement to OTP, 23 October 2002), p. 2; D3692 (Witness statement of Jovan Ivanović dated 9 June 2013), para. 15.

4279 P5505 (Order of the Zvornik Municipality Crisis Staff, 5 April 1992); *see* Adjudicated Fact 2728. *See also* D3654 (Witness statement of KW317 dated 26 September 2012), para. 41 (under seal). Grujić testified that he issued this decision on his own without waiting for a decision of the Crisis Staff. Branko Grujić, T. 40379 (25 June 2013); P6415 (Excerpt from Branko Grujić's testimony before Belgrade District Court, 30 November 2005), pp. 4–5. Having regard to the extensive contradictions and indications of bias, the Chamber does not find that Grujić's evidence to be reliable in this regard.

Zvornik TO with Pavlović as its commander.[4280] Pavlović worked closely with Grujić, had close ties with Arkan,[4281] and implemented the policies of the Zvornik Crisis Staff.[4282]

1244. Grujić and Spasojević were among the Bosnian Serb officials who invited and paid for paramilitaries to come to Zvornik.[4283] Between 5 and 8 April 1992, paramilitary units from Serbia arrived in Zvornik. These included the White Eagles led by Aždaja;[4284] the unit led by Vojin Vučoković, known as Žućo, and his brother Dušan Vučković (a.k.a. Repić);[4285] the Red Berets led

4280 P3155 (Decision of Zvornik Interim Government, 10 April 1992), p. 1; KDZ446, P28 (Transcript from *Prosecutor v. S. Milošević*), T. 21004 (under seal); KDZ228, P323 (Transcript from *Prosecutor v. Popović et al.*), T. 14934, 14940 (under seal); Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2887–2888; P2860 (Zvornik TO's payroll, May 1992), p. 3; P1478 (Ratko Mladić's notebook, 27 May–31 July 1992), p. 250; Petko Panić, T. 19136 (19 September 2011); KDZ555, T. 17244, 17259 (16 August 2011) (private session), T. 17284 (16 August 2011); P2955 (Report of the Drina Corps, 17 December 1992), p. 2; P3165 (Witness statement of KDZ340 undated) (under seal), pp. 11–12, 16; P4837 (Witness statement of KDZ610 dated 27 March 2012), para. 17 (under seal); KW317, T. 39341–39342 (5 June 2013); P6434 (Excerpt from Dragomir Andan's interview with OTP), p. 2. *See also* P34 (Structure of Serbian SDB and Zvornik/Bijeljina MUP) (under seal); D3724 (Witness statement of Branko Grujić dated 22 June 2013), paras. 48, 51; Branko Grujić, T. 40361 (25 June 2013).

4281 KW317, T. 39341–39343, 39350–39351 (5 June 2013); D3724 (Witness statement of Branko Grujić dated 22 June 2013), paras. 48, 51; Branko Grujić, T. 40361 (25 June 2013).

4282 Milorad Davidović, T. 15536 (28 June 2011).

4283 KDZ320, T. 28106–28107 (25 April 2012); KDZ446, P28 (Transcript from *Prosecutor v. S. Milošević*), T. 21016 (under seal); P31 (List of names referred to during testimony of KDZ446) (under seal); KDZ555, T. 17266, 17269 (16 August 2011) (private session); P6414 (Excerpt from Branko Grujić's interview with OTP, 15 July 2002), p. 5; Petko Panić, T. 19130, 19147 (19 September 2011); Vojislav Šešelj, T. 39576 (10 June 2013); P3178 (Indictment from Bijeljina Lower Court, 13 September 1999), p. 7 (under seal); *see* Adjudicated Fact 2728. *See also* Jovan Ivanović, T. 39865 (12 June 2013) (testifying that while officially the local leaders did not call the paramilitaries, they were probably aware or unofficially involved in the operation and it was unlikely that they came uninvited). Defence witnesses testified that (i) they had never heard about such an invitation by the Crisis Staff; (ii) Grujić did not invite the paramilitary formations into Zvornik; and (iii) they did not know who called these units. D3724 (Witness statement of Branko Grujić dated 22 June 2013), para. 55; Branko Grujić, T. 40363–406364, 40383–40384 (25 June 2013); P6414 (Excerpt from Branko Grujić's interview with OTP, 15 July 2002), pp. 4–5; D3723 (Witness statement of Čedomir Zelenović dated 22 June 2013), para. 35; Čedomir Zelenović, T. 40321–40325 (24 June 2013), T. 40338 (25 June 2013). The Chamber does not find the evidence of Grujić and Zelenović to be reliable in this regard. In reaching that conclusion the Chamber noted that Grujić had an interest in downplaying his own role and involvement with the paramilitaries and his testimony in this regard was marked by inconsistencies and contradictions. Zelenović simply stated that he had not heard of such an invitation and when cross-examined on the issue of support to paramilitaries by local authorities he was evasive.

4284 Milorad Davidović, T. 15494 (28 June 2011); P2865 (White Eagles' payroll, June 1992); P133 (Witness statement of Matija Bošković dated 20 November 2003), para. 17; P2880 (Official Note of Valjevo State Security Centre, 2 July 1992). The White Eagles (Beli Orlovi) were transferred in October 1992 from the Zvornik to the Birač Brigade. P5404 (Order of Dragan Petković, 13 October 1992); KDZ340, T. 17490 (19 August 2011).

4285 As discussed in para. 1280, this unit was initially known as the special TO unit, then the Igor Marković unit and later the Yellow Wasps. This unit was organised in Zvornik in April 1992 and controlled by Žućo who was from Belgrade, his brother Repić, and a journalist named Milan Timotić. Bosnian Serb locals including those with criminal backgrounds joined this unit. KDZ446, P28 (Transcript from *Prosecutor v. S. Milošević*), T. 21006–21007 (under seal); Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2888, 3007; P2880 (Official Note of Valjevo State Security Centre, 2 July 1992); P2855 (VRS Main Staff report on paramilitary formations, 28 July 1992), p. 3; P3165 (Witness statement of KDZ340 undated), pp. 18, 28–33, 36, 41, 69, 72 (under seal); P3173 (Statement of Nenad Simić to Bijeljina SJB, 6 August 1992), p. 1 (under seal); KDZ340, T. 17525 (19 August 2011); KDZ340, T. 17535, 17560–17561 (19 August 2011) (private session); P2848 (Witness statement of Milorad Davidović dated 22 June 2011), paras. 126, 141; P2904 (Report of SerBiH MUP, 4 August 1992), p. 1; D1412 (Report of Republic of Serbia MUP, 8 August 1992), p. 9; D1417 (Report of Republic of Serbia MUP, 6 November 1993), p. 3. Žućo often visited Stevo Radić who a member of the

by Captain Dragan;[4286] Niški's group and Pivarski's group;[4287] as well as the "Simo Chetnik" group.[4288] Other groups which arrived or operated in Zvornik included Mauzer's unit,[4289] Šešelj's men,[4290] Bošković's unit,[4291] the Birčani Brigade under the command of Svetozar Andrić,[4292] Mile Petrović's unit,[4293] Gogić's unit,[4294] and Crni's unit.[4295]

1245. A meeting was arranged in Mali Zvornik on 7 April 1992 between SDS, SDA, and JNA representatives to discuss how to "avoid an attack on the city" and divide the municipality into Serb and Muslim parts.[4296] When Arkan heard these negotiations were taking place without his knowledge or approval he arrived at the meeting with his men, took the Bosnian Serb representatives to the municipal assembly building, called them traitors, and beat them.[4297] Arkan

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Zvornik Crisis Staff. Branko Grujić, T. 40391 (25 June 2013); P3165 (Witness statement of KDZ340 undated), p. 5 (under seal).

4286 Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2923 (testifying that this unit arrived in Zvornik some time after 25 May 1992).

4287 D1632 (Report of Bijeljina SJB, 23 July 1992), p. 1; Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2876, 2925; D3789 (Dragomir Andan's notes), p. 1; P3165 (Witness statement of KDZ340 undated), pp. 17–18 (under seal); P36 (Report by CSB Bijeljina re security situation in the Zvornik Municipality, 20 July 1992) (under seal). These two groups were independent and later joined the TO. Pivarski's Group was later placed under the command of the Yellow Wasps. Milorad Davidović, T. 15493 (28 June 2011); P2864 (Pivarski unit's payroll, June 1992); KDZ340, T. 17523 (19 August 2011).

4288 Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2888.

4289 P2848 (Witness statement of Milorad Davidović dated 22 June 2011), pp. 43–44.

4290 Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2879; P2238 (Intercept of conversation between Radomir Pejičić and unknown, June 1992), p. 2; P4849 (Excerpt from video entitled "The Death of Yugoslavia"), 01:27-01:37.

4291 P133 (Witness statement of Matija Bošković dated 20 November 2003), paras. 13–14; P158 (Payroll list of reserve soldiers); P159 (Payroll list of volunteers). Bošković was an SRS member from Zvornik and the rest of his unit were from Mali Zvornik and were supporters of Šešelj.

4292 P3165 (Witness statement of KDZ340 undated), p. 25 (under seal).

4293 P2855 (VRS Main Staff report on paramilitary formations, 28 July 1992), p. 5. This unit was based in the village of Rastošnica.

4294 P133 (Witness statement of Matija Bošković dated 20 November 2003), para. 20; Marinko Vasilić, T. 39945–39947 (13 June 2013). Members of this unit came from Serbia, wore police uniforms, and were paid by the municipality and included individuals who had been released from prison and consisted of members of the SRS. Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2906, 2984–2986; Petko Panić, T. 19130–19131 (19 September 2011); P3382 (List of members of Loznica TO in April 1992), pp. 1–2. This unit was tasked with trying to control the other paramilitary groups. KDZ555, T. 17289–17290 (16 August 2011), T. 17291 (16 August 2011) (private session).

4295 Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2908–2909 (testifying that Crni's unit operated as an independent group in Zvornik even though they were given police uniforms and received the same salary); Petko Panić, T. 19135 (19 September 2011).

4296 D3724 (Witness statement of Branko Grujić dated 22 June 2013), paras. 31–32; D3692 (Witness statement of Jovan Ivanović dated 9 June 2013), para. 20; D3654 (Witness statement of KW317 dated 26 September 2012), para. 41 (under seal); P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), p. 4; Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2877–2878; KDZ555, T. 17232, 17268–17269, 17271–17272 (16 August 2011) (private session); D3693 (Witness statement of Marinko Vasilić dated 9 June 2013), para. 27.

4297 D3724 (Witness statement of Branko Grujić dated 22 June 2013), para. 34. *See also* P104 (Witness statement of Fadil Banjanović dated 30 March 2002), para. 15; P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), p. 4; Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2877–2878; KDZ555, T. 17267 (16 August 2011) (private session); D1612 (Video footage of Arkan in "My Guest, His Truth", July/August 1994), transcript, p. 13; D3692 (Witness statement of Jovan Ivanović dated 9 June 2013), paras. 21–

told the Bosnian Serb representatives that instead of negotiating with the Bosnian Muslims, they should give them an ultimatum.[4298] He asked who had authorised them "to sell the Serbian land".[4299]

1246. Arkan resumed the meeting but prevented negotiations from proceeding any further.[4300] He gave the Bosnian Muslim negotiators an ultimatum that if they did not surrender all their weapons by the next morning, there would be a military attack and he would destroy the town.[4301] On 8 April 1992, after this meeting, an urgent telegram was sent to the Commander of the JNA Tuzla Corps appealing for the JNA to deploy their units to protect the population of Zvornik.[4302] Arkan and his men subsequently took command of military operations in Zvornik.[4303]

1247. In the days leading up to the attack on Zvornik in April 1992, most of the Bosnian Serbs, especially the women and children left Zvornik for Serbia or predominantly Bosnian Serb villages.[4304]

22; Jovan Ivanović, T. 39864 (12 June 2013); D3654 (Witness statement of KW317 dated 26 September 2012), para. 42 (under seal); Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2877; Petko Panić, T. 19163 (20 September 2011); D1605 (Telegram of Izet Mehinagić to JNA Tuzla Corps Commander, 8 April 1992).

4298 D3654 (Witness statement of KW317 dated 26 September 2012), para. 43 (under seal). *See also* Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2877; Petko Panić, T. 19163 (20 September 2011); D1605 (Telegram of Izet Mehinagić to JNA Tuzla Corps Commander, 8 April 1992), p. 1. After this incident Jovo Mijatović and Jovan Ivanović resigned from the Zvornik Crisis Staff. KDZ555, T. 17285 (16 August 2011); D3692 (Witness statement of Jovan Ivanović dated 9 June 2013), para. 24.

4299 KDZ555, T. 17269, 17272 (16 August 2011) (private session); KDZ555, T. 17355, 17387 (17 August 2011); D1611 (Video footage depicting Arkan's pre-election campaign in Zvornik, 8 September 1996), transcript p. 1; D1612 (Video footage of Arkan in "My Guest, His Truth", July/August 1994), transcript, p. 13; D3723 (Witness statement of Čedomir Zelenović dated 22 June 2013), paras. 25–26; Branko Grujić, T. 40460 (26 June 2013); D3692 (Witness statement of Jovan Ivanović dated 9 June 2013), para. 22.

4300 D3723 (Witness statement of Čedomir Zelenović dated 22 June 2013), para. 26.

4301 D1612 (Video footage of Arkan in "My Guest, His Truth", July/August 1994), transcript, p. 13; KDZ555, T. 17269, 17272 (16 August 2011) (private session); KDZ555, T. 17355, 17387 (17 August 2011); D3654 (Witness statement of KW317 dated 26 September 2012), para. 44 (under seal). *See also* D3692 (Witness statement of Jovan Ivanović dated 9 June 2013), para. 22; D1605 (Telegram of Izet Mehinagić to JNA Tuzla Corps Commander, 8 April 1992), p. 1; P2919 (Witness statement of KDZ023 dated 29 September 1996), p. 3; KDZ023, P65 (Transcript from *Prosecutor v. S. Milošević*), T. 26125; P104 (Witness statement of Fadil Banjanović dated 30 March 2002), pp. 3–4; D1611 (Video footage depicting Arkan's pre-election campaign in Zvornik, 8 September 1996), transcript p. 1; D3723 (Witness statement of Čedomir Zelenović dated 22 June 2013), para. 25; Branko Grujić, T. 40460 (26 June 2013).

4302 D1605 (Telegram of Izet Mehinagić to JNA Tuzla Corps Commander, 8 April 1992), p. 1; KDZ555, T. 17355 (17 August 2011).

4303 D3693 (Witness statement of Marinko Vasilić dated 9 June 2013), para. 28. *See also* D3723 (Witness statement of Čedomir Zelenović dated 22 June 2013), para. 26; D3724 (Witness statement of Branko Grujić dated 22 June 2013), paras. 33–34; Branko Grujić, T. 40363 (25 June 2013); D3692 (Witness statement of Jovan Ivanović dated 9 June 2013), paras. 23–24.

4304 P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), p. 4; D3723 (Witness statement of Čedomir Zelenović dated 22 June 2013), paras. 21, 24. *See also* Adjudicated Fact 2727; D3724 (Witness statement of Branko Grujić dated 22 June 2013), paras. 30, 54; KDZ555, T. 17267 (16 August 2011) (private session), T. 17349, 17386 (17 August 2011); KDZ340, T. 17498–17500, 17503–17504 (19 August 2011) (private session); D3692 (Witness statement of Jovan Ivanović dated 9 June 2013), para. 18; D3693 (Witness statement of Marinko Vasilić dated 9 June 2013), para. 22.

(C) Events in early April 1992

(1) Take-over

1248. On 6 April 1992, the Zvornik Crisis Staff issued a decision declaring a state of war in the territory of the Serb Municipality of Zvornik, temporarily taking over the responsibilities of the municipal organs, and assigning defence duties to the Zvornik TO and parts of the reserve SJB.[4305]

1249. The attack on Zvornik began on or about 8 April 1992.[4306] The units which took part in the attack included Arkan's men, SRS volunteers,[4307] members of the police, Zvornik TO and the JNA, and men from groups belonging to Niški, Pivarski, Žućo, Gogić, as well as the White Eagles.[4308] Pavlović and Peja were involved in planning and commanding the attack.[4309] The Bosnian Serb police were ordered by Spasojević to follow Arkan's men during the attack and to patrol, occupy,

4305 P3154 (Decision of Zvornik's Crisis Staff, 6 April 1992); Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2875; D3654 (Witness statement of KW317 dated 26 September 2012), para. 37 (under seal). The Chamber does not consider the evidence of KDZ555 and Ivanović with respect to manner and reason why this decision was made to be reliable. KDZ555, T. 17273–17274 (16 August 2011) (private session); D3692 (Witness statement of Jovan Ivanović dated 9 June 2013), para. 17. In reaching that conclusion the Chamber noted that the evidence of Ivanović and KDZ555 was marked by contradictions, evasiveness and indicators of insincerity and bias. [REDACTED].

4306 Marinko Vasilić, T. 39928–39929 (13 June 2013); P3390 (Report on activities of Zvornik SJB for 1993), p. 22; Petko Panić, T. 19164 (20 September 2011); Čedomir Zelenović, T. 40326–40327 (24 June 2013); KDZ228, P324 (Transcript from *Prosecutor v. Popović et al.*), T. 14934–14935. *See also* P3263 (Witness statement of Suad Džafić dated 31 August 2011), para. 5; Branko Grujić, T. 40400–40403 (25 June 2013); D3692 (Witness statement of Jovan Ivanović dated 9 June 2013), paras. 23, 25; KDZ555, T. 17275–17276 (16 August 2011).

4307 Šešelj in an interview said that he was asked for volunteers by Slobodan Milošević, that the Zvornik operation was planned in Belgrade, and that special units were sent from the Serbian State Security Service. Vojislav Šešelj, T. 39575 (10 June 2013); P6388 (Excerpt from video of interview with Vojislav Šešelj for "Death of Yugoslavia" documentary, with transcript), pp. 3–4. However, the Chamber does not consider that it can rely on this evidence given that on cross-examination Šešelj acknowledged that he could have made this statement in the interview in order to annoy Milošević. Vojislav Šešelj, T. 39571–39572 (10 June 2013).

4308 KDZ228, P323 (Transcript from *Prosecutor v. Popović et al.*), T. 14934 (under seal); P4837 (Witness statement of KDZ610 dated 27 March 2012), para. 7 (under seal); P133 (Witness statement of Matija Bošković dated 20 November 2003), paras. 12, 21, 34; D3665 (Witness statement of Vojislav Šešelj dated 1 June 2013), paras. 50, 70–71; P6388 (Excerpt from video of interview with Vojislav Šešelj for "Death of Yugoslavia" documentary, with transcript), p. 3; Vojislav Šešelj, T. 39575–39577 (10 June 2013); *see* Adjudicated Fact 2741; KDZ555, T. 17276 (16 August 2011); P2882 (Report of Bijeljina SJB, 8 August 1992), p. 3; P3178 (Indictment from Bijeljina Lower Court, 13 September 1999), p. 7 (under seal). Witnesses testified that only a small number of Karakaj TO members helped in the lifting of the blockade, that the JNA was not involved at all, that Arkan's men launched the attack to lift the blockade of Zvornik but nobody in the municipal government, including the Zvornik Crisis Staff, had requested or authorised the attack. D3724 (Witness statement of Branko Grujić dated 22 June 2013), para. 58; D3654 (Witness statement of KW317 dated 26 September 2012) (under seal), para. 46. The Chamber finds the evidence of Grujić and KW317 about who was involved in authorising or conducting the attack on Zvornik to be unreliable. In reaching that conclusion the Chamber refers to its credibility assessment in fns. 4237 and 4239. The Chamber also notes that it is contradicted by other credible evidence about the involvement of Pavlović and Spasojević in the operation as well as the participation of the Bosnian Serb police and the Zvornik TO in the attack. It is also not consistent with measures taken by the Zvornik Crisis Staff in the lead-up to the attack.

4309 P104 (Witness statement of Fadil Banjanović dated 30 March 2002), paras. 15, 17. *See also* P133 (Witness statement of Matija Bošković dated 20 November 2003), para. 21; Petko Panić, T. 19130 (19 September 2011).

and secure important facilities in the town.[4310] Arkan's men entered the SUP building, took all documents and equipment and destroyed everything else.[4311] After the initial attack, about half of Zvornik was under the control of Serb Forces and over the following 20 odd days, almost all of the remaining territory of the town also came under their control.[4312] A Bosnian Muslim part of the municipality remained around Sapna.[4313]

1250. There were clashes between Serb Forces and Bosnian Muslim forces on 8 April 1992 and Serb Forces launched an artillery attack; they shelled the town, including with heavy mortars.[4314] The town of Zvornik fell quickly following the attack by Serb Forces.[4315] Bosnian Muslims who were hiding in their homes heard on radio that the Patriotic League defence lines had been broken but initially were unable to leave Zvornik because of shelling.[4316] However, on the evening of 8 April 1992, when there was a lull in the shooting, approximately 10,000 people, the majority of whom were Bosnian Muslims, managed to leave Zvornik with most crossing to Mali Zvornik.[4317]

1251. Buildings in the town of Zvornik were burnt, windows were broken and there were traces of shooting on the walls.[4318] Armed soldiers wearing black uniforms were seen entering buildings; houses were either hit with mortars or set on fire.[4319] During the attack, paramilitaries, including Arkan's men, were involved in looting.[4320] By the morning of 9 April 1992, Zvornik was under the

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4310 Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2876, 2879–2881, 2979; D1631 (Report of Zvornik SJB, 29 June 1992), pp. 2–3; Petko Panić, T. 19129 (19 September 2011); P2001 (BBC news report re Zvornik, with transcript), 00:00:00–00:00.21, 00:00:38–00:00:42; P3390 (Report on activities of Zvornik SJB for 1993), p. 22; P2761 (RS MUP report on work for period April to December 1992), p. 5; D3693 (Witness statement of Marinko Vasilić dated 9 June 2013), paras. 31–32; Marinko Vasilić, T. 39948 (13 June 2013). *See also* D1625 (Report on activities of Zvornik SJB, July-September 1992), p. 5.

4311 Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2881.

4312 KDZ555, T. 17276 (16 August 2011). *See also* P2886 (Interview with Marko Pavlović, 30 June 1992), p. 1.

4313 KW317, T. 39407 (6 June 2013).

4314 P96 (Witness statement of KDZ059 dated 5 December 1998), pp. 6–7 (under seal) (stating that the shelling started from an elevated area above Mali Zvornik and that shells were "falling in Zvornik like rain. The targeting was not precise"); P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), pp. 4–5; P62 (Witness statement of Nedžad Hadžiefendić dated 3 October 1997), pp. 2–3; P2919 (Witness statement of KDZ023 dated 29 September 1996), p. 3; KDZ240, P2935 (Transcript from *Prosecutor v. Krajišnik*), T. 6759, 6910 (under seal); KDZ240, T. 16081–16082 (5 July 2011) (closed session); P2936 (Excerpt of video "The Death of Yugoslavia", with transcript) (under seal).

4315 Petko Panić, T. 19164 (20 September 2011); Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2885; D1617 (Report of Zvornik Municipal Staff, 5 November 1992), p. 2; D1614 (Report of the Armed Forces of Tuzla District, 10 July 1992), p. 2; D1611 (Video footage depicting Arkan's pre-election campaign in Zvornik, 8 September 1996), transcript, pp. 1–2; D1612 (Video footage of Arkan in "My Guest, His Truth", July/August 1994), transcript, p. 13; D38 (ABiH Report on units in Zvornik, 5 November 1992), p. 2.

4316 P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), p. 5.

4317 P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), p. 5.

4318 KDZ240, P2935 (Transcript from *Prosecutor v. Krajišnik*), T. 6759 (under seal).

4319 P96 (Witness statement of KDZ059 dated 5 December 1998), p. 8 (under seal).

4320 KDZ059, P67 (Transcript from *Prosecutor v. S. Milošević*), T. 29117; P4837 (Witness statement of KDZ610 dated 27 March 2012), para. 65 (under seal). *See also* P3338 (TANJUG news report, 14 April 1992); Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2907.

control of Serb Forces; a Serbian flag was flying over the main mosque and Serbian music was played through the loudspeakers on the minarets.[4321] In the following days, the Chief of the CSB in Bijeljina,[4322] and the Bosnian Serb municipal leadership and military commanders[4323] were informed that Zvornik was under the control of Serb Forces and "had been liberated". Grujić reported on the situation in the municipality to the SDS Main Board.[4324] Milorad Davidović was told by Mićo Stanišić that Arkan's forces were in Zvornik and Bijeljina and "helping to liberate territory [that] they believed should become part of [the RS]".[4325]

1252. After the take-over of Zvornik, Arkan's men, members of the JNA, and SRS volunteers withdrew[4326] but other groups lead by Žućo, Pivarski, Niški, and Crni remained in town.[4327] After Arkan's departure Pavlović took on a commanding role with the paramilitaries.[4328]

1253. In mid April 1992, Biljana Plavšić visited the Alhos factory and met with Bosnian Serb leaders including the Zvornik Crisis Staff.[4329] Mićo Stanišić in a daily report on 22 April 1992, reported that life in Zvornik was returning to normal and that the town was being cleared of Green Berets.[4330] On 29 April 1992, the Chief of the Bijeljina CSB visited the Zvornik SJB and discussed

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4321 P96 (Witness statement of KDZ059 dated 5 December 1998), pp. 7–8 (under seal); P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), p. 5; P3165 (Witness statement of KDZ340 undated), pp. 2–3 (under seal); P4837 (Witness statement of KDZ610 dated 27 March 2012), para. 11 (under seal); *see* Adjudicated Fact 2742.

4322 P5490 (Report of Bijeljina CSB, 16 April 1992), p. 2; P3392 (Report of Bijeljina SJB, 21 April 1992), p. 1. *See also* P2849 (Intercept of conversation between Goran Sarić and Mićo Davidović, 21 April 1992), p. 4; Milorad Davidović, T. 15459 (24 June 2011). In the 21 April 1992 report, the Bijeljina CSB was also informed that the town was "being cleaned".

4323 KDZ446, P28 (Transcript from *Prosecutor v. S. Milošević*), T. 21029–21031 (under seal).

4324 KW513, T. 39328 (5 June 2013). The Bosnian Serb authorities in Zvornik were also in contact with the Bosnian Serb MUP in Sarajevo. P5717 (Intercept of conversation between Radmila LNU and an unidentified male, 18 April 1992).

4325 P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 66. *See also* D1611 (Video footage depicting Arkan's pre-election campaign in Zvornik, 8 September 1996), transcript, p. 2; KDZ555, T. 17383–17384 (17 August 2011); D1612 (Video footage of Arkan in "My Guest, His Truth", July/August 1994), transcript, p. 13.

4326 Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2881–2882; P1478 (Ratko Mladić's notebook, 27 May–31 July 1992), pp. 251–252; P1109 (Intercept of conversation between Arkan and Radmila Kalaban, 16 April 1992), p. 6; Vojislav Šešelj, T. 39593–39594 (10 June 2013); D3665 (Witness statement of Vojislav Šešelj dated 1 June 2013), para. 50; KDZ320, T. 28105–28107 (25 April 2012).

4327 P104 (Witness statement of Fadil Banjanović dated 30 March 2002), paras. 19, 21, 24; KDZ555, T. 17276 (16 August 2011) (private session); P4837 (Witness statement of KDZ610 dated 27 March 2012), para. 38 (under seal); KDZ610, T. 27197 (29 March 2012) (private session). *See also* D3724 (Witness statement of Branko Grujić dated 22 June 2013), para. 37 (stating that while Arkan left some of his men remained).

4328 Jovan Ivanović, T. 39866–39867 (12 June 2013).

4329 P3165 (Witness statement of KDZ340 undated), pp. 6–7 (under seal); KDZ555, T. 17277–17279 (16 August 2011) (private session).

4330 P2748 (SerBiH MUP daily report, 22 and 23 April 1992), pp. 3–4; P5490 (Report of Bijeljina CSB, 16 April 1992), p. 2. *See also* D1711 (Decision of Zvornik Interim Government, 22 April 1992); Petko Panić, T. 19205–19206 (20 September 2011); P6170 (Transcript of conversation between Branko Kostić, Alija Izetbegović, and Blagoje Adžić, 26 April 1992), p. 9. For evidence on sporadic clashes in the area until May 1992, *see* P5489 (Report of Bijeljina SJB, 19 May 1992), p. 1; P2753 (SerBiH MUP daily report, 22 May 1992), p. 2; D3886 (Witness statement of Svetozar Andrić dated 16 July 2013), para. 3.

steps to return the situation in Zvornik back to normal.[4331] Between April and December 1992 police from the Zvornik SJB participated in combat and mopping up operations and the SJB acknowledged that there were "cases of individuals whose method of operation was unskilled, unprofessional and illegal".[4332]

(2) Scheduled Incident A.16.1

1254. The Prosecution alleges that at least 15 people were killed in the town of Zvornik between 9 and 10 April 1992.

1255. During the attack on Zvornik, Arkan's men "piled dozens of dead bodies", including the bodies of children, women, and elderly persons onto four or five trucks while other bodies remained in the streets and outside houses.[4333] Among those killed was Fehim Kujundžić, the director of the Karakaj Technical School,[4334] Muhamed Zaimović, a municipal judge,[4335] and the three sons of Rasim Karaosmanović.[4336]

4331 P2850 (Fax of Bijeljina CSB, 29 April 1992). Measures included prohibiting or restricting the service and sale of alcohol. D1698 (Order of Zvornik Interim Government, 12 May 1992), p. 1; D1699 (Order of Zvornik Interim Government, 1 June 1992), p. 1; Petko Panić, T. 19195–19196 (20 September 2011).

4332 D1631 (Report of Zvornik SJB, 29 June 1992), p. 4; D1625 (Report on activities of Zvornik SJB, July-September 1992), p. 1; P3390 (Report on activities of Zvornik SJB for 1993), pp. 22, 35, 38, 40, 47.

4333 *See* Adjudicated Facts 2742, 2743; P4849 (Excerpt from video entitled "The Death of Yugoslavia"), 01:37-02:23, 01:49-02:17; P2936 (Excerpt of video "The Death of Yugoslavia", with transcript) (under seal); P4837 (Witness statement of KDZ610 dated 27 March 2012), paras. 65, 82 (under seal); KDZ240, P2935 (Transcript from *Prosecutor v. Krajišnik*), T. 6758–6759, 6910 (under seal); KDZ240, T. 15966–15967 (4 July 2011) (closed session). *See also* Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2880–2881; KDZ240, P2935 (Transcript from *Prosecutor v. Krajišnik*), T. 6759, 6990–6991 (under seal); KDZ059, P67 (Transcript from *Prosecutor v. S. Milošević*), T. 2911; P3338 (TANJUG news report, 14 April 1992); Martin Bell, T. 9783, 9803 (14 December 2010); P1996 (Witness statement of Martin Bell dated 8 March 2010), paras. 23–24; Jovan Ivanović, T. 39866 (12 June 2013) (testifying that the people killed were not killed in combat as there was no fighting and the people were killed to "sow fear, to create chaos"); P96 (Witness statement of KDZ059 dated 5 December 1998), p. 8 (under seal); Martin Bell, T. 9783–9786, 9803 (14 December 2010); P2001 (BBC news report re Zvornik, with transcript), 00:01.50–00:02.20; P2002 (BBC news report re Zvornik, with transcript), 00:00.21–00:00.31, 00:00.43–00:01.10, 00:01.51–00:02.09, 00:02.24–00:02.37; P2003 (BBC news report re Zvornik, with transcript), 00:00.29–00:00.38. Grujić in his testimony acknowledged that he did not personally take part in the take-over and was in Mali Zvornik at the time. Branko Grujić, T. 40400–40401 (25 June 2013); D3724 (Witness statement of Branko Grujić dated 22 June 2013), paras. 35, 46, 59, 61. Given this qualification, the Chamber does not consider Grujić's evidence with respect to the nature and number of casualties in Zvornik to be of much weight. In addition considering that Grujić's evidence was marked by multiple contradictions and evasiveness, the Chamber does not consider Grujić's evidence to be reliable in this regard.

4334 P4837 (Witness statement of KDZ610 dated 27 March 2012), para. 65 (under seal); KDZ023, P65 (Transcript from *Prosecutor v. S. Milošević*), T. 26131; P4837 (Witness statement of KDZ610 dated 27 March 2012), para. 65 (under seal). The body of Fehim Kujundžić was exhumed from a mass grave. P4853 (Updated Table 2 to the Report of Amor Mašović), p. 57.

4335 P4849 (Excerpt from video entitled "The Death of Yugoslavia"), 00:52-01:26, 01:22-01:26; P4837 (Witness statement of KDZ610 dated 27 March 2012), para. 82(c) (under seal).

4336 P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), p. 6. The Chamber notes that the bodies of the sons of Rasim Karaosmanović were exhumed from a mass grave. P4853 (Updated Table 2 to the Report of Amor Mašović), p. 58.

1256. On the morning of 9 April 1992, approximately 10 Serb soldiers in camouflage uniforms, masks and fingerless black gloves detonated the door leading to a basement in a building on Filipa Kljajića street.[4337] A group of over 30 men, women and children were sheltering at this location, and the soldiers ordered them to surrender any weapons and then forced them out to the street at gun point.[4338] During this process, men and women were separated and 15 men were lined up against the wall of the apartment building after which a burst of gunfire was heard.[4339] The women were forced to walk away from the scene by the soldiers.[4340] KDZ023 was later told by other women that they had seen the dead bodies of the men who had been taken out of the cellar in front of the apartment building.[4341] KDZ059 also heard that many men had been killed on Filipa Kljajića street, including Taib Futović and his son.[4342]

1257. When KDZ023 sought information from Branko Grujić about the men who had been separated, she was told that there was no longer a place for them in Zvornik.[4343] When she returned to the scene a week later she found her husband's hat and son's sports shoes, which were covered in blood, and saw that there was blood on the wall, which was also "peppered with bullet holes".[4344] Bosnian Serb authorities were involved in organising the collection of civilian bodies for burial.[4345]

4337 P2919 (Witness statement of KDZ023 dated 29 September 1996), pp. 2–3.

4338 P2919 (Witness statement of KDZ023 dated 29 September 1996), p. 3; KDZ023, P65 (Transcript from *Prosecutor v. S. Milošević*), T. 26130, 26141–26142.

4339 P2919 (Witness statement of KDZ023 dated 29 September 1996), pp. 3–4. The witness identified 15 men as part of this group (including one Bosnian Croat) and named 12 of them (Hajrudin Delić, Sead Hidić, Senad Hidić, Šemsudin Ahmetović, Nusret Ahmetović, a man known as "Dedo", Samir Bilalić, Senad Bilalić, Sabit Bilalić, Ivo Kojić, Fahrudin Alajbegović, Edhem Hadžić. Of these named individuals, 10 were identified by Mašović as having been exhumed from mass graves. P4853 (Updated Table 2 to the Report of Amor Mašović), pp. 57–58.

4340 P2919 (Witness statement of KDZ023 dated 29 September 1996), p. 3 (under seal).

4341 P2919 (Witness statement of KDZ023 dated 29 September 1996), pp. 4–5. The Chamber notes the Accused's acknowledgement that men were separated from women and children and killed by Arkan's men and Šešelj's men. Defence Final Brief, confidential, para. 1450.

4342 P96 (Witness statement of KDZ059 dated 5 December 1998), p. 8 (under seal); KDZ059, P67 (Transcript from *Prosecutor v. S. Milošević*), T. 29092. The Chamber notes that the Prosecution connects these two individuals to Taib Hudović and Asim Hudović whose bodies were exhumed from a mass grave according to Mašović. Prosecution Final Brief, Appendix G referring to P4853 (Updated Table 2 to the Report of Amor Mašović), p. 57. The Chamber is not satisfied that these bodies can be linked to the evidence of KDZ059.

4343 P2919 (Witness statement of KDZ023 dated 29 September 1996), p. 5.

4344 P2919 (Witness statement of KDZ023 dated 29 September 1996), pp. 4–5.

4345 P4839 (Decision of the Serb Municipality of Zvornik, 28 April 1992); P4840 (Order of the Zvornik TO Staff, 19 May 1992); P4837 (Witness statement of KDZ610 dated 27 March 2012), paras. 18–19, 21 (under seal); KDZ610, T. 27194–27195 (29 March 2012) (private session). The Chamber also received evidence that approximately 120 bodies of those killed between 8 and 23 April 1992, were stored in a warehouse at the Alhos building until they were buried in a mass grave. KDZ610, T. 27190 (29 March 2012) (private session); P4837 (Witness statement of KDZ610 dated 27 March 2012), paras. 22–27, 31 (under seal); P4841 (Letter from FBiH Commission for Missing Persons, 30 July 2007). However, the Chamber notes that this period extends beyond the allegations in the Indictment for the purposes of this scheduled incident and that it has insufficient evidence to link these bodies with this incident. The Chamber also received evidence about the disappearance and killing of non-Serbs and the exhumation of mass graves in Zvornik. P4841 (Letter from FBiH Commission for Missing Persons, 30 July 2007); P4903 (Crni Vrh Exhumation Report by Derek Congram, 14 November 2003); D2250

1258. The Chamber therefore finds that at least 15 people were killed by Serb Forces on or about 9 April 1992 in the town of Zvornik.

(D) Events in other villages in Zvornik municipality

1259. As mentioned above,[4346] after the attack on Zvornik, many Bosnian Muslims left Zvornik and headed to other villages in the municipality. From then on, paramilitary units were involved in operations against Bosnian Muslims in these villages in which they arrested individuals and detained them in facilities, which were then taken over by the police.[4347]

(1) Kula Grad

1260. Kula Grad is a town located to the southwest of Zvornik.[4348] On 8 April 1992, there were between 5,000 and 6,000 Bosnian Muslims from Zvornik town in Kula Grad when an attack was launched.[4349] Kula Grad was shelled from a JNA tank unit causing casualties in the town which prompted some of the Bosnian Muslims to flee towards Tuzla.[4350] Bosnian Muslim forces in Kula Grad resisted a number of attacks by Arkan's men on the village.[4351] On 26 April 1992, Serb Forces, including paramilitaries, and local police, launched an early morning attack on Kula Grad

(Ewa Tabeau's report entitled "Deaths and Disappearance of BiH Muslims 1992 – 1995," 25 April 2012), p. 1; Ewa Tabeau, T. 28411–28412 (2 May 2012); P4841 (Letter from FBiH Commission for Missing Persons, 30 July 2007); P4850 (Witness statement of Amor Mašović dated 23 March 2012), para. 54; P4852 (Report of Amor Mašović, 20–21 October 2009), p. 13; P4854 (Updated Table 1 to the Report of Amor Mašović), p. 2. The Chamber will not rely on this evidence in the absence of a positive connection with a scheduled killing incident charged in the Indictment.

4346 *See* paras. 1250, 1261, 1269.

4347 Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2896; P104 (Witness statement of Fadil Banjanović dated 9 February 1998), paras. 2–18; D3654 (Witness statement of KW317 dated 26 September 2012), paras. 49–50 (under seal).

4348 P4838 (Map of ethnic composition of Zvornik); P4848 (Map of Zvornik marked by KDZ610); P4837 (Witness statement of KDZ610 dated 27 March 2012), para. 81 (under seal) (marking the location of Kula Grad in relation to Zvornik with number 1).

4349 P4837 (Witness statement of KDZ610 dated 27 March 2012), para. 8 (under seal).

4350 P4837 (Witness statement of KDZ610 dated 27 March 2012), paras. 9–10 (under seal); KDZ610, T. 27198 (29 March 2012).

4351 P4837 (Witness statement of KDZ610 dated 27 March 2012), para. 10 (under seal); P62 (Witness statement of Nedžad Hadžiefendić dated 3 October 1997), p. 3 *See also* KDZ610, T. 27199 (29 March 2012); D38 (ABiH Report on units in Zvornik, 5 November 1992), p. 2; KDZ555, T. 17452–17454 (18 August 2011); D1627 (Video footage re view of Zvornik from Kula); D1628 (Video footage re view of Zvornik and Mali Zvornik from Kula); D1629 (Video footage re view of Divič from Kula); D1630 (Video footage re view of Kula from Zvornik); D1617 (Report of Zvornik Municipal Staff, 5 November 1992), p. 2

and took control of the village.[4352] Some houses were set on fire during the attack.[4353] This attack forced the remaining Bosnian Muslims in the village to flee towards Tuzla and Kamenica.[4354]

(2) Kozluk

1261. Kozluk is a town approximately 20 kilometres from Zvornik[4355] which had a majority Bosnian Muslim population before the war.[4356] Bosnian Muslims from the neighbouring Bosnian Muslim villages of Šepak and Skočić had fled to Kozluk on account of their fear of Serb Forces who had been demanding the surrender of weapons.[4357] Following the take-over of Zvornik, Kozluk was completely surrounded by Serb Forces, who set up barricades in surrounding villages and cut off exit routes.[4358]

1262. The Bosnian Muslim population of Kozluk handed over their hunting weapons and hand guns.[4359] Bosnian Serb municipal leaders visited Kozluk and reassured the Bosnian Muslims that they would not be harmed or arrested and that they should return to their villages.[4360] From April to

4352 *See* Adjudicated Fact 2732; P133 (Witness statement of Matija Bošković dated 20 November 2003), para. 26; P62 (Witness statement of Nedžad Hadžiefendić dated 3 October 1997), p. 3. *See also* KDZ555, T. 17276 (16 August 2011).

4353 P133 (Witness statement of Matija Bošković dated 20 November 2003), para. 26.

4354 P133 (Witness statement of Matija Bošković dated 20 November 2003), para. 26; P62 (Witness statement of Nedžad Hadžiefendić dated 3 October 1997), p. 3. Some members of this group were apprehended in Orahovac, taken to the local Crisis Staff Headquarters, had their money and valuables confiscated, and were taken back to the SUP in Zvornik. KDZ072, P425 (Transcript from *Prosecutor v. Šešelj*), T. 8697.

4355 Fadil Banjanović, P57 (Transcript from *Prosecutor v S. Milošević*), T. 20615; D1613 (Map of Zvornik marked by KDZ555); P4838 (Map of ethnic composition of Zvornik).

4356 Fadil Banjanović, P57 (Transcript from *Prosecutor v S. Milošević*), T. 20615, 20668; KDZ555, T. 17308–17309 (17 August 2011).

4357 P104 (Witness statement of Fadil Banjanović dated 9 February 1998), paras. 2-3, 2-24. As a result, at the time, there were 10,000 to 12,000 people in Kozluk. *See* Adjudicated Fact 2736; D3654 (Witness statement of KW317 dated 26 September 2012), para. 60 (under seal). Grujić testified that Peja insisted that Bosnian Muslims remain in their homes and he guaranteed them security. D3724 (Witness statement of Branko Grujić dated 22 June 2013), para. 66. Having regard to the extensive contradictions and indications of bias, the Chamber does not find that Grujić's evidence to be reliable in this regard. For the same reasons the Chamber does not consider Grujić's evidence reliable with respect to other events in Kozluk, including the treatment of the Bosnian Muslim population, the voluntariness of their departure from Kozluk, and the attack on Kozluk. D3724 (Witness statement of Branko Grujić dated 22 June 2013), paras. 48, 64–68. *See also* Branko Grujić, T. 40404–40405, 40412–40416, 40452 (25 June 2013). For further contradictions in Grujić's evidence on this point and his attempt to minimise his own involvement in events in Kozluk, *see* Branko Grujić, T. 40410–40412 (25 June 2013); P6416 (Excerpt from Serbia Appeals Court judgement against Branko Grujić, 3 October 2011), pp. 5, 9–16; P6417 (Article from New York Times entitled "Serbian Mayor Displays the Wares of 'Ethnic Cleansing', 7 March 1994").

4358 Kozluk was surrounded by the Serb villages of Ugljar, Malešići, Tabanci, Riči, Kiseljak and Tršić, *see* P104 (Witness statement of Fadil Banjanović dated 9 February 1998), paras. 2-4, 2-14, 2-18, 2-40; Fadil Banjanović, P57 (Transcript from *Prosecutor v S. Milošević*), T. 20619, 20693, 20672; *see* Adjudicated Fact 2737.

4359 P104 (Witness statement of Fadil Banjanović dated 9 February 1998), para. 2-15; Fadil Banjanović, P57 (Transcript from *Prosecutor v S. Milošević*), T. 20617, 20665, 20677–20678; D1695 (List of Kozluk residents who surrendered weapons, 16 April 1992)

4360 P104 (Witness statement of Fadil Banjanović dated 9 February 1998), para. 2-29; Fadil Banjanović, P57 (Transcript from *Prosecutor v S. Milošević*), T. 20676–20677; KDZ555, T. 17402 (18 August 2011). *See also* D3654 (Witness statement of KW317 dated 26 September 2012), para. 51 (under seal). Pejić also made similar

mid-June 1992, the citizens of Kozluk were subjected to acts of intimidation, which included shooting and throwing of grenades.[4361]

1263. The Bosnian Serb authorities tried to prevent the Bosnian Muslim population from leaving towards Tuzla;[4362] however, by the end of May 1992 a large number of Bosnian Muslims had managed to leave Kozluk, including 5,000 to 6,000 people who returned to their homes in Šepak and Skočić and approximately 3,000 people who left for foreign countries.[4363]

1264. In June 1992, Bosnian Muslim police officers in Kozluk were forced to surrender their weapons and uniforms,[4364] after which there was extensive shooting near the town.[4365] In the lead-up to the attack on Kozluk, Bosnian Serb paramilitary units started training local Serbs.[4366] The local Serbs were told by Pavlović to mark all Serb houses so they would not be shot at.[4367] Pavlović organised and ordered an attack on Kozluk on the morning of 21 June 1992.[4368] Between 20 and 25 June 1992, a large number of Bosnian Serb soldiers, TO and paramilitary units entered Kozluk in military vehicles; during this period some Bosnian Muslims were beaten and their goods were looted.[4369] The strong military presence including tanks, the attacks on local citizens, and the burning of property, increased the pressure on the Bosnian Muslim population to leave.[4370]

1265. Fadil Banjanović was summoned to meet with Grujić and Jovo Mijatović on or about 26 June 1992 at the Kozluk police station.[4371] He was informed that the authorities could no longer guarantee the safety of the Bosnian Muslim population. He was told that the Bosnian Muslims had

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assurances. P104 (Witness statement of Fadil Banjanović dated 9 February 1998), para. 2-38; Fadil Banjanović, P57 (Transcript from *Prosecutor v S. Milošević*), T. 20692–20693, 20695.

4361 Fadil Banjanović, P57 (Transcript from *Prosecutor v S. Milošević*), T. 20618; KDZ555, T. 17407–17408 (18 August 2011). *But see* P2886 (Interview with Marko Pavlović, 30 June 1992), p. 1.

4362 P104 (Witness statement of Fadil Banjanović dated 9 February 1998), paras. 2-26, 2-40; Fadil Banjanović, P57 (Transcript from *Prosecutor v S. Milošević*), T. 20693.

4363 P104 (Witness statement of Fadil Banjanović dated 9 February 1998), para. 2-45; Fadil Banjanović, P57 (Transcript from *Prosecutor v S. Milošević*), T. 20678, 20706; Milorad Davidović, T. 15534–15535 (28 June 2011); KDZ555, T. 17309 (17 August 2011). *See also* D3654 (Witness statement of KW317 dated 26 September 2012), para. 61 (under seal).

4364 P104 (Witness statement of Fadil Banjanović dated 9 February 1998), para. 2-47; *see* Adjudicated Fact 2739.

4365 P104 (Witness statement of Fadil Banjanović dated 9 February 1998), para. 2-47.

4366 P104 (Witness statement of Fadil Banjanović dated 9 February 1998), para. 2-7; Fadil Banjanović, P57 (Transcript from *Prosecutor v S. Milošević*), T. 20673.

4367 P104 (Witness statement of Fadil Banjanović dated 30 March 2002), para. 2-23.

4368 P104 (Witness statement of Fadil Banjanović dated 30 March 2002), para. 2-23; Fadil Banjanović, P57 (Transcript from *Prosecutor v S. Milošević*), T. 20618. *See also* Adjudicated Fact 2740.

4369 P104 (Witness statement of Fadil Banjanović dated 30 March 2002), paras. 24–25; P104 (Witness statement of Fadil Banjanović dated 9 February 1998), para. 2-48; Fadil Banjanović, P57 (Transcript from *Prosecutor v S. Milošević*), T. 20621–20622, 20655. *See also* Adjudicated Fact 2774.

4370 P104 (Witness statement of Fadil Banjanović dated 9 February 1998), para. 48; Fadil Banjanović, P57 (Transcript from *Prosecutor v S. Milošević*), T. 20620, 20624, 20655, 20664.

4371 P104 (Witness statement of Fadil Banjanović dated 9 February 1998), para. 2-48; Fadil Banjanović, P57 (Transcript from *Prosecutor v S. Milošević*), T. 20621–20622, 20628, 20655.

to leave the town within an hour and that everything, including transportation, had been organised.[4372] Mijatović told Banjanović that "an all-out attack was being prepared on Kozluk", that there "could be a massacre", and all Muslims would be killed if they did not move out.[4373]

1266. The operation to move out the Bosnian Muslim population was ordered by Pavlović[4374] and carried out by the commander of the MP known as "Studeni".[4375] Soldiers forced Bosnian Muslims to gather in the centre of town, while beating and opening fire at them.[4376] People from the nearby locality of Skočić were also ordered to assemble in the centre of Kozluk.[4377] Bosnian Serb soldiers registered the names of the Bosnian Muslims who had gathered, told them that they could not take any personal belongings, and forced them to sign statements that they gave up their property.[4378]

1267. After this, a convoy[4379] of buses, trucks, trailers and cars took almost 2,000 villagers from over 500 households from Kozluk to Šabac in Serbia, where they were transferred to trains to the Serbian-Hungarian border. From then on, Serbs who had fled other locations were settled in Kozluk.[4380]

4372 P104 (Witness statement of Fadil Banjanović dated 30 March 2002), para. 33; P104 (Witness statement of Fadil Banjanović dated 9 February 1998), para. 2-48; Fadil Banjanović, P57 (Transcript from *Prosecutor v S. Milošević*), T. 20621–20622, 20628, 20655; Milorad Davidović, T. 15538 (28 June 2011).

4373 Fadil Banjanović, P57 (Transcript from *Prosecutor v S. Milošević*), T. 20627–20628, 20696.

4374 P104 (Witness statement of Fadil Banjanović dated 30 March 2002), para. 33. *See also* D3724 (Witness statement of Branko Grujić dated 22 June 2013), para. 48. *But see* P2886 (Interview with Marko Pavlović, 30 June 1992), p. 1.

4375 Fadil Banjanović, P57 (Transcript from *Prosecutor v S. Milošević*), T. 20666.

4376 Fadil Banjanović, P57 (Transcript from *Prosecutor v S. Milošević*), T. 20629, 20655.

4377 Fadil Banjanović, P57 (Transcript from *Prosecutor v S. Milošević*), T. 20630.

4378 P104 (Witness statement of Fadil Banjanović dated 9 February 1998), para. 2-49; Fadil Banjanović, P57 (Transcript from *Prosecutor v S. Milošević*), T. 20705. *See also* Adjudicated Fact 2774; Milorad Davidović, T. 15535–15536 (28 June 2011).

4379 During transportation, those on the convoy, which was under police escort, were not free to leave. Fadil Banjanović, P57 (Transcript from *Prosecutor v S. Milošević*), T. 20643, 20651, 20709–20710. The Chamber received evidence about the killing of people who remained in Kozluk. Fadil Banjanović, P57 (Transcript from *Prosecutor v S. Milošević*), T. 20694. The Chamber notes that these killings are not charged pursuant to Schedules A or B of the Indictment. *See* fn. 13.

4380 P104 (Witness statement of Fadil Banjanović dated 9 February 1998), para. 50; Fadil Banjanović, P57 (Transcript from *Prosecutor v S. Milošević*), T. 20632–20633, 20641, 20660, 20662–20663, 20667; P72 (Letter regarding people leaving Kozluk, 26 June 1992); P162 (List of persons leaving Kozluk, 26 June 1992); P73 (List of persons leaving Skočić, 26 June 1992); P2887 (Article from The Independent entitled "Refugees board a nightmare train", 19 July 1992), pp. 1–2; Petko Panić, T. 19137 (19 September 2011); P76 (Map marked by Fadil Banjanović). *See* Adjudicated Fact 2775. *But see* D3654 (Witness statement of KW317 dated 26 September 2012) (under seal), paras. 57–59; P6369 (Excerpts from KW317's statement to OTP, 14 June 2002) (under seal), pp. 3–4. The Chamber refers to fns. 4237 and 4239 as to why it does not consider KW317's evidence as to the circumstances in which the Bosnian Muslim population left Kozluk to be reliable. Further, the Chamber notes specific contradictions, attempts to minimise his own involvement and his acknowledgement on cross-examination that Bosnian Muslims did not move of their own free will. KW317, T. 39362–39365 (6 June 2013).

1268. Documents and statements were provided which stated that Bosnian Muslims from Kozluk had explicitly, and without any duress, requested resettlement.[4381] However, Banjanović stated that these documents did not reflect the actual situation and that while"[t]hey wrote this letter saying that we were doing everything voluntarily, but in fact, they expelled us. We left in trucks, in buses. The stoning, the beating, the killings [were] not an act of benevolence but an act of expulsion. Why would 5,000 people leave their homes?".[4382] Having reviewed the evidence, the Chamber finds that the Bosnian Muslims did not leave voluntarily, and even if some had provided statements which indicated that they left voluntarily, these statements were given in intimidating and violent circumstances, which negated the voluntariness of these departures.

(3) Other villages

1269. From April 1992, Serb Forces attacked or took over a number of villages including Dugi Dio,[4383] Snagovo,[4384] Divič,[4385] Đulići which was also known as Bijeli Potok,[4386] and Liplje.[4387] Women and girls from the village of Liplje were raped by Serb Forces.[4388] During some of these attacks Serb Forces set fire to houses, destroyed mosques and cut the electricity supply.[4389] These

4381 Fadil Banjanović, P57 (Transcript from *Prosecutor v S. Milošević*), T. 20632, 20657, 20704. *See also* P106 (Document of Serbian Commission for Refugees, 26 June 1992).

4382 Fadil Banjanović, P57 (Transcript from *Prosecutor v S. Milošević*), T. 20650, 20698; P72 (Letter regarding people leaving Kozluk, 26 June 1992); P73 (List of persons leaving Skočić, 26 June 1992. *See also* P2887 (Article from The Independent entitled "Refugees board a nightmare train", 19 July 1992), p. 2; KDZ240, P2935 (Transcript from *Prosecutor v. Krajišnik*), T. 6761–6763 (under seal).

4383 P133 (Witness statement of Matija Bošković dated 20 November 2003), para. 27 (identifying Bošković's unit as taking over the village with the presence of JNA units). *See also* P3195 (Witness statement of KDZ029 dated 28 June 2011), para. 13 (under seal).

4384 P64 (Witness statement of Osman Krupinac dated 29 May 2000), pp. 2–3.

4385 The attack on Divič was carried out by forces including Arkan's men, the White Eagles, and the reserve police. In late April or early May 1992, Serb Forces demanded that the villagers of Divič surrender but attacked the village before the deadline for surrender had expired. *See* Adjudicated Fact 2735.

4386 Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2898. *See* Adjudicated Fact 2733; P4838 (Map of ethnic composition of Zvornik).

4387 P71 (Witness statement of Safeta Hamzić dated 17 July 1996), p. 2. *See also* KDZ064, T. 1316, 1318–1319 (21 April 2010), T. 1404 (22 April 2010) (testifying about attacks against Kamenica). Gornja Kamenica and Donja Kamenica are located to the south west of Zvornik. P4838 (Map of ethnic composition of Zvornik).

4388 P71 (Witness statement of Safeta Hamzić dated 17 July 1996), pp. 2–7. The Chamber also received evidence about the detention and killing of Bosnian Muslims in Liplje. The Chamber notes that these killings and detention facilities are not charged pursuant to Schedules A, B or C of the Indictment. *See* fn. 13.

4389 KDZ064, T. 1316, 1318–1319 (21 April 2010), T. 1404 (22 April 2010) (testifying that Serb Forces destroyed the four mosques in Kamenica); P133 (Witness statement of Matija Bošković dated 20 November 2003), para. 27. For the Chamber's findings with respect to the destruction of mosques, *see* Scheduled Incident D.22. *See also* P3195 (Witness statement of KDZ029 dated 28 June 2011), para. 13 (under seal). The Chamber also received evidence about the killing of Bosnian Muslims from Kamenica and Snagovo. KDZ064, T. 1311 (21 April 2010); KDZ064, T. 1404 (22 April 2010); P64 (Witness statement of Osman Krupinac dated 29 May 2000), p. 2–3; P6372 (Excerpt from SFRY Federal Secretariat for National Defence information, 26 May 1992), p. 2. The Chamber notes that these killings are not charged pursuant to Schedules A or B of the Indictment. *See* fn. 13.

attacks prompted the Bosnian Muslim population to flee their villages,[4390] after which Bosnian Serbs moved into Bosnian Muslim homes.[4391] When some Bosnian Muslims who had fled Divič tried to return they were turned away by Serb Forces.[4392]

1270. In late April 1992, Bosnian Muslims of Kostijerevo, following a demand by Serb Forces handed over weapons.[4393] Similarly, in the second half of May 1992, the Zvornik Crisis Staff called for the surrender of weapons which was complied with by villages, including Đulići, Šetići, Klisa, Kaldrane, Sjenokos, Drina, Kučić-Kula, Mrakonci, Durakovići, Lupe, Tršić, and Petkovci.[4394]

1271. Some villages were attacked multiple times until they fell to Serb Forces.[4395] In late May 1992, between 400 and 500 Bosnian Muslims from Divič, including women, children and the elderly, were forced onto buses by Yellow Wasps and taken to Crni Vrh where they were allowed to leave for Bosnian Muslim territory on foot.[4396]

1272. On or about 28 May 1992, the Bosnian Serb Crisis Staff in Sapna, announced that all residents of Šetići and 13 other hamlets should gather in Klisa to be moved to Živinice.[4397] After this announcement Serbs warned their Bosnian Muslim neighbours, that they would be killed and that they should flee towards Klisa.[4398] As a result more than 4,000 people, including women and children, gathered at Klisa and some headed towards Međeđa and Tuzla.[4399]

1273. On the morning of 1 June 1992, Klisa was surrounded by Serb soldiers wearing the uniform of the JNA and heavily armed paramilitaries.[4400] Bosnian Muslims were instructed by the Bosnian

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4390 KDZ064, T. 1316, 1318–1319, 1334 (21 April 2010), T. 1404 (22 April 2010); P64 (Witness statement of Osman Krupinac dated 29 May 2000), pp. 2–3; *see* Adjudicated Fact 2735 (1,000 Bosnian Muslims fled from Divič to Jošanica). The Chamber also received evidence about the burning of six Bosnian Muslims from Kamenica. KDZ064, T. 1311 (21 April 2010), T. 1404 (22 April 2010). The Chamber notes that these killings are not charged pursuant to Schedules A or B of the Indictment. *See* fn. 13.

4391 P3195 (Witness statement of KDZ029 dated 28 June 2011), para. 13 (under seal).

4392 *See* Adjudicated Fact 2735.

4393 KDZ072, P425 (Transcript from *Prosecutor v. Šešelj*), T. 8696–8697.

4394 D1639 (Statement of KDZ029 to Tuzla SDB, 17 June 1992), p. 1 (under seal); KDZ029, T. 17588 (22 August 2011) (closed session).

4395 P64 (Witness statement of Osman Krupinac dated 29 May 2000), p. 5.

4396 *See* Adjudicated Fact 2771. *But see* D3724 (Witness statement of Branko Grujić dated 22 June 2013), paras. 49, 63. The Chamber refers to fns. 4237 and 4239 as to why it does not find Grujić's evidence with respect to the departure of Bosnian Muslims from Divič to be reliable.

4397 D1639 (Statement of KDZ029 to Tuzla SDB, 17 June 1992), p. 1 (under seal).

4398 P3195 (Witness statement of KDZ029 dated 28 June 2011), para. 6 (under seal); KDZ029, T. 17598–17599, 17608–17609 (22 August 2011) (closed session).

4399 P3195 (Witness statement of KDZ029 dated 28 June 2011), para. 7 (under seal); KDZ029, T. 17614 (22 August 2011) (closed session).

4400 P3195 (Witness statement of KDZ029 dated 28 June 2011), paras. 8–9 (under seal); KDZ029, T. 17609 (22 August 2011) (closed session).

Serb soldiers that they could only take their bags and leave for Đulići.[4401] After this, 4,000 people walked towards Đulići under the escort of armed Bosnian Serbs;[4402] they were intimidated and searched at a check-point for weapons, and had their vehicles confiscated.[4403] On arrival in Đulići, Bosnian Serbs, in regular police uniforms, camouflage uniforms and JNA uniforms, with some wearing masks ordered the separation of the men from the women and children.[4404] Between 5,000 and 6,000 women and children were moved out from Bijeli Potok and Đulići.[4405] Approximately 700 men from 13 Bosnian Muslims villages were separated, had their hands tied behind their backs, and were transported to the Karakaj Technical School.[4406] The police assisted in loading people onto buses while VRS units were responsible for the transportation.[4407]

1274. On 30 May 1992, Serbian Radio Zvornik, informed all citizens of the Drinjača-Kostijerevo commune to stay in their homes and co-operate with the "army" which would arrive.[4408] Then, soldiers dressed in the JNA reserve uniform arrived, firing shots.[4409] About 150 people, including women and children, were gathered and ordered to form a column before being escorted to the cultural centre in Drinjača.[4410]

4401 P3195 (Witness statement of KDZ029 dated 28 June 2011), para. 10 (under seal); P3184 (Record of Belgrade's District Court, War Crime Chamber Investigating Judge, 14 February 2007), p. 4 (under seal); KDZ029, T. 17616 (22 August 2011) (closed session).

4402 P3195 (Witness statement of KDZ029 dated 28 June 2011), para. 10 (under seal); KDZ029, T. 17620 (22 August 2011) (closed session).

4403 P3195 (Witness statement of KDZ029 dated 28 June 2011), para. 11 (under seal).

4404 P3195 (Witness statement of KDZ029 dated 28 June 2011), para. 12 (under seal); KDZ029, T. 17618–17619 (22 August 2011) (closed session); P64 (Witness statement of Osman Krupinac dated 29 May 2000), pp. 2–3. The Chamber also received evidence about the killing of Bosnian Muslim men in this incident. Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2899–2901. The Chamber notes that the above killings are not charged pursuant to Schedules A or B of the Indictment. *See* fn. 13.

4405 Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2896, 2900, 2989–2990. *See also* D3654 (Witness statement of KW317 dated 26 September 2012), paras. 53–55 (under seal); Petko Panić, T. 19188 (20 September 2011).

4406 P3195 (Witness statement of KDZ029 dated 28 June 2011), para. 13 (under seal); P3184 (Record of Belgrade's District Court, War Crime Chamber Investigating Judge, 14 February 2007) (under seal), pp. 4–5; KDZ029, T. 17620–17621 (22 August 2011) (closed session); Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2896, 2899–2901, 2989–2990.

4407 Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2898, 2900–2902; KDZ555, T. 17304–17305 (17 August 2011) (private session).

4408 KDZ072, P425 (Transcript from *Prosecutor v. Šešelj*), T. 8698.

4409 KDZ072, P425 (Transcript from *Prosecutor v. Šešelj*), T. 8699.

4410 KDZ072, P425 (Transcript from *Prosecutor v. Šešelj*), T. 8699–8701.

(E) Developments in Zvornik after take-over

(1) Measures imposed in Zvornik

1275. On 8 April 1992, the Zvornik Crisis Staff imposed a curfew on all civilians[4411] and issued an order for the general mobilisation of all adults in the Serb Municipality of Zvornik.[4412] Both Bosnian Muslims and Bosnian Serbs were issued with passes by the military authorities allowing free movement and all citizens were required to have these passes. Paramilitaries would stop people to check these passes.[4413]

1276. Some Bosnian Muslims were prevented from going to work, and those who attempted to do so, were stopped at a barricade in Karakaj, slapped, insulted, and sent home.[4414] After the conflict broke out, some Bosnian Muslims were fired from their jobs[4415] and Bosnian Muslim judges were expelled from the municipality.[4416] In April 1992, Bosnian Serb authorities called on both Bosnian Serbs and Bosnian Muslims to return to work and live in Zvornik, declaring it was safe to do so.[4417] However, Bosnian Muslims who did return were taken in for interviewing,[4418] had to register,[4419] and in order to remain employed, had to sign a pledge of loyalty to the Bosnian Serb authorities.[4420] Some Bosnian Muslims after being questioned by the police were kept effectively under house arrest, and in one case in May 1992, Serb Forces called out the names of Bosnian Muslims who

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4411 P3381 (Decision of the Zvornik Crisis Staff, 8 April 1992), pp. 1–2; Petko Panić, T. 19127 (19 September 2010).

4412 P3381 (Decision of the Zvornik Crisis Staff, 8 April 1992), p. 5; KDZ555, T. 17351 (17 August 2011). *See also* Marinko Vasilić, T. 39926–39927 (13 June 2013); Petko Panić, T. 19127 (19 September 2011), T. 19174 (20 September 2011) (testifying that the municipality did not have the authority to declare mobilisation or to declare a state of war unless it was cut off from the state).

4413 P4837 (Witness statement of KDZ610 dated 27 March 2012), paras. 14, 16 (under seal); KDZ610, T. 27193, 27202 (29 March 2012) (private session).

4414 KDZ072, P425 (Transcript from *Prosecutor v. Šešelj*), T. 8697.

4415 KDZ610, T. 27188 (29 March 2012) (private session).

4416 D92 (Transcript of 17th session of SerBiH Assembly, 24-26 July 1992), pp. 71–72. The Chamber finds that some Bosnian Serbs were also relieved from their duties in the Zvornik lower Court by the Interim Government. D1712 (Decision of Zvornik Interim Government, 27 April 1992); Petko Panić, T. 19207 (20 September 2011).

4417 KDZ555, T. 17441 (18 August 2011); P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), p. 6.

4418 KDZ555, T. 17242–17243 (16 August 2011) (private session).

4419 P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), p. 7; KDZ023, P65 (Transcript from *Prosecutor v. S. Milošević*), T. 26138–26139. KDZ023 testified that the registration was only a pretext and those who returned and registered were killed. However, the Chamber considers KDZ023's evidence in this regard to be speculative. KDZ023, P65 (Transcript from *Prosecutor v. S. Milošević*), T. 26138–26139.

4420 *See* Adjudicated Fact 2734. *But see* D3724 (Witness statement of Branko Grujić dated 22 June 2013), para. 62; KDZ555, T. 17354 (17 August 2011). The Chamber refers to its credibility assessment in fns. 4237 and 4239 as to why it does not find the evidence of Grujić and KDZ555 to be reliable with respect to the pledge of loyalty and the issue of discriminatation against Bosnian Muslims.

were still living in a building in Zvornik.[4421] White Eagles also searched Bosnian Muslim apartments, at times using violence.[4422]

1277. In May 1992, an agency was established which was authorised to execute exchanges of real estate between residents of Zvornik and other municipalities.[4423] Through this commission the abandoned property of Bosnian Muslims was seized and distributed to Bosnian Serbs who had moved to Zvornik.[4424] By August 1992, Bosnian Serb authorities in Zvornik did take measures to move out individuals who unlawfully moved into property and to investigate cases of plunder of property.[4425]

1278. On 6 June 1992, Mladić issued an urgent directive to secure communications from Sarajevo to Zvornik and mop up or cleanse the zone of "remaining enemy groups".[4426] More specifically the Eastern Bosnia Corps was directed to secure road access and to mop up or cleanse Birač of remaining "enemy forces".[4427] This directive also stated that "maltreating of civilian unarmed population is strictly forbidden and prisoners must be treated pursuant to [the] Geneva Convention[s]".[4428] The Command of the Eastern Bosnia Corps issued an order to the Zvornik Brigade on 7 June 1992, which reflected this directive and also strictly prohibited the maltreatment of the unarmed civilian population.[4429]

1279. On 17 June 1992, the Accused confirmed the appointment of five members of the War Commission of the Serb Municipality of Zvornik, which was to disband the Interim Government

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4421 P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), pp. 3, 8–9. The Serb Forces included those wearing the insignia of Šešelj's men.

4422 P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), p. 14.

4423 Adjudicated Fact 2770; P2734 (Decision of Zvornik municipality on establishment of Agency for Exchange of Real Estate Properties, 11 May 1992). *See also* D3724 (Witness statement of Branko Grujić dated 22 June 2013), para. 70.

4424 Petko Panić, T. 19139 (19 September 2011), T. 19151, 19200–19201 (20 September 2011); P3385 (Decision of Zvornik's Temporary Government, 15 May 1992), p. 1; D1705 (Order of Zvornik Interim Government, 21 May 1992), p. 1; *see* Adjudicated Fact 2773. *See also* D1710 (Decision of Zvornik Interim Government, 22 June 1992), p. 1; Branko Grujić, T. 40456 (26 June 2013); D3732 (Decision of Zvornik Interim Government, 30 May 1992). *But see* D3724 (Witness statement of Branko Grujić dated 22 June 2013), para. 72; Branko Grujić, T. 40454–40456 (26 June 2013). The Chamber refers to its credibility assessment in fns. 4237 and 4239 as to why it does not find the evidence of Grujić to be reliable with respect to the occupation of Bosnian Muslim homes by Serb refugees.

4425 D1624 (Minutes of 2nd meeting of Zvornik Assembly, 19 August 1992), pp. 4–5. *See also* D1708 (Order of Zvornik Interim Government, 2 July 1992), p. 3; D1709 (Decision of Zvornik Provisional Government, 18 May 1992), p. 1; Petko Panić, T. 19201, 19203–19204 (20 September 2011).

4426 D232 (Directive 1, 6 June 1992), pp. 1–2.

4427 D232 (Directive 1, 6 June 1992), p. 4. Birač was one of the SAOs which included the municipality of Zvornik. Momčilo Mandić, T. 5088 (14 July 2010)

4428 D232 (Directive 1, 6 June 1992), p. 5.

4429 P5400 (Order of Eastern Bosnia Corps, 7 June 1992), pp. 1–2, 5–6.

and restore the Municipal Assembly.[4430] On the same day, the Serb Municipality of Zvornik ordered the back pay of pensions for Serbs.[4431]

(2) Actions of paramilitaries

1280. On 18 April 1992, the Interim Government issued an order to form a special unit tasked with securing the territory of the Serb Municipality of Zvornik.[4432] This special unit was referred to as the Igor Marković unit and was later known as the Yellow Wasps.[4433] Members of the Yellow Wasps would regularly report to the Zvornik Crisis Staff.[4434] The Yellow Wasps had close co-operation with, and were issued arms by, the TO[4435] and were subsequently under the command of the Zvornik Brigade.[4436] In May 1992, the Zvornik TO was transformed into the Zvornik Brigade, which formed part of the Eastern Bosnia Corps.[4437] Žućo reported to, and received orders from, the Brigade command.[4438] Pivarski's Group received orders from Pavlović although it was under the command of the Zvornik Brigade as was Niški's Group.[4439] When volunteers and paramilitaries arrived in Zvornik they reported to the Zvornik Crisis Staff and were sent to the TO to be deployed.[4440] Members of paramilitary and volunteer units were on the payroll of the Zvornik TO or Zvornik Brigade and were paid by municipal bodies, including the TO Staff and Zvornik Crisis Staff, which also paid for their transportation to Zvornik.[4441] Pavlović had a major role in arming

4430 P5479 (RS Presidency confirmation of appointment of Zvornik War Commission members, 17 June 1992); D3654 (Witness statement of KW317 dated 26 September 2012), paras. 67–68, 73 (under seal) [REDACTED]. *See also* D1716 (Decision of Zvornik Interim Government, 28 July 1992); Petko Panić, T. 19210 (20 September 2011); D4694 (Zvornik Wartime Commission Decisions, 1 July 1992).

4431 P3152 (Request of Investbank to Zvornik's temporary Government, 17 June 1992) p. 2; KDZ555, T. 17241 (16 August 2011).

4432 D1719 (Order of Zvornik Interim Government, 18 April 1992), p. 1; Petko Panić, T. 19216 (20 September 2011). Branko Grujić delayed the implementation of this decision. D1720 (Conclusion of Zvornik Interim Government, 9 May 1992), pp. 1–2; Petko Panić, T. 19217 (20 September 2011).

4433 P2867 (Decision of Zvornik Interim Government, 27 April 1992); Milorad Davidović, 15497 (28 June 2011).

4434 KDZ340, T. 17479 (18 August 2011).

4435 *See* Adjudicated Fact 2108; P3165 (Witness statement of KDZ340 undated), pp. 17, 19, 49 (under seal). *See also* Reynaud Theunens, T. 17090–17092 (21 July 2011); Milorad Davidović, T. 15491 (28 June 2011).

4436 P3165 (Witness statement of KDZ340 undated), pp. 16, 19, 22–23, 26–27 (under seal); P3169 (Letter from Zvornik Brigade, 17 June 1992), p. 1; P3170 (Duty book of Zvornik Brigade, 9 June - 9 July 1992).

4437 P3167 (Order of the Eastern Bosnia Corps, 30 May 1992); D1457 (Order of Eastern Bosnia Corps, 6 June 1992), p. 1.

4438 P3165 (Witness statement of KDZ340 undated), pp. 25–31 (under seal); P3171 (Combat Report of the Eastern Bosnia Corps, 6 July 1992), p. 2; P3170 (Duty book of Zvornik Brigade, 9 June - 9 July 1992), p. 7.

4439 P3165 (Witness statement of KDZ340 undated), pp. 17, 23–24 (under seal) (stating that Niški's full name was Svetozar Mitrović and first came to Zvornik under Arkan's command and returned on 26 April 1992 under the command of Žućo and then Pavlović). *See also* P3169 (Letter from Zvornik Brigade, 17 June 1992), p. 1.

4440 Branko Grujić, T. 40384–40385 (25 June 2013), T. 40444–40445 (26 June 2013); D3692 (Witness statement of Jovan Ivanović dated 9 June 2013), para. 26; D3654 (Witness statement of KW317 dated 26 September 2012), para. 39 (under seal); KDZ340, T. 17518 –17519 (19 August 2011); KDZ555, T. 17293 (16 August 2011).

4441 Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2893–2894, 2906, 2984–2985; Petko Panić, T. 19130–19131 (19 September 2011); P2866 (Declaration of Milorad Davidović, 22 June 2011), pp. 2–3; Milorad Davidović, T. 15489, 15491–15495, 15497 (28 June 2011); P2867 (Decision of Zvornik Interim Government, 27 April 1992); P2862 (Yellow Wasps payroll, 1 May 1992); P2863 (Yellow Wasps'

Serb paramilitary units in the region.[4442] Some of the paramilitary groups which came from Serbia later joined the TO or the VRS but mostly worked independently.[4443] There were difficulties in attempts to place them under a unified command.[4444]

1281. Before being integrated into the Eastern Bosnia Corps, the Zvornik TO worked in parallel and in co-operation with the Zvornik Brigade, which allowed both Pavlović and the Zvornik Brigade commander to issue orders to military units in Zvornik.[4445] In June 1992, Pavlović was appointed commander of "the single military and territorial command" of the Serb Municipality of Zvornik.[4446]

1282. Paramilitaries were involved in looting goods and vehicles, which were then smuggled to Serbia.[4447] The actions of paramilitaries created fear among the Bosnian Muslim population.[4448]

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payroll, June 1992); P2869 (Zvornik Brigade's payroll, June 1992); P2871 (Zvornik TO's payroll, April 1992); P2865 (White Eagles' payroll, June 1992); P2872 (Zvornik TO's payroll, May 1992); P2873 (List of volunteers in Zvornik Municipality, 7 May 1992); P2634 (Order of Zvornik's interim government, 4 May 1992), p. 1; P3156 (Approval for payment of Zvornik Municipal Assembly, 30 April 1992); P3157 (Payroll of unemployed reservists, May 1992), p. 4 (referring to entry 41 which is a payment made to Žuća); P3159 (Zvornik Brigade's payroll for June 1992) (under seal); P158 (Payroll list of reserve soldiers); P159 (Payroll list of volunteers); P3382 (List of members of Loznica TO in April 1992), pp. 1–2; P3165 (Witness statement of KDZ340 undated), pp. 7–9, 16–17, 19–20, 31, 84–86 (under seal); P2870 (TO's payroll of reserve soldiers, May 1992); KDZ340, T. 17526–17527 (19 August 2011) (private session); KDZ555, T. 17270–17271, (16 August 2011) (private session), T. 17287–17289, 17293 (16 August 2011); KW317, T. 39357–39358 (6 June 2013); P3173 (Statement of Nenad Simić to Bijeljina SJB, 6 August 1992), p. 1 (under seal); P133 (Witness statement of Matija Bošković dated 20 November 2003), paras. 13, 31, 56; P160 (Receipts of confiscated vehicles, 23 June 1992); P5434 (Payroll sheet for members of the Zvornik TO, May 1992); P5435 (List of soldiers in the White Eagles Unit, 16 June 1992); P5542 (Permission of the Zvornik Municipality, 10 June 1992); Marinko Vasilić, T. 39945–39947 (13 June 2013); P3383 (Payment list for Zoran Aleksić's unit), pp. 1–5; P2859 (Zvornik TO's payroll, April 1992), pp. 6–7; *see* Adjudicated Fact 2108. Defence witnesses testified that the local authorities did not dare enter into a more detailed analysis of who was on payment lists because of fear and that they were forced to provide logistical support by the paramilitaries. Branko Grujić, T. 40390 (25 June 2013); P6415 (Excerpt from Branko Grujić's testimony before Belgrade District Court, 30 November 2005), pp. 9–10; Čedomir Zelenović, T. 40329–40332 (24 June 2013). However, the Chamber notes that on cross-examination Grujić was challenged about this testimony and did not adequately explain why he had not previously mentioned this theory that payments were made under coercion. Branko Grujić, T. 40390 (25 June 2013); P6415 (Excerpt from Branko Grujić's testimony before Belgrade District Court, 30 November 2005), pp. 9–10. The Chamber further notes that Grujić's evidence was marked by multiple contradictions and evasiveness and does not consider it to be reliable in this regard. Zelenović was shown P2913, which showed Grujić requesting payment from the republican authorities for members of the TO without mentioning any coercion. The Chamber does not consider Zelenović's evidence to be reliable in this regard considering that his testimony was marked by evasiveness.

4442 P104 (Witness statement of Fadil Banjanović dated 30 March 2002), paras. 5–6, 9; P3165 (Witness statement of KDZ340 undated), p. 17 (under seal).

4443 Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2888; Petko Panić, T. 19166–19167 (20 September 2011). *See also* Marinko Vasilić, T. 39947, 39970 (13 June 2013); D3663 (Witness statement of Goran Mačar dated 3 May 2013), para. 28.

4444 D3724 (Witness statement of Branko Grujić dated 22 June 2013), para. 37.

4445 P3165 (Witness statement of KDZ340 undated), pp. 12–15 (under seal); KDZ340, T. 17519–17521 (19 August 2011).

4446 P313 (Decision of interim Zvornik government, 16 June 1992), p. 1.

4447 KDZ446, P28 (Transcript from *Prosecutor v. S. Milošević*), T. 23634–23636 (under seal).

4448 D3654 (Witness statement of KW317 dated 26 September 2012), paras. 49–50 (under seal); P2764 (Bijeljina CSB report), pp. 2–3.

These actions included the formation of check-points around town, the seizure of cars, buildings and apartments, the looting of private houses and factories, maltreatment, killings, and rape.[4449]

1283. The local authorities faced difficulties in controlling the actions of the paramilitaries.[4450] However, in some cases the paramilitary formations "carried out their illegal activities with the knowledge and consent" of members of the Bosnian Serb authorities in Zvornik.[4451] More specifically, paramilitaries such as Žućo had close contact with Pavlović.[4452] With respect to one incident, in which two Bosnian Muslim men were killed and two Bosnian Muslim women were

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4449 D1436 (Report of SerBiH MUP, 17 June 1992), p. 5; D3693 (Witness statement of Marinko Vasilić dated 9 June 2013), para. 37; P3165 (Witness statement of KDZ340 undated), pp. 50–51 (under seal); P3181 (Statement of KDZ340 to Bijeljina SJB, 6 August 1992), p. 1 (under seal); P3173 (Statement of Nenad Simić to Bijeljina SJB, 6 August 1992), pp. 1, 3 (under seal); KDZ340, T. 17535–17536, 17538, 17543 (19 August 2011) (private session); P3176 (Map of area around Zvornik marked by KDZ340) (under seal); P3178 (Indictment from Bijeljina Lower Court, 13 September 1999) (under seal), p. 7. *See also* P6372 (Excerpt from SFRY Federal Secretariat for National Defence information, 26 May 1992), p. 2; P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), p. 3; KDZ555, T. 17286–17287 (16 August 2011) (private session); D1450 (Milorad Davidović's statement to Belgrade District Court, 26 December 2007), pp. 5, 31; P2764 (Bijeljina CSB report), pp. 2–3. The Chamber will not enter a finding with respect to killings which are not connected to scheduled killing incidents.

4450 Dragan Vidović, T. 17762 (23 August 2011); D1696 (List of active policemen in Zvornik SJB, 21 April 1992), pp. 1–2; Petko Panić, T. 19172–19173 (20 September 2011); D3654 (Witness statement of KW317 dated 26 September 2012), paras. 49–50 (under seal); P3390 (Report on activities of Zvornik SJB for 1993), p. 23, 38; D1450 (Milorad Davidović's statement to Belgrade District Court, 26 December 2007), pp. 5, 31; D1436 (Report of SerBiH MUP, 17 June 1992), p. 5; D1631 (Report of Zvornik SJB, 29 June 1992), p. 3; D1625 (Report on activities of Zvornik SJB, July-September 1992), p. 1; P2764 (Bijeljina CSB report), pp. 2–3; Dragomir Andan, T. 40836 (5 July 2013); P2880 (Official Note of Valjevo State Security Centre, 2 July 1992), p. 4. *See also* P1478 (Ratko Mladić's notebook, 27 May–31 July 1992), pp. 264–265; P2743 (Witness statement of Dragan Kezunović dated 14 June 2011), pp. 62–63; D3724 (Witness statement of Branko Grujić dated 22 June 2013), paras. 37, 53; D3693 (Witness statement of Marinko Vasilić dated 9 June 2013), para. 35; D3692 (Witness statement of Jovan Ivanović dated 9 June 2013), para. 27; D3960 (Witness Statement of Tomislav Kovač dated 28 October 2013), para. 79; D3723 (Witness statement of Čedomir Zelenović dated 22 June 2013), para. 28; D3692 (Witness statement of Jovan Ivanović dated 9 June 2013), para. 27; Petko Panić, T. 19188–19190 (20 September 2011); Mićo Stanišić, T. 46553–46554 (5 February 2014).

4451 P3390 (Report on activities of Zvornik SJB for 1993), p. 23; P36 (Report by CSB Bijeljina re security situation in the Zvornik Municipality, 20 July 1992), p. 5 (under seal); D1450 (Milorad Davidović's statement to Belgrade District Court, 26 December 2007), p. 8. As a result of dissatisfaction with the legalisation of the stay of "criminally inclined persons" and the actions of the military authorities, the Chief of the Zvornik SJB requested to be released from his duties. D1436 (Report of SerBiH MUP, 17 June 1992), p. 5; Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2923. *But see* KDZ555, T. 17286–17287 (16 August 2011) (private session); D3693 (Witness statement of Marinko Vasilić dated 9 June 2013), paras. 32–34, 36; Marinko Vasilić, T. 39945–39946, 39950, 39962–39963 (13 June 2013); D3723 (Witness statement of Čedomir Zelenović dated 22 June 2013), paras. 28–30; Čedomir Zelenović, T. 40329, 40332 (24 June 2013), T. 40337 (25 June 2013); D3692 (Witness statement of Jovan Ivanović dated 9 June 2013), paras. 25–27; Jovan Ivanović, T. 39866–39867 (12 June 2013), T. 39873–39874, 39897 (13 June 2013); D3663 (Witness statement of Goran Mačar dated 3 May 2013), para. 29; D3654 (Witness statement of KW317 dated 26 September 2012) (under seal), para. 71; KW317, T. 39402 (6 June 2013); D3724 (Witness statement of Branko Grujić dated 22 June 2013), paras. 37–39. The Chamber does not find the evidence of these witnesses that local authorities could not control or punish paramilitaries to be reliable. In reaching that conclusion the Chamber refers to its credibility asessment in fns. 4237 and 4239. Vasilić, for example, qualified his evidence and acknowledged that he did not know if the military authorities were supporting paramilitaries. Similarly the Chamber notes that the evidence of Mačar was also marked by contradictions and extreme evasiveness which undermined his credibility in this regard.

4452 Dragomir Andan, T. 40893–40895 (5 July 2013). There were attempts to hide the contacts and connections between members of the local government and paramilitary groups. KDZ446, P28 (Transcript from *Prosecutor v. S. Milošević*), T. 23634–23636, 23661 (under seal).

raped by members of the Zvornik TO under the command of Žućo, the SFRY Secretariat for National Defence reported that that the leadership of Zvornik did not want to uncover the identity of the perpetrators.[4453] The SJB protested against the Interim Government which had engaged paramilitary formations and was aware of and consented to their illegal activities.[4454]

1284. At the end of May 1992, Bosnian Serb leaders from Zvornik informed Mandić and Mićo Stanišić about the situation in the municipality, including the actions of the paramilitaries.[4455] In response, they were told that the local police should attempt to control these groups given that the SerBiH government and the VRS were still in the process of being established and did not have the resources to assist the municipalities in controlling the paramilitaries at the time.[4456]

1285. When paramilitaries felt that their activities, including looting, were interfered with and their presence was not supported, they also threatened and mistreated Bosnian Serb officials, threatened to attack the Zvornik SJB, blocked government buildings, and issued demands.[4457] It was only following these incidents that the local authorities took some steps to get rid of them.[4458]

1286. In another incident in June 1992, the Government and Zvornik Crisis Staff building was encircled by paramilitary formations and a member of Captain Dragan's unit threatened the President of the Municipality.[4459] The Accused and Mladić visited Zvornik the following day.[4460]

4453 P6372 (Excerpt from SFRY Federal Secretariat for National Defence information, 26 May 1992), p. 2.

4454 P3389 (Report of Zvornik SJB, 28 July 1992), p. 1; P3390 (Report on activities of Zvornik SJB for 1993), p. 23.

4455 D3654 (Witness statement of KW317 dated 26 September 2012), para. 65 (under seal).

4456 D3654 (Witness statement of KW317 dated 26 September 2012), paras. 66, 70 (under seal).

4457 P2880 (Official Note of Valjevo State Security Centre, 2 July 1992), pp. 1–4; D1436 (Report of SerBiH MUP, 17 June 1992), p. 5; D3723 (Witness statement of Čedomir Zelenović dated 22 June 2013), paras. 28–29; Čedomir Zelenović, T. 40329 (24 June 2013), T. 40337 (25 June 2013); P1478 (Ratko Mladić's notebook, 27 May–31 July 1992), p. 250. *See also* D3724 (Witness statement of Branko Grujić dated 22 June 2013), paras. 37–38; D3692 (Witness statement of Jovan Ivanović dated 9 June 2013), para. 27; D3693 (Witness statement of Marinko Vasilić dated 9 June 2013), para. 38; Vojislav Šešelj, T. 39577 (10 June 2013); KDZ555, T. 17289–17290 (16 August 2011); Marinko Vasilić, T. 39948, 39967–39968 (13 June 2013).

4458 P2848 (Witness statement of Milorad Davidović dated 22 June 2011), p. 28; D1450 (Milorad Davidović's statement to Belgrade District Court, 26 December 2007), p. 68; Milorad Davidović, T. 15778 (30 June 2011). *See also* P3165 (Witness statement of KDZ340 undated), pp. 53–54 (under seal); D1450 (Milorad Davidović's statement to Belgrade District Court, 26 December 2007), p. 6; Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 21799; P6434 (Excerpt from Dragomir Andan's interview with OTP), p. 1. When cross-examined, Andan maintained that the mistreatment of Ostojić was not the direct cause of the operation but this incident could have accelerated the process and that approval for the operation was received a day or two after the incident. Dragomir Andan, T. 40885–40887, 40905–40907 (5 July 2013); P6435 (Article entitled "The Sting of the 'Yellow Wasp'", 10 December 2002), p. 2; P6434 (Excerpt from Dragomir Andan's interview with OTP), p. 1. *See also* KW317, T. 39415–39416 (6 June 2013). *But see* Mićo Stanišić, T. 46653–46554 (5 February 2014). The Chamber does not consider Stanišić's evidence that this was already planned to be reliable. In reaching that conclusion the Chamber noted that his testimony was marked by contradictions, evasiveness and indicators that the witness was not being forthright in his evidence to the Chamber.

4459 D1436 (Report of SerBiH MUP, 17 June 1992), p. 5; P1478 (Ratko Mladić's notebook, 27 May–31 July 1992), pp. 250, 264; KDZ555, T. 17289–17290 (16 August 2011); Marinko Vasilić, T. 39967–39968 (13 June 2013). *See also* P2880 (Official Note of Valjevo State Security Centre, 2 July 1992), pp. 3–4.

Grujić reported to the Accused and Mladić that in addition to "major accomplishments" there were also many problems from paramilitary formations which broke free after Arkan's withdrawal and called for their removal.[4461] At this meeting, the Accused stated that it would be a shame to abolish Captain Dragan's training centre at Divič and that it would be easiest to "put the incident behind us".[4462] Mladić said he had not approved the establishment of the training centre and that Captain Dragan was "no more than an ordinary mobster" and insisted that Captain Dragan leave the municipality.[4463] Mladić also expressed strong disapproval of the paramilitaries and threatened to arrest anyone who did not place themselves under the command of the Army.[4464]

1287. After June 1992, the Yellow Wasps did not place themselves under the joint military command of the VRS.[4465] In July 1992, members of the Yellow Wasps went to Pale and received weapons from the Pale SJB after which Žućo met with Biljana Plavšić.[4466] Žućo also spoke to the Minister of Defence about the status of his group and Bogdan Subotić confirmed that all those who received orders from VRS officers were part of the VRS whether they were reservists, volunteers or paramilitaries.[4467] Subotić alerted these units that they needed to fully comply with the rules and regulations of the VRS, including those relating to uniforms, insignia and command structures.[4468]

1288. Reports submitted to the MUP in June and July 1992, indicated that the situation with respect to paramilitary forces in Zvornik had yet to be resolved[4469] and that the Yellow Wasps had

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4460 P2880 (Official Note of Valjevo State Security Centre, 2 July 1992), p. 3; Marinko Vasilić, T. 39960 (13 June 2013). *See also* Petko Panić, T. 19187–19188 (20 September 2011).

4461 P1478 (Ratko Mladić's notebook, 27 May–31 July 1992), pp. 249–250, 252, 266.

4462 P1478 (Ratko Mladić's notebook, 27 May–31 July 1992), pp. 250, 270.

4463 P2880 (Official Note of Valjevo State Security Centre, 2 July 1992), pp. 1, 3; Marinko Vasilić, T. 39960 (13 June 2013); D1436 (Report of SerBiH MUP, 17 June 1992), p. 5; Petko Panić, T. 19133, 19135 (19 September 2011), T. 19187–19188 (20 September 2011); P3384 (Report of Eastern Bosnia Corps, 7 June 1992), p. 1; P1478 (Ratko Mladić's notebook, 27 May–31 July 1992), pp. 266–269. *See also* Marinko Vasilić, T. 39951–39952 (13 June 2013).

4464 D3654 (Witness statement of KW317 dated 26 September 2012), para. 69 (under seal).

4465 P2882 (Report of Bijeljina SJB, 8 August 1992), p. 3; D1412 (Report of Republic of Serbia MUP, 8 August 1992), p. 9; D3724 (Witness statement of Branko Grujić dated 22 June 2013), para. 53. The Chamber refers to para. 1281 above explaining that Pavlović was in June 1992 appointed commander of the single military command in Zvornik.

4466 Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 21712–21713; P3174 (Certificate of Pale SJB, 11 July 1992); *see* Adjudicated Fact 2109; Mićo Stanišić, T. 46524 (5 February 2014); [REDACTED]. The Chamber has considered the Accused's submissions with respect to P3174 and the issuance of weapons. Defence Final Brief, paras. 1108–1109. The Chamber does not consider that these submissions affect the conclusion that the Yellow Wasps received weapons through the Pale SJB.

4467 *See* Adjudicated Fact 2109; [REDACTED]; D3695 (Witness statement of Bogdan Subotić dated 16 June 2013), paras. 205–206. *See also* D3695 (Witness statement of Bogdan Subotić dated 16 June 2013), para. 293; D3705 (Letter from RS Ministry of Defence to Zvornik Municipality Executive Board, 16 October 1992); Adjudicated Fact 2110.

4468 D3695 (Witness statement of Bogdan Subotić dated 16 June 2013), para. 293; D3705 (Letter from RS Ministry of Defence to Zvornik Municipality Executive Board, 16 October 1992).

4469 D3810 (Bijeljina CSB dispatch to SerBiH MUP, 23 July 1992); D1632 (Report of Bijeljina SJB, 23 July 1992), pp. 1–2; P36 (Report by CSB Bijeljina re security situation in the Zvornik Municipality, 20 July 1992), p. 1

attempted to influence the municipal authorities to appoint Žućo's men to certain positions and had taken control of check-points.[4470] Measures taken from June to July 1992 to control paramilitaries included controlling the issuance of VRS uniforms,[4471] placing controls on weapons,[4472] and restricting the presence of armed individuals in the town.[4473] The local authorities also took steps to expel police employees who had engaged "in inappropriate conduct" or had joined paramilitary units; a large number of police were then sent to the VRS.[4474] Vasilić and Grujić went to Pale in mid-June or July 1992 to inform the Bosnian Serb leadership about the situation in Zvornik and to ask for help in dealing with paramilitaries.[4475] Two days after Grujić and Vasilić returned from Pale they were taken prisoner by the Yellow Wasps and threatened.[4476] They were released the next day but Grujić and Vasilić resigned from their positions.[4477]

1289. On 25 July 1992, Milorad Davidović reported on the threat to the security situation posed by Žućo and the killings perpetrated by Repić at Čelopek after which steps were taken to arrest him.[4478] The Bijeljina CSB chief in a report delivered, *inter alios*, to the Minister of Internal Affairs recommended that a special unit of the MUP be sent to Zvornik to eliminate the paramilitary formations to improve the security situation in the region, and noted that Žućo was operating with the assistance of members of the local governmental authorities.[4479] The MUP

(under seal); Dragomir Andan, T. 40819–40820 (5 July 2013); Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 21402, 21439 21465, 21629.

4470 D1632 (Report of Bijeljina SJB, 23 July 1992), p. 2; Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2925; P36 (Report by CSB Bijeljina re security situation in the Zvornik Municipality, 20 July 1992), p. 3 (under seal); Milorad Davidović, T. 15491 (28 June 2011). *See also* D1436 (Report of SerBiH MUP, 17 June 1992), p. 5.

4471 D1703 (Conclusion of Zvornik Interim Government, 29 June 1992); Petko Panić, T. 19199 (20 September 2011).

4472 D1700 (Order of Zvornik Interim Government, 2 July 1992); D1701 (Order of Zvornik Interim Government, 2 July 1992); Petko Panić, T. 19197–19198 (20 September 2011). A similar order was issued by the Executive Board on 24 September 1992. D1702 (Order of Zvornik Executive Board, 24 September 1992).

4473 D1623 (Order of Zvornik's War Commission, 1 July 1992); KDZ555, T. 17443 (18 August 2011)

4474 D1704 (Recommendation of Zvornik Executive Board, 12 November 1992), p. 1; Petko Panić, T. 19200 (20 September 2011).

4475 D3693 (Witness statement of Marinko Vasilić dated 9 June 2013), para. 40; Marinko Vasilić, T. 39948, 39953–39955, 39970–39971 (13 June 2013); D3724 (Witness statement of Branko Grujić dated 22 June 2013), paras. 39, 41. *See also* P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 126; Milorad Davidović, T. 15777–15778 (30 June 2011); D1450 (Milorad Davidović's statement to Belgrade District Court, 26 December 2007), p. 4; P104 (Witness statement of Fadil Banjanović dated 30 March 2002), paras. 21–22.

4476 D3724 (Witness statement of Branko Grujić dated 22 June 2013), para. 42.

4477 D3724 (Witness statement of Branko Grujić dated 22 June 2013), para. 42.

4478 D3789 (Dragomir Andan's notes), pp. 5–6; Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 21489–21490, 21683; D3724 (Witness statement of Branko Grujić dated 22 June 2013), para. 39; P2879 (Official Note of Valjevo State Security Centre, 2 July 1992), p. 5 (under seal); P2880 (Official Note of Valjevo State Security Centre, 2 July 1992); Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2903–2905, 3013. For evidence on these killings, *see* Scheduled Incident B.20.2.

4479 P36 (Report by CSB Bijeljina re security situation in the Zvornik Municipality, 20 July 1992), p. 5 (under seal).

concluded that paramilitary formations from Serbia should be banned in Zvornik and that members of Captain Dragan's unit should return to regular units of the VRS.[4480]

1290. As instructed, Davidović planned the operation to arrest the paramilitary groups in Zvornik in co-operation with Andan and special units of the MUP.[4481] On 27 July 1992, the police expelled Gojić's group to Mali Zvornik and took back control of check-points.[4482] On 29 July 1992, Žućo was arrested and brought to Bijeljina.[4483] During this operation, other leaders and members of the Yellow Wasps were arrested[4484] as were municipal leaders, who had links with or collaborated with the Yellow Wasps, including Pavlović.[4485] During this operation a large quantity of gold, jewellery, cars, weapons, ammunition, alcohol, and other goods were found at the premises of those

4480 D1436 (Report of SerBiH MUP, 17 June 1992), p. 5.

4481 P2848 (Witness statement of Milorad Davidović dated 22 June 2011), paras. 126, 130–132; Milorad Davidović, T. 15766, 15779 (30 June 2011); D1412 (Report of Republic of Serbia MUP, 8 August 1992), pp. 6–7; D1450 (Milorad Davidović's statement to Belgrade District Court, 26 December 2007), pp. 6–7; D3918 (Witness statement of Milomir Savčić dated 21 July 2013), para. 33. *See also* Mićo Stanišić, T. 46380 (3 February 2014); Momčilo Mandić, T. 5289–5290 (16 July 2010); Dragomir Andan, T. 40827–40828, 40891–40893, 40906–40907 (5 July 2013); Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 21473–21474, 21478–21479, 21489–21490, 21678, 21680, 21693.

4482 Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2907–2908, 2925–2926; P3389 (Report of Zvornik SJB, 28 July 1992), p.1; Petko Panić, T. 19144 (19 September 2011), T. 19191, 19211 (20 September 2011); P3390 (Report on activities of Zvornik SJB for 1993), p. 23.

4483 P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 134; D1450 (Milorad Davidović's statement to Belgrade District Court, 26 December 2007), p. 17; Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 21506–21510, 21693; P6435 (Article entitled "The Sting of the 'Yellow Wasp'", 10 December 2002), p. 3. *See also* Mićo Stanišić, T. 46380 (3 February 2014).

4484 P2848 (Witness statement of Milorad Davidović dated 22 June 2011), paras. 126, 136–137, 139 141; Milorad Davidović, T. 15493 (28 June 2011) (testifying that Pivarski who had joined the Yellow Wasps was also arrested), T. 15794 (30 June 2011); Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2908, 2926–2928, 2937, 3006, 3008; D1625 (Report on activities of Zvornik SJB, July-September 1992), p. 2; Petko Panić, T. 19144–19145 (19 September 2011), T. 19191–19193, 19211 (20 September 2011); P3390 (Report on activities of Zvornik SJB for 1993), pp. 23, 38; P2904 (Report of SerBiH MUP, 4 August 1992), p. 1; KDZ555, T. 17311–17312 (17 August 2011); D1612 (Video footage of Arkan in "My Guest, His Truth", July/August 1994), transcript, p. 13; P3165 (Witness statement of KDZ340 undated), p. 63 (under seal); P133 (Witness statement of Matija Bošković dated 20 November 2003), para. 33; D1633 (Report of SerBiH MUP, 29 July 1992), p. 1; P2903 (Report of SerBiH MUP, 31 July 1992), p. 1; D1635 (Report of SerBiH MUP Pale's Crime Prevention Department, 10 August 1992), p.1; KDZ340, T. 17535 (19 August 2011) (private session); D3693 (Witness statement of Marinko Vasilić dated 9 June 2013), para. 44; D3724 (Witness statement of Branko Grujić dated 22 June 2013), para. 42; Jovan Ivanović, T. 39899 (13 June 2013). *See also* Dragomir Ljubojević, T. 35913 (22 March 2013).

4485 KDZ555, T. 17311–17312 (17 August 2011); Dragomir Andan, T. 40894 (5 July 2013); P2848 (Witness statement of Milorad Davidović dated 22 June 2011), paras. 140–141; D1412 (Report of Republic of Serbia MUP, 8 August 1992), p. 3; D1450 (Milorad Davidović's statement to Belgrade District Court, 26 December 2007), p. 69. The Chamber received differing evidence about the number of paramilitaries arrested in this operation, ranging from 30 to 180. D3694 (Bijeljina CSB report, 29 July 1992); KDZ340, T. 17567 (19 August 2011) (private session); P2904 (Report of SerBiH MUP, 4 August 1992), p. 1; D480 (SerBiH MUP information on paramilitaries in Zvornik, 31 July 1992); P2848 (Witness statement of Milorad Davidović dated 22 June 2011), paras. 140–141; D1412 (Report of Republic of Serbia MUP, 8 August 1992), p. 3; D1450 (Milorad Davidović's statement to Belgrade District Court, 26 December 2007), p. 69; D3693 (Witness statement of Marinko Vasilić dated 9 June 2013), para. 44; Marinko Vasilić, T. 39971 (13 June 2013); D3724 (Witness statement of Branko Grujić dated 22 June 2013), para. 42; D3692 (Witness statement of Jovan Ivanović dated 9 June 2013), para. 28. *See also* Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 21461, 21680.

arrested.[4486] All items found during the arrests were confiscated,[4487] and Andan instructed the Zvornik SJB to return the personal belongings of those who resided in the municipality.[4488]

1291. On the day of the arrests, Davidović met with the Zvornik Crisis Staff and the municipal leadership and informed them that they had arrested and disarmed the paramilitaries; this was met with relief and gratitude by Grujić.[4489] Mićo Stanišić and the MUP were informed about the successful operation in Zvornik to arrest the paramilitaries after which Stanišić paid tribute to their efforts.[4490] Stanišić was also informed that some of the leading officers, including the police station commander, had taken part in criminal activities, after which Stanišić said that everyone involved in any criminal activity that could be documented should be processed and criminal reports submitted for prosecution.[4491]

1292. Davidović prepared the documentation and submitted a criminal report to the Military Prosecutor in Bijeljina but, after his men withdrew, the proceedings were suspended and all the men were released by August 1992;[4492] some returned to Serbia.[4493] A number of paramilitaries

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4486 P2904 (Report of SerBiH MUP, 4 August 1992), pp. 2–3; D1412 (Report of Republic of Serbia MUP, 8 August 1992), p. 9; D1417 (Report of Republic of Serbia MUP, 6 November 1993), pp. 4–5; P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 136; P2903 (Report of SerBiH MUP, 31 July 1992), p. 1; D1634 (Official record of Zvornik SJB re search of KDZ340's appartment, 31 July 1992) (under seal); KDZ340, T. 17564 (19 August 2011) (private session); P3179 (Certificate on entering KDZ340's apartment, 3 August 1992) (under seal). *See also* P3181 (Statement of KDZ340 to Bijeljina SJB, 6 August 1992), p. 6 (under seal); KDZ340, T. 17533–17535 (19 August 2011) (private session); P3180 (Letter from Milisav Simić, 21 August 1992), pp. 1–2.

4487 Dragomir Andan, T. 40828, 40858–40860 (5 July 2013).

4488 Dragomir Andan, T. 40828–40830 (5 July 2013); D3793 (Letter from Bijeljina SJB to Zvornik SJB, 13 August 1992); D3816 (Letter from Bijeljina SJB to Zvornik SJB, 13 August 1992); P6435 (Article entitled "The Sting of the 'Yellow Wasp'", 10 December 2002), p. 3.

4489 D1450 (Milorad Davidović's statement to Belgrade District Court, 26 December 2007), pp. 12–13, 33.

4490 Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 21493, 21512; D3791 (Bijeljina CSB dispatch to SerBiH MUP, 1 August 1992); P6386 (Letter from Goran Mačar to SerBiH MUP forwarding a report, 4 August 1992); Goran Mačar, T. 39499 (7 June 2013). *See also* Mićo Stanišić, T. 46382 (3 February 2014); D4275 (Order of RS MUP, 27 October 1992).

4491 Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 21494–21495. *See also* Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 21498, 21513–21514, 21525, 21711; D3792 (Bijeljina SJB dispatch to SerBiH MUP, 31 July 1992); Dragomir Andan, T. 40828 (5 July 2013); D3663 (Witness statement of Goran Mačar dated 3 May 2013), para. 29; Goran Mačar, T. 39493, 39507–39509 (7 June 2013). Mićo Stanišić testified that criminal reports with respect to Serbians were handed over to the authorities of the FRY because the RS judicial system did not have adequate courts to try them. Mićo Stanišić, T. 46380–46381 (3 February 2014). The Chamber refers to its credibility assessment in fn. 4458 as to why it cannot rely on Mićo Stanišić's evidence with respect to the submission of criminal reports and processing of cases.

4492 P2848 (Witness statement of Milorad Davidović dated 22 June 2011), paras. 142, 168; Milorad Davidović, T. 15523 (28 June 2011), 15652, 15655–15656 (29 June 2011); D1450 (Milorad Davidović's statement to Belgrade District Court, 26 December 2007), pp. 7, 11, 52; P3165 (Witness statement of KDZ340 undated), pp. 55–56, 59 (under seal); KDZ340, T. 17490–17491, 17556 (19 August 2011) (private session); Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 21524–21525, 21688; Dragomir Andan, T. 40859 (5 July 2013); P2882 (Report of Bijeljina SJB, 8 August 1992); P3178 (Indictment from Bijeljina Lower Court, 13 September 1999), pp. 1–3 (under seal); P2904 (Report of SerBiH MUP, 4 August 1992); D1412 (Report of Republic of Serbia MUP, 8 August 1992), p. 9; D1625 (Report on activities of Zvornik SJB, July-September 1992), pp. 1–2; P2905 (Decision of Bijeljina Lower Court, 28 August 1992); D1413 (Request of

were banned from entering RS while locals returned to regular units after the paramilitaries were disbanded.[4494] The MUP special unit returned intermittently to try and prevent paramilitaries from returning to Zvornik.[4495] In September 1992, after being released from detention, Žućo attempted to return to Zvornik and threatened to take revenge.[4496]

1293. The Chamber also notes that the paramilitaries were primarily detained for petty theft of property and vehicles at check-points and not for serious crimes committed against Bosnian Muslims.[4497] While a criminal report was filed against Repić and Žućo on the basis of suspicions that they had committed war crimes, the proceedings were never completed in BiH and proceedings

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Prosecutor in Bijeljina, 14 September 1992); D1626 (Official Note of SerBiH MUP's Crime Prevention Administration, 4 August 1992); D3790 (Decision of Bijeljina SJB, 29 July 1992). *See also* P3177 (Bijeljina SJB's Ruling on detention of KDZ340, 29 July 1992) (under seal); P3165 (Witness statement of KDZ340 undated), p. 55 (under seal); D3794 (Report of Zvornik SJB, 11 August 1992). The Chamber does not place any weight on Andan's opinion as to why these cases were not processed. Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 21688; Dragomir Andan, T. 40887–40888 (5 July 2013). KDZ446, P28 (Transcript from *Prosecutor v. S. Milošević*), T. 23634–23636 (under seal); Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2923, 3052; D1450 (Milorad Davidović's statement to Belgrade District Court, 26 December 2007), p. 8; D3724 (Witness statement of Branko Grujić dated 22 June 2013), para. 39.

4493 Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 21686–21688. *But see* D3693 (Witness statement of Marinko Vasilić dated 9 June 2013), para. 45; Marinko Vasilić, T. 39971 (13 June 2013); D3723 (Witness statement of Čedomir Zelenović dated 22 June 2013), para. 34; D3724 (Witness statement of Branko Grujić dated 22 June 2013), paras. 42, 52; Branko Grujić, T. 40443–40444 (26 June 2013); D3692 (Witness statement of Jovan Ivanović dated 9 June 2013), para. 28; Momčilo Mandić, T. 5292 (16 July 2010); D2269 (Šabac District Court Indictment against Duško Vučković, 28 April 1994), pp. 1–2, 4–7; D3727 (Letter from Bijeljina SJB to Republic of Serbia MUP, 9 August 1992); D1415 (Request of Bijeljina Lower Court, 24 December 1993); D3728 (Letter from Bijeljina SJB to Republic of Serbia MUP, 9 August 1992); D482 (Belgrade Supreme Court Judgement against Duško Vučković and others). The Accused points to D481 and D482 to support his proposition that when the authorities learned about the crimes at Čelopek Dom Culture, the perpetrators were arrested, prosecuted and punished. *See* Defence Final Brief, para. 1455. *See also* D3665 (Witness statement of Vojislav Šešelj dated 1 June 2013), para. 70. However, the Chamber does not consider the evidence of the relevant witnesses as to the proceedings initiated against those arrested to be reliable. In reaching that conclusion the Chamber noted that the testimony of the relevant witnesses was marked by evasiveness, contradictions, and inconsistencies. For example, Zelenović testified that he was not aware that the paramilitaries were released shortly after their arrest or whether people were convicted or not. Čedomir Zelenović, T. 40336–40337 (25 June 2013). Grujić also acknowledged that the paramilitaries were released soon after their arrest and acknowledged that this did happen and that he himself was afraid because he thought "serious proceedings should be initiated against them but that did not happen". Branko Grujić, T. 40391–40392 (25 June 2013). In light of these contradictions the Chamber does not consider their evidence in this regard to be reliable.

4494 KDZ555, T. 17313 (17 August 2011); D1418 (List of persons bannned from entering RS), p. 1; KDZ340, T. 17528 (19 August 2011).

4495 Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 3013–3014. *See also* D3664 (Report of Zvornik SJB, 22 November 1992); Goran Mačar, T. 39530–39531 (7 June 2013).

4496 P3387 (Report of Birač SNB, 5 September 1992), p. 1; Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2935; Petko Panić, T. 19145 (19 September 2011); D1638 (Report of RS MUP National Security Service, Sarajevo, 22 September 1992), p. 1; D1450 (Milorad Davidović's statement to Belgrade District Court, 26 December 2007), p. 46; Milorad Davidović, T. 15612–15613 (29 June 2011); Dragomir Andan, D3774 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 21526–21527; D1637 (Report of RS MUP National Security Service, Sarajevo, 10 September 1992).

4497 P2882 (Report of Bijeljina SJB, 8 August 1992); P3178 (Indictment from Bijeljina Lower Court, 13 September 1999), pp. 1–3 (under seal); P3165 (Witness statement of KDZ340 undated), pp. 55–56 (under seal); KDZ340, T. 17490–17491 (19 August 2011) (private session). P2904 (Report of SerBiH MUP, 4 August 1992); D1412

were instituted much later in Serbia.[4498] In contrast the Zvornik SJB was instructed by Goran Mačar in November 1995 to intensify their activities and file criminal reports against perpetrators of war crimes against "the Serbian people" in municipalities including Zvornik.[4499]

1294. Overall conditions did improve somewhat after the arrest of paramilitaries and the local authorities were able to exercise more control over the functioning of the municipality.[4500]

(F) Detention Facilities in Zvornik

1295. On 7 June 1992, the Eastern Bosnia Corps reported that in the area of Zvornik, approximately "500 prisoners" were being held.[4501] The Birač Brigade reported on 17 June 1992 that it had close to "600 prisoners" and the Eastern Bosnia Corps had failed to establish a camp for prisoners of war at the corps level.[4502] Accordingly Mladić ordered the Eastern Bosnia Corps to set up a camp for prisoners of war and for the Birač brigade to be relieved of guarding those prisoners.[4503]

(1) Scheduled Detention Facility C.27.1 and Scheduled Incident B.20.2

1296. The Indictment refers to the use of the Čelopek Dom Kulture as a detention facility at least between May and June 1992.[4504] The Prosecution alleges that a number of men were killed there between 10 and 28 June 1992.

(Report of Republic of Serbia MUP, 8 August 1992), p. 9; D1625 (Report on activities of Zvornik SJB, July-September 1992), pp. 1–2. *See also* Dragomir Andan, T. 40857–40860 (5 July 2013).

4498 Milorad Davidović, T. 15661–15662 (29 June 2011), T. 15790–15791 (30 June 2011); D1416 (Official note of Valjevo RDB, 14 December 1992) (under seal); D1414 (Subpoenas from Bijeljina's Lower Court), p. 3; D1415 (Request of Bijeljina Lower Court, 24 December 1993); Milorad Davidović, T. 15657 (29 June 2011); KDZ446, P28 (Transcript from *Prosecutor v. S. Milošević*), T. 23662 (under seal); D1417 (Report of Republic of Serbia MUP, 6 November 1993), pp. 1–2. *See also* Momčilo Mandić, T. 5289–5291 (16 July 2010), T. 5147–5148 (14 July 2010).

4499 P6385 (Letter from Bijeljina SJB to Zvornik CJB, 17 November 1995); Goran Mačar, T. 39489–39490 (7 June 2013).

4500 D3723 (Witness statement of Čedomir Zelenović dated 22 June 2013), para. 34; D3724 (Witness statement of Branko Grujić dated 22 June 2013), para. 43; D3692 (Witness statement of Jovan Ivanović dated 9 June 2013), para. 30; D3654 (Witness statement of KW317 dated 26 September 2012), paras. 71–72 (under seal); KW317, T. 39414 (6 June 2013). *See also* Petko Panić, T. 19211 (20 September 2011); D1717 (Decision of Zvornik Assembly, 19 August 1992), p. 3; D1718 (Decision of Zvornik Executive Board, 10 September 1992), p. 1; D3654 (Witness statement of KW317 dated 26 September 2012), para. 72 (under seal).

4501 P3237 (Report of the Eastern Bosnia Corps, 7 June 1992), p. 2.

4502 P3238 (Order of the VRS Main Staff, 17 June 1992), p. 1.

4503 P3238 (Order of the VRS Main Staff, 17 June 1992), p. 2.

4504 The Prosecution submits that the evidence presented shows that the facility was operational between May and July 1992. Prosecution Final Brief, Appendix B, p. 61.

(a) Events

1297. The Čelopek Dom Kulture was located in the industrial area of Karakaj.[4505] Bosnian Muslims were detained at this facility from late May 1992 onwards.[4506] Bosnian Muslims were taken to the Čelopek Dom on buses under the orders of either the TO Staff or the Interim Government and were escorted there by Miko Miljanović who was a police official.[4507] The Yellow Wasps also took Bosnian Muslims from settlements and brought them to Čelopek Dom where they were detained.[4508] Reserve police officers were involved in guarding the facility.[4509] The non-Serbs detained in Zvornik were not arrested following normal police procedure and were detained without being informed of the allegations against them or handed over for prosecution.[4510]

1298. On or about 10 June 1992, detainees were forced to sing songs and then forced to beat each other with the promise that the winner would be spared from being killed.[4511] After this, Repić shot and killed 17 detainees, he also cut off the body parts of some detainees and stabbed others in the chest.[4512] Detainees were forced to eat the severed body parts and Repić's men killed two detainees

4505 P4847 (Map of Karakaj marked by KDZ610); P4837 (Witness statement of KDZ610 dated 27 March 2012), para. 80 (under seal); P4845 (Photograph of Čelopek Dom Kulture); KDZ228, P323 (Transcript from *Prosecutor v. Popović et al.*), T. 14942 (under seal); P3187 (Map of Zvornik municipality).

4506 *See* Adjudicated Fact 2745. *See also* KDZ555, T. 17299 (17 August 2011); Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2897, 3057–3058.

4507 Marinko Vasilić, T. 39944–39945, 39969 (13 June 2013). *See also* P3390 (Report on activities of Zvornik SJB for 1993), pp. 24, 35.

4508 Milorad Davidović, T. 15518 (28 June 2011). *See also* Svetozar Andrić, T. 41682 (22 July 2013).

4509 Marinko Vasilić, T. 39944 (13 June 2013); P4837 (Witness statement of KDZ610 dated 27 March 2012), para. 62 (under seal). *See also* Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2897, 2933, 2953, 3004, 3016–3018; Petko Panić, T. 19152–19153, 19175 (20 September 2011). While Panić also testified that the police were not strong enough to prevent the entry of paramilitaries into detention facilities, the Chamber does not find this evidence to be of much weight given that Panić makes this observation without further context as to whether it applies to a specific facility or particularly period of time. *See also* P3388 (Payroll of men working at Zvornik's prison, August 1992), p. 2; Petko Panić, T. 19143 (19 September 2011).

4510 Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 3057. However, the Zvornik SJB did conduct a number of interviews to identify "Muslim extremists". D1631 (Report of Zvornik SJB, 29 June 1992), pp. 1–2; Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2939; P3390 (Report on activities of Zvornik SJB for 1993), p. 41–42, 50.

4511 D1417 (Report of Republic of Serbia MUP, 6 November 1993), p. 2; *see* Adjudicated Facts 2745, 2747. KDZ340 testified that Vučković was against the killing or mistreatment of detainees. P3165 (Witness statement of KDZ340 undated), p. 74 (under seal). However, the Chamber does not consider that KDZ340's evidence is reliable in this regard. In reaching that conclusion the Chamber noted that his evidence was marked by indicators that he was testifying with a lack of candour and frankness [REDACTED].

4512 D1417 (Report of Republic of Serbia MUP, 6 November 1993), p. 2; Adjudicated Fact 2749. *See also* P4417 (Death certificate for Zaim Pezerović); P3173 (Statement of Nenad Simić to Bijeljina SJB, 6 August 1992), p. 4 (under seal); P3165 (Witness statement of KDZ340 undated), pp. 34–36, 45–46, 73–78, 80 (under seal); P2848 (Witness statement of Milorad Davidović dated 22 June 2011), para. 133; Milorad Davidović, T. 15535 (28 June 2011).

who could not bring themselves to do so.[4513] Four detainees were forced to unload the dead bodies in a gravel pit after which they were also killed by Repić.[4514]

1299. On 10 and 14 June 1992, Repić took away two groups of people for questioning and they never returned to the facility. There were 19 detainees in the first group and four detainees in the second group.[4515] Having regard to the manner in which Repić treated the detainees in the facility and the threats he made to kill detainees, the Chamber is satisfied that these 23 detainees were also killed. Repić returned on a few other occasions, beat the detainees with batons, punched and kicked them, and forced them to sing. On or about 27 June 1992, he lined up a group of detainees and opened fire with an automatic rifle and pistol, killing approximately 19 and wounding approximately 13 detainees.[4516] After these killings, surviving detainees were moved to Novi Izvor.[4517]

1300. One of the detainees was told by Kosta Erić about the killing and maltreatment of detainees at Čelopek. He was instructed to clean the facility and found traces of human blood; he was also involved in transporting bodies and burying them in mass graves.[4518] In mid-July 1992, the

4513 *See* Adjudicated Fact 2749.

4514 D1417 (Report of Republic of Serbia MUP, 6 November 1993), p. 2.

4515 D1417 (Report of Republic of Serbia MUP, 6 November 1993), p. 2; P2880 (Official Note of Valjevo State Security Centre, 2 July 1992). This same report indicated that Repić was prone to taking drugs. Panić testified that even though the guards had a written order not to allow anyone into the facility they did not dare confront Repić and did not report any incidents. Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2903–2904, 3015–3016, 3056; Petko Panić, T. 19184–19186 (20 September 2011). However, the Chamber notes that Panić's evidence with respect to shifting blame for actions to paramilitaries lacked balance and was marked by indicators of partiality. Considering inconsistencies and indicators of bias the Chamber does not find his evidence with respect to the specific issue of the inability to prevent the abuses of paramilitaries to be credible.

4516 D1417 (Report of Republic of Serbia MUP, 6 November 1993), pp. 2–3; *see* Adjudicated Fact 2750. According to the Adjudicated Fact, Repić returned to the detention facility on 27 June 1992 and killed 20 detainees and wounded 22. Davidović was informed by Jekić about this incident where around 20 Bosnian Muslim civilians were killed in Čelopek. D1450 (Milorad Davidović's statement to Belgrade District Court, 26 December 2007), pp. 8, 21, 30. *See also* P4837 (Witness statement of KDZ610 dated 27 March 2012), para. 62 (under seal); Jovan Ivanović, T. 39877–39878 (13 June 2013); KDZ340, T. 17475–17476 (18 August 2011) (private session). The Serbian State Security Department was also informed about these incidents. P2880 (Official Note of Valjevo State Security Centre, 2 July 1992).

4517 P4837 (Witness statement of KDZ610 dated 27 March 2012), para. 63 (under seal). *See also* Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 3033–3034; Petko Panić, T. 19187 (20 September 2011) (wherein Panić testified that the remaining detainees were transferred to Novi Izvor in order to be protected and to receive medical treatment). While the Chamber considers that Panić's evidence corroborates the movement of the remaining detainees to Novi Izvor, his evidence was marked by indicators that he lacked balance and in addition he sought to shift the blame for events in Zvornik.

4518 [REDACTED]. The Chamber received evidence that 15 men were identified after exhumation of the mass graves at Crni Vrh and Grbavci-Hajdarev as people who had disappeared in Čelopek in May or June 1992. However, the Chamber notes that there is insufficient evidence to link these individuals to this scheduled incident, which is limited to killings between 10 and 28 June 1992. In addition [REDACTED] simply states that he knew some of these individuals but does not clarify whether he knew they went missing from Čelopek or when they disappeared. [REDACTED]; P4841 (Letter from FBiH Commission for Missing Persons, 30 July 2007). These 15 individuals are also named by Mašović as having been exhumed from mass graves. P4853 (Updated Table 2 to the Report of Amor Mašović), pp. 61-73, 105, 107. The Chamber notes that Mašović

detainees who remained at Čelopek were transferred with the assistance of the Bosnian Serb municipal authorities to the Batković camp in Bijeljina.[4519]

(b) Conclusion

1301. The Chamber therefore finds that Bosnian Muslim men were detained at Čelopek Dom Kulture from late May until July 1992. The detainees were forced to beat each, some were stabbed and mistreated, and at least 60 men were killed by Serb Forces.

(2) Scheduled Detention Facility C.27.2

1302. The Indictment refers to the use of the Karakaj Technical School as a detention facility at least between May and June 1992.[4520]

(a) Arrival of detainees and control of facility

1303. The Karakaj Technical School was located in the Karakaj industrial area, close to the Alhos factory.[4521] The Karakaj Technical School was guarded by Bosnian Serb soldiers,[4522] which included the Karakaj TO (a.k.a Karakaj Company) that later became part of the VRS.[4523] Dragan Ristanović, the commander of the Karakaj TO, and paramilitaries including Topola, Mrski, Crni

identifies additional individuals who were exhumed from mass graves but there is no other evidence to link them to this incident. The Chamber will therefore not rely on Mašović's evidence in that regard.

4519 *See* Adjudicated Fact 2748. The Chamber also received evidence about the inspection of detention facilities in Zvornik in October 1992 but is not satisfied that this evidence pertains to any of the scheduled detention facilities. P1607 (RS Ministry of Justice report on prisons and camps on the RS territory, 22 October 1992), pp. 3, 7; D3105 (Witness statement of Slobodan Avlijaš dated 9 March 2013), para. 26. The Accused's refers to this report and submits that it does not identify the Čelopek Dom as a detention facility. Defence Final Brief, para. 1455. The Chamber does not consider this submission or the absence of a reference to this facility in this report to be of any significance.

4520 The Prosecution submits that the evidence presented shows that the facility was operational from 1 June 1992. Prosecution Final Brief, Appendix B, fn. 902.

4521 Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2883; P3187 (Map of Zvornik municipality); P4847 (Map of Karakaj marked by KDZ610) (marking the location of Karakaj Technical School with a number 4); P4837 (Witness statement of KDZ610 dated 27 March 2012), para. 80 (under seal); P3195 (Witness statement of KDZ029 dated 28 June 2011), para. 18 (under seal); P3185 (Photograph of Karakaj Technical School); P3184 (Record of Belgrade's District Court, War Crime Chamber Investigating Judge, 14 February 2007), p. 5 (under seal).

4522 *See* Adjudicated Fact 2753.

4523 Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2897–2898; P3192 (Dragan Vidović's interview with Prosecution), pp. 4–5, 18, 20; Guards identified were Ljubiša Pejić, Zdravko Blagojević, Mile Savić, Dušan Stevanović, Ivan Arapović, Mile Blagojević, Kosta Pejić, Drgan Pejić, Željko Pejić, Steva Vasiljević (a.k.a. Koružnjak), Dušan Mitrović, Božo Radić, Milan Arapović, Branko Pejić. *See also* P3194 (Payroll of the Karakaj unit of the Zvornik Brigade, undated); P3192 (Dragan Vidović's interview with Prosecution), pp. 5–6.

and Pivarski were present at the facility.[4524] The guards worked in shifts and were under the command of Pivarski.[4525]

1304. When people from 13 Bosnian Muslim villages arrived in Đulići on 1 June 1992, approximately 750 men were separated from women and children and taken to the Karakaj Technical School.[4526] Before being loaded onto trucks organised by the Zvornik TO,[4527] Bosnian Serb soldiers took away money and ID papers from the men[4528] who were packed on three trucks "like sardines" and beaten.[4529] Bosnian Serb soldiers accompanied the detainees.[4530] Apart from Đulići, the detainees were also from Lupe and Klisa.[4531]

(b) Conditions of detention

1305. Approximately 750 men were brought to the workshop building and kept in a room which was too small. However, the detainees were able to break down the iron sheet which separated it from another room.[4532] The only water available was in this second room.[4533] Approximately 20 detainees died from suffocation during this first night.[4534] Only a few loaves of bread were thrown

4524 P3192 (Dragan Vidović's interview with Prosecution), p. 6. While Vidović also testified that the facility was under the control of the paramilitaries despite the presence of the Karakaj TO, the Chamber has treated this conclusion with caution. In making that assessment the Chamber noted that Vidović's evidence was marked by indicators that he was trying to remove himself from any responsibility and to place all blame on Pivarski. His evidence in this regard was marked by indicators of insincerity and partiality and the Chamber cannot rely on it for this purpose.

4525 P3192 (Dragan Vidović's interview with Prosecution), pp. 6–7, 23; Dragan Vidović, T. 17759, 17761, 17763 (23 August 2011) (testifying that guards who did not comply with orders from Pivarski to beat detainees were threatened). Panić testified that the guards were unable to stop the paramilitaries from entering the facility as they pleased. Petko Panić, T. 19183 (20 September 2011). However, the Chamber refers to its credibility assessment in fn. 4517 as to why it cannot rely on Panić's evidence with respect to this issue.

4526 P3195 (Witness statement of KDZ029 dated 28 June 2011), para. 13 (under seal); KDZ029, T. 17620 (22 August 2011) (closed session); *see* Adjudicated Fact 2752; Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2896. *See also* KDZ555, T. 17302–17304 (17 August 2011) (private session). The Accused acknowledged that detainees were held at the Karakaj Technical School between May and June 1992. Defence Final Brief, para. 1453.

4527 KDZ555, T. 17302 (17 August 2011) (private session).

4528 P3195 (Witness statement of KDZ029 dated 28 June 2011), para. 14 (under seal); KDZ029, T. 17619 (22 August 2011) (closed session).

4529 P3195 (Witness statement of KDZ029 dated 28 June 2011), para. 15 (under seal); KDZ029, T. 17621 (22 August 2011) (closed session).

4530 P3195 (Witness statement of KDZ029 dated 28 June 2011), para. 16 (under seal).

4531 P3192 (Dragan Vidović's interview with Prosecution), pp. 8, 24–25.

4532 P3195 (Witness statement of KDZ029 dated 28 June 2011), paras. 13, 18, Sketch B (under seal). KDZ029 was able to identify 38 men [REDACTED] who were detained with him in the workshop building. KDZ029 stated that the bodies of 14 of these 38 men were recovered mostly in the Crni Vrh area and buried [REDACTED]; KDZ029 stated that he only approximated the size of the room. KDZ029, T. 17622–17623 (22 August 2011) (closed session); P3192 (Dragan Vidović's interview with Prosecution), pp. 8–9, 24–25. *See also* P62 (Witness statement of Nedžad Hadžiefendić dated 3 October 1997), p. 12.

4533 P3195 (Witness statement of KDZ029 dated 28 June 2011), para. 18 (under seal).

4534 P3195 (Witness statement of KDZ029 dated 28 June 2011), para. 20 (under seal). KDZ029 was told that two of the detainees who died of suffocation were Hrustan Avdić and Nešad Hamzić. These two individuals were later

into the building where detainees were held and those who could not get a piece remained without food.[4535]

(c) Treatment of detainees

1306. On arrival at the Karakaj Technical School, the men were ordered to jump from the truck and run past a large number of Bosnian Serb soldiers[4536] who hit them with rifle butts, punched, kicked, swore, and cursed at them.[4537] As the men ran into the building, Bosnian Serb women were on the other side of the road and could be heard screaming and telling the soldiers to "kill the Balijas".[4538] On the morning after their arrival, the detainees were ordered to hand over all money, watches and documentation, which were collected by Pivarski. They were then made to walk to another area and were beaten severely by soldiers upon Pivarski's orders.[4539]

(d) Conclusion on conditions of detention and treatment of detainees

1307. The Chamber therefore finds that from June 1992, Bosnian Muslim men were brought to and detained at the Karakaj Technical School by Serb Forces. The detainees were held in poor conditions characterised by lack of space on the first night, which resulted in the suffocation of approximately 20 men. The detainees were also beaten. They received inadequate food and had their valuables taken away from them.

(e) Scheduled Incident B.20.3

1308. The Prosecution alleges that approximately 160 men were killed at the Karakaj Technical School between 1 and 5 June 1992.

1309. Bosnian Serb soldiers would select "rich or prominent people" and take them to another room; thereafter the other detainees would hear, moaning, screaming and gun bursts.[4540] Captain

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exhumed from mass graves. P4853 (Updated Table 2 to the Report of Amor Mašović), pp. 105–106; *see* Adjudicated Fact 2754.

4535 P3195 (Witness statement of KDZ029 dated 28 June 2011), para. 24 (under seal). *See also* P62 (Witness statement of Nedžad Hadžiefendić dated 3 October 1997), p. 12.

4536 P3195 (Witness statement of KDZ029 dated 28 June 2011), para. 16 and sketch A (under seal); P3184 (Record of Belgrade's District Court, War Crime Chamber Investigating Judge, 14 February 2007), p. 6 (under seal); *see* Adjudicated Fact 2752. *See also* KDZ555, T. 17304 (17 August 2011) (private session).

4537 P3195 (Witness statement of KDZ029 dated 28 June 2011), para. 17 (under seal).

4538 P3195 (Witness statement of KDZ029 dated 28 June 2011), para. 17 (under seal).

4539 P3195 (Witness statement of KDZ029 dated 28 June 2011), para. 21 and sketch B (under seal); *see* Adjudicated Fact 2755; P3192 (Dragan Vidović's interview with Prosecution), pp. 10, 12. *See also* Petko Panić, T. 19142 (19 September 2011); P62 (Witness statement of Nedžad Hadžiefendić dated 3 October 1997), p. 12.

4540 P3195 (Witness statement of KDZ029 dated 28 June 2011), paras. 22–23 (under seal). *But see* Dragan Vidović, T. 17752–17754, 17759–17762 (23 August 2011); P3192 (Dragan Vidović's interview with Prosecution), pp. 9,

Mijo, who wore a cockade, called out detainees from Tršić, and those who were taken away were never seen again.[4541] Other detainees were then selected to carry out the bodies and would often not come back themselves.[4542] Approximately 160 people were selected, taken out and killed in this manner by the guards in the facility.[4543] Vasilić acknowledged that nothing was done to investigate the killings at the Karakaj Technical School.[4544]

1310. The Chamber also received evidence about the disappearance of detainees who were taken away for prisoner exchange and who remain unaccounted for.[4545] However, the Chamber will not make findings in this regard given that it is not satisfied that these disappearances are linked to Scheduled Killing Incident B.20.3, which relates to a very specific date range in June 1992.

11–12, 14, 24–25. The Chamber notes its credibility assessment in fn. 4524 in concluding that Vidović's evidence that there was no mistreatment or killing of detainees at the facility, was not reliable. The Chamber further notes that when specifically questioned about the killings at the facility, Vidović attempted to avoid the question and then distanced himself from a previous inconsistent statement. Similarly, there was a major inconsistency in Vasilić's evicence who also sought to distance himself from his previous interview in which he stated that he heard rumours about the killings at the Karakaj Technical School. Marinko Vasilić, T. 39940–39943 (13 June 2013); P6405 (Excerpt from Marinko Vasilić's interview with OTP, 21 October 2002), pp. 4–5. In light of these inconsistencies, the Chamber does not rely on Vasilić's denial of contemporaneous knowledge of the killings.

4541 P3195 (Witness statement of KDZ029 dated 28 June 2011), para. 26 (under seal); KDZ029, T. 17623–17625 (22 August 2011) (closed session). [REDACTED].

4542 P3195 (Witness statement of KDZ029 dated 28 June 2011), para. 22 (under seal).

4543 P3195 (Witness statement of KDZ029 dated 28 June 2011), paras. 23, 26 (under seal) (identifying the names of five of the detainees who were killed in this way: Ramiz Sinanović, Soman Smajlović, Hasan Avdić, Nurija Jašarević and Avdo Jašarević); *see* Adjudicated Fact 2756. *See* P4853 (Updated Table 2 to the Report of Amor Mašović), p. 60, 63–65, 67, 71, 105–106 for list of victims exhumed from mass graves linked to this scheduled incident (of the named individuals identified by KDZ029, Hasan Avdić, Nurija Jašarević and Avdo Jašarević were exhumed from mass graves as per Mašović's table). *See also* Jovan Ivanović, T. 39875–39877 (13 June 2013); P4837 (Witness statement of KDZ610 dated 27 March 2012), para. 66 (under seal); KDZ446, P29 (Transcript from *Prosecutor v. S. Milošević*), T. 21036–21037. Mašović identified a number of individuals who were exhumed from mass graves which he linked to Scheduled Incident B.20.3, however, there is no other evidence which links these specific individuals to the scheduled incident. *See* P4853 (Updated Table 2 to the Report of Amor Mašović), pp. 63–64, 71, Prosecution Final Brief, Appendix G. Similarly the Chamber received the death certificates of nine people who are reported to have died on 1 June 1992 at Bijeli Potok which are referred to in the Prosecution's Final Brief as being linked to this scheduled incident. *See* P4418 (Death certificates for Himzo Dedić, Zijad Gojkić and Nijaz Gojkić); P4419 (Death certificates for individuals killed in Zvornik); P4420 (Death certificate for Ibro Gojkić). However, in the absence of further evidence linking these named individuals the Chamber will not rely on this evidence in this regard. The Chamber therefore does not rely on these death certificates or the forensic evidence of Mašović (with the exception of the three named individuals mentioned above) for the purposes of making a finding with respect to this scheduled incident.

4544 Marinko Vasilić, T. 39944 (13 June 2013). *See also* D3654 (Witness statement of KW317 dated 26 September 2012), para. 56 (under seal); KW317, T. 39367 (6 June 2013) (testifying that he was informed by Pavlović that he had ordered the separation of approximately 170 men and their detention at Karakaj for the purposes of exchange but that the paramilitaries later killed many of the men who had been detained there). The Chamber also received hearsay evidence that Grujić was aware of what happened to the detainees but claimed that it was done without his knowledge. KDZ446, P28 (Transcript from *Prosecutor v. S. Milošević*), T. 21087–21088 (under seal). The Chamber places no weight on this hearsay denial by Grujić who also sought to distance himself from this incident.

4545 P3195 (Witness statement of KDZ029 dated 28 June 2011), para. 24 (under seal). Ismet Ahmetović was exhumed from a mass grave. P4853 (Updated Table 2 to the Report of Amor Mašović), p. 60. *See also* P3191 (Dragan Vidović's interview with Prosecution), p. 7 (under seal).

1311. The Chamber therefore finds that approximately 160 men were killed by Serb Forces at the Karakaj Technical School in early June 1992.

(f) Scheduled Incident A.16.3

1312. The Prosecution alleges that approximately 190 men were killed at Gero's Slaughterhouse between 5 and 8 June 1992.

1313. On 5 June 1992, the 550 detainees who remained at the Karakaj Technical School were placed on buses and told they were being taken for exchange; however, they were taken to Pilica.[4546] The convoy consisted of five or six buses each carrying between 50 and 60 people.[4547] Dragan Spasojević ordered the police to escort the convoy of buses to the Pilica Cultural Centre[4548] where many soldiers in JNA uniforms were waiting for them.[4549] The guards shot above the detainees' heads and ordered them to hand over money and gold.[4550] After three days, the men who were being held at Pilica were told they were being taken to Živinice for prisoner exchange.[4551]

1314. [REDACTED] was in a group of 64 detainees who were taken and forced onto a truck; Bosnian Serb soldiers then pulled down a tarpaulin.[4552] The truck was led by a police car and was taken to Gero's slaughterhouse located in the Karakaj industrial area near the Drina River.[4553] The detainees were taken off the truck, placed in separate rooms, and told to face the wall.[4554] There

4546 [REDACTED]. The transport of prisoners on 5 June 1992 is noted in a Drinatrans document which observes that the orders for transport came from the Interim Government and the Zvornik TO. P3186 (Drina Trans invoice re transport of refugees from Zvornik municipality, 8 June 1992), pp. 1–2; [REDACTED]; P3192 (Dragan Vidović's interview with Prosecution), pp. 8, 14–15; Dragan Vidović, T. 17761 (23 August 2011). *See also* Adjudicated Fact 2744.

4547 Dragan Vidović, T. 17761 (23 August 2011).

4548 The Chamber notes that this location has been referred to by witnesses as either the "Cultural Center", the "Pilica Dom", the "*Dom Kultur(e)*"; the "Dom of Culture", a house or hall of culture, and a cinema hall. *See inter alia* Dražen Erdemović, P332 (Transcript from *Prosecutor v. Popović et al.*), T. 10982; D3993 (Witness Statement of Vujadin Popović dated 2 November 2013), para. 71; Milenko Tomić, P390 (Transcript from *Prosecutor v. Popović et al.*), T. 21001; P3192 (Dragan Vidović's interview with Prosecution), pp. 16, 26; P3195 (Witness statement of KDZ029 dated 28 June 2011), para. 29 (under seal); D3927 (Witness statement of Franc Kos dated 26 July 2013), pp. 26–27; Jevto Bogdanović, P385 (Transcript from *Prosecutor v. Popović et al.*), T. 11323; Jean-René Ruez, T. 23850, 23852 (30 January 2012). The Chamber finds that all of these witnesses refer to the same building and, for sake of consistency, will refer to it as the "Pilica Cultural Centre" throughout this Judgement.

4549 P3192 (Dragan Vidović's interview with Prosecution), pp. 15–16, 26–27, 30.

4550 [REDACTED].

4551 [REDACTED].

4552 [REDACTED]. *See also* Adjudicated Fact 2744. [REDACTED]: Sejdo Hasanović, Muradif Hasanović, Smajo Smailović, and Asim Hamzić. These four bodies were exhumed from a mass grave. P4853 (Updated Table 2 to the Report of Amor Mašović), pp. 66, 72. *See also* P4903 (Crni Vrh Exhumation Report by Derek Congram, 14 November 2003).

4553 [REDACTED]; P3193 (Photograph of Gero's slaughterhouse).

4554 [REDACTED].

were two guards wearing JNA uniforms and who were carrying machine guns.[4555] When the detainees had their backs turned, the guards started shooting at them; [REDACTED].[4556] Once the shooting ended in the first room, the guards moved to the second room and also fired at the detainees.[4557] When one detainee who had been injured begged to be killed, the guards said that since he was a "Balija" they would let him suffer.[4558] After the guards left, [REDACTED] was able to escape to the Drina river, which was close to the building, and observed that trucks returned to the site on two additional occasions; after their return he could hear gun bursts.[4559] While [REDACTED] estimated that about 190 people were brought there and executed in three groups, the Chamber is not satisfied that it can rely on his estimation in this regard given the evidence is unclear as to whether or not he could have seen the people getting off the trucks.[4560]

1315. The Chamber therefore finds that a large number of Bosnian Muslim men were brought to and killed at Gero's slaughterhouse between 5 and 8 June 1992 by Serb Forces.[4561]

(3) Scheduled Detention Facility C.27.3

1316. The Indictment refers to the use of the Alhos Factory as a detention facility on or about 9 April 1992.

(a) Arrival of detainees and control of facility

1317. The Alhos Factory was a former textile manufacturing facility located in Karakaj.[4562] The police, Arkan's men and the White Eagles detained Bosnian Muslims at this facility.[4563] Other

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4555 [REDACTED]. *See also* Adjudicated Fact 2744.

4556 [REDACTED]. *See also* Jovan Ivanović, T. 39878 (13 June 2013).

4557 [REDACTED].

4558 [REDACTED]. The Accused acknowledged that 50 to 70 Bosnian Muslim men were brought to Gero's slaughterhouse in June 1992 and that they were killed by paramilitaries. Defence Final Brief, confidential, para. 1458. The Accused further submits that there was no evidence that high level municipal officers were present and that the evidence does not disclose the origin of any orders with respect to the burials.

4559 [REDACTED]. *See also* Adjudicated Fact 2744.

4560 [REDACTED]. *See also* Adjudicated Fact 2744.

4561 The Chamber received evidence that in May 1992, hundreds of bodies were unloaded at Gero's slaughterhouse and subsequently buried in mass graves. The Chamber also received evidence of other killings committed at, and burial of bodies taken from, Gero's slaughterhouse but these events fall outside the period charged in the Indictment with respect to this scheduled incident. P4837 (Witness statement of KDZ610 dated 27 March 2012) (under seal), paras. 32, 34–47, 53, 67–74; KDZ610, T. 27196 (29 March 2012) (private session); P4842 (Photograph of Gero's slaughterhouse marked by KDZ610); P4846 (Map drawn by KDZ610) (under seal); Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2902–2903, 2991; KDZ555, T. 17307 (17 August 2011) (private session). *See also* KW317, T. 39365–39366 (6 June 2013).

4562 P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), p. 2; Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2871, 2940; P3187 (Map of Zvornik municipality); P3166 (Map of Karakaj industrial area).

4563 *See* Adjudicated Fact 2757. *See also* P96 (Witness statement of KDZ059 dated 5 December 1998), pp. 8, 10 (under seal). *But see* KDZ555, T. 17309–17310 (17 August 2011) (private session) (testifying that Arkan's men controlled the facility and did not give access to anyone else). Some Bosnian Serbs were also arrested for issues

paramilitaries including those affiliated with Žućo, Pivarski, Crni and Niski were present at the Alhos Factory.[4564] One of Arkan's men said that they would bring in every Bosnian Muslim found in town.[4565]

(b) Treatment of detainees

1318. 20 Bosnian Muslims from Zvornik and a few people from Buković, a settlement just outside Zvornik, were held in the men's cloakroom at the Alhos factory.[4566] Each person was taken one at a time for interrogation to another room, from where the sound of dull blows and loud screams could be heard.[4567] When they were brought back, they were thrown to the floor and some were "unconscious in a pool of blood, some had obviously broken arms or broken jaw or an eye knocked out. Some younger, fitter men were lying on the floor seemingly unconscious with their limbs twitching".[4568] There were 15 men lying on the floor and occasionally the guards would open the door, throw some tear gas into the room and stand outside laughing.[4569]

1319. The men were taken out for interrogation by the guards but the interrogations themselves were conducted by Arkan's men.[4570] The white tiles in the interrogation room had blood splattered all over them and the floor was covered in broken glass which KDZ059 had heard the detainees had been forced to swallow.[4571] On or about 9 April 1992, Branko Grujić interrogated and beat a detainee.[4572] After speaking to Pejić over the phone, Banjanović was allowed to come to the Alhos

relating to military discipline and detained at the facility. P96 (Witness statement of KDZ059 dated 5 December 1998), p. 8 (under seal); KDZ059, P67 (Transcript from *Prosecutor v. S. Milošević*), T. 29115.

4564 P4837 (Witness statement of KDZ610 dated 27 March 2012), para. 33 (under seal).

4565 P96 (Witness statement of KDZ059 dated 5 December 1998), p. 9 (under seal).

4566 P96 (Witness statement of KDZ059 dated 5 December 1998), pp. 9–10 (under seal).

4567 P96 (Witness statement of KDZ059 dated 5 December 1998), p. 10 (under seal).

4568 P96 (Witness statement of KDZ059 dated 5 December 1998), p. 10 (under seal).

4569 P96 (Witness statement of KDZ059 dated 5 December 1998), p. 10 (under seal).

4570 P96 (Witness statement of KDZ059 dated 5 December 1998), p. 10 (under seal). [REDACTED].

4571 P96 (Witness statement of KDZ059 dated 5 December 1998), p. 10 (under seal). The Chamber also received evidence about the maltreatment of a Bosnian Serb at the facility who was to be used as an example to other Serbs. P96 (Witness statement of KDZ059 dated 5 December 1998), pp. 8–9 (under seal). The Chamber does not find Grujić's evidence and speculation as to who was responsible for the abuses in the Alhos factory to be reliable. D3724 (Witness statement of Branko Grujić dated 22 June 2013), para. 50. In reaching that conclusion the Chamber also refers to its credibility assessment in fns. 4237 and 4239.

4572 *See* Adjudicated Fact 2758. *But see* D3724 (Witness statement of Branko Grujić dated 22 June 2013), para. 60; Branko Grujić, T. 40401–40402 (25 June 2013). The Chamber notes specific inconsistencies in Grujić's testimony in this regard and clear indicators that he was seeking to minimise his own involvement. The Chamber does not consider his evidence to be reliable in this regard. Adjudicated Fact 2758 also refers to the killing of 18 Bosnian Muslim detainees by Arkan's men on or soon after 9 April 1992, however there are no Schedule B killing incidents charged in the Indictment with respect to this facility.

factory and managed to secure the release of people from Kozluk who had been detained there and observed that these "people were beaten black and blue".[4573]

(c) Conclusion

1320. The Chamber therefore finds that Bosnian Muslims were detained at the Alhos factory in April 1992. The detainees were subjected to severe beatings and mistreatment by Serb Forces.

(4) Scheduled Detention Facility C.27.4

1321. The Indictment refers to the use of the Novi Izvor company also known as Ciglana as a detention facility at least between 29 May 1992 and 30 July 1992.[4574]

(a) Arrival of detainees and control of facility

1322. The Ciglana factory was located in the area of Karakaj.[4575] On or about 18 May 1992, the Ciglana factory was taken over by Major Toro and his group, known as the Kobras, including men known as Pufta and Zoks.[4576] Five or six guards, including Žućo,[4577] guarded the Ciglana factory.[4578] The reserve police also guarded this detention facility.[4579]

1323. On 27 May 1992, 186 Bosnian Muslims from Divič were detained at the facility.[4580] In addition, approximately 20 detainees from Ekonomija farm were transported to Ciglana factory where they were all detained in a small room that had boarded up windows.[4581] The detainees included 12 men who had been identified in a Belgrade television broadcast as Green Berets.[4582]

4573 P104 (Witness statement of Fadil Banjanović dated 9 February 1998), para. 2-41; Fadil Banjanović, P57 (Transcript from *Prosecutor v S. Milošević*), T. 20695.

4574 The Prosecution submits that the evidence led shows that Ciglana operated as a detention facility from 27 May to 15 July 1992. Prosecution Final Brief, Appendix B, fn. 914.

4575 Petko Panić, T. 19139–19141 (19 September 2011). *See also* KDZ228, P323 (Transcript from *Prosecutor v. Popović et al.*), T. 14942 (under seal); P3187 (Map of Zvornik municipality).

4576 P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), pp. 13, 19. *See also* Petko Panić, T. 19139–19141 (19 September 2011). The Accused's acknowledges this take-over. Defence Final Brief, para. 1457.

4577 P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), p. 19.

4578 P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), p. 18.

4579 *See* Adjudicated Fact 2759. *See also* Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2897, 2953, 2933, 3004, 3016–3018; Petko Panić, T. 19152–19153, 19175 (20 September 2011).

4580 *See* Adjudicated Fact 2760. *See also* Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2897, 3057–3058.

4581 P62 (Witness statement of Nedžad Hadžiefendić dated 3 October 1997), pp. 9–10; P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), p. 17. *See* P75 (Sketches made by Nedžad Hadžiefendić), Sketch C for the witness's evidence as to the location of the Novi Izvor factory. *See also* P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), p. 11.

4582 P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), pp. 6, 18. The men identified by the witness included Ismet Čirka, Fikret LNU, Nedžad Hadziefendić, Muhamed Redžić, Bego LNU, Besim LNU,

On 15 July 1992, with the exception of one detainee who was taken to the Zvornik SUP, the detainees at Ciglana were taken to Batković camp before being exchanged in January 1993.[4583]

(b) Treatment of detainees

1324. Detainees were made to work, loading and unloading blocks onto trucks and cleaning the yard; other groups were taken daily to help with looting abandoned homes in Zvornik, Kozluk, and Kula Grad.[4584] The detainees were woken at 5 a.m. and taken to work.[4585] Given the amount of work that had to be done, another group of detainees from Čelopek and other detention camps, including ten people who had been detained by Captain Dragan's unit were brought to the Ciglana factory.[4586]

1325. Paramilitaries from Serbia frequently visited the facility and "severely mistreated" the detainees.[4587] A group of five White Eagles from Loznica entered the building and beat the detainees for one or two hours and ordered them to sing "Chetnik" songs.[4588] Detainees were beaten with a thick wooden stick and some were also ordered to beat other detainees.[4589] Men from Niški's group also brought detainees to the facility from Ekonomija farm and beat them.[4590] Members of the White Eagles, a man addressed as "Vojvoda" and Žućo took detainees out and beat them; on one occasion with a cable.[4591] One detainee, who was identified as an SDA leader was beaten until he passed out.[4592] During this mistreatment detainees were also humiliated by being

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Safet LNU, Kemal Korkutović, Sead Feriz, Smajo LNU, a barber from Zvornik nicknamed Brico and Ciciban, Nermin LNU, Ibrahim Subašić, Admir Hadžiavdić, Sejfudin Džihić, Edib Omerović, Senaid Avdić, Mirsad Salihović.

4583 P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), p. 23. The Prosecution refers to P2916 to support the proposition that the buses were paid for by the Interim Government. Prosecution Final Brief, Appendix B, fn. 922. However, the Chamber notes that P2916 was only admitted as a source document for reference purposes and does not rely on it in this regard.

4584 P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), pp. 11, 20–21; P62 (Witness statement of Nedžad Hadžiefendić dated 3 October 1997), p. 13 . The Chamber notes that the only type of forced labour charged in the Indictment is forced labour at the frontlines.

4585 P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), p. 18.

4586 P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), p. 22.

4587 *See* Adjudicated Fact 2761. *See also* P62 (Witness statement of Nedžad Hadžiefendić dated 3 October 1997), p. 12–15.

4588 P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), pp. 17–19.

4589 P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), p. 19.

4590 P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), pp. 17–18; P62 (Witness statement of Nedžad Hadžiefendić dated 3 October 1997), pp. 9, 11–12. The witness testified that Niški himself never beat them.

4591 P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), pp. 19–20.

4592 P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), p. 20.

forced to make the sign of the cross, to use the greeting "God help your hero" and to eat carbonised bread without dropping anything.[4593]

1326. In June 1992, Pufta and his group started searching the detainees for money and he used a knife to carve out a detainee's tattoo which depicted a crescent and star.[4594] The White Eagles came to the facility on another occasion and beat the detainees but, that night, the guards told the detainees that they had received instructions not to allow any other outsiders in without permission after which the detainees were not mistreated for several days.[4595] Similarly, after another incident in which detainees were beaten, Niški slapped Žućo; thereafter the detainees were not beaten for five or six days.[4596]

1327. After three detainees hit one of the guards and escaped from the facility, Kobra and Žućo said that all the detainees should be killed.[4597] That evening, detainees were questioned and suffered injuries including a cut ear, a fractured head, and a cut cheek.[4598] The next morning the detainees were lined up outside the building and made to stand for three hours.[4599] After that day Pufta was never seen again and the detainees were not mistreated.[4600]

(c) Conclusion

1328. Based on the above, the Chamber finds that Bosnian Muslims were detained at Ciglana by Serb Forces from late May 1992 until July 1992. The detainees were subjected to beatings, humiliation and were forced to work at the facility and in other locations in Zvornik.[4601]

(5) Scheduled Detention Facility C.27.5

1329. The Indictment refers to the use of the Drinjaća building (Dom Kulture) as a detention facility at least between May and June 1992.

4593 P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), pp. 19–20. The Accused acknowledged that paramilitary groups beat detainees at the facility but submitted that this indicated that this was arbitrary action by paramilitaries without any co-ordination or communication from the legal authorities. Defence Final Brief, para. 1457. The Chamber will address the Accused's submissions in this regard in Section IV.A.3.a.iii.D: Paramilitary units.

4594 P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), p. 22.

4595 P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), p. 21.

4596 P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), p. 20.

4597 P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), p. 22.

4598 P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), pp. 22–23.

4599 P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), pp. 22–23.

4600 P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), pp. 22–23.

4601 The Chamber also received evidence about the killing or disappearance of detainees at the facility. P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), pp. 12, 21–22. However, the Chamber notes that there are no scheduled killing incidents charged in Schedule B of the Indictment with respect to this facility.

(a) Arrival of detainees and control of facility

1330. Drinjača is located south of Zvornik.[4602] On 30 May 1992, about 150 Bosnian Muslim men, women, and children from Kostijerevo were taken to and detained in the Drinjača cultural centre,[4603] which was very close to the Drinjača School playground.[4604] Other detainees arrived from another part of Kostijerevo, as well as from Drinjača, Sopotnik and Đevanje.[4605] In total, approximately 300 Muslim men, women and children, were detained at the Drinjača cultural centre.[4606]

1331. The detainees were guarded by Bosnian Serb soldiers wearing the JNA reserve uniform.[4607] The detainees were informed by one of the soldiers that there was nothing to fear and that they would be transferred to some villages near Zenica while Bosnian Serbs would come to live in their villages.[4608] The women and children were separated from the men, "crammed" into a bus, driven to Čelopek, and held in barns and sheds for three days before being allowed to go to Bosnian Muslim held territory.[4609]

(b) Treatment of detainees

1332. A group of men wearing camouflage uniforms entered the Drinjača cultural centre, and verbally abused the male detainees and forced them to sing "Chetnik" songs.[4610] These soldiers took individual detainees from the group onto a stage and severely beat them.[4611] In one case, a man was beaten until he was unconscious and then stabbed three times.[4612] Between 25 and 30 detainees were beaten and threatened.[4613] The Bosnian Serb soldiers present in the cultural centre

4602 P3187 (Map of Zvornik municipality); D1613 (Map of Zvornik marked by KDZ555).

4603 KDZ072, P425 (Transcript from *Prosecutor v. Šešelj*), T. 8699–8701; P99 (Photograph showing Dom Kulture Drinjača).

4604 P4837 (Witness statement of KDZ610 dated 27 March 2012), paras. 55, 59 (under seal); P99 (Photograph showing Dom Kulture Drinjača).

4605 KDZ072, P425 (Transcript from *Prosecutor v. Šešelj*), T. 8702.

4606 KDZ072, P425 (Transcript from *Prosecutor v. Šešelj*), T. 8702. The Accused acknowledges that between May and June 1992 a number of people were detained at Drinjača. Defence Final Brief, para. 1452.

4607 KDZ072, P425 (Transcript from *Prosecutor v. Šešelj*), T. 8701; P99 (Photograph showing Dom Kulture Drinjača).

4608 KDZ072, P425 (Transcript from *Prosecutor v. Šešelj*), T. 8702–8703.

4609 KDZ072, P425 (Transcript from *Prosecutor v. Šešelj*), T. 8703, 8726.

4610 KDZ072, P425 (Transcript from *Prosecutor v. Šešelj*), T. 8704, 8708–8709.

4611 KDZ072, P425 (Transcript from *Prosecutor v. Šešelj*), T. 8705.

4612 KDZ072, P425 (Transcript from *Prosecutor v. Šešelj*), T. 8705–8706. The Accused acknowledged that detainees were severely beaten and forced to sing by soldiers identified as Arkan's men but that no official reports were submitted regarding this incident. Defence Final Brief, confidential, para. 1452.

4613 KDZ072, P425 (Transcript from *Prosecutor v. Šešelj*), T. 8706–8708 (testifying that detainees were beaten with wooden batons, pieces of iron, police batons and electrical wire).

observed what was happening but did nothing to prevent or stop the beatings which continued till around 9 p.m. when the group of men left.[4614]

(c) Conclusion on conditions of detention and treatment of detainees

1333. Based on the above, the Chamber finds that Bosnian Muslims, including women and children, were detained at the Drinjača cultural centre from the end of May 1992 by Serb Forces. The women and children were separated from the men before being transferred to Bosnian Muslim held territory. The male detainees were subjected to threats, severe beatings, and were stabbed by Serb Forces.

(d) Scheduled Incident B.20.1

1334. The Prosecution alleges that approximately 88 men were killed at Drinjača on or about 30 May 1992.

1335. On the night of 30 May 1992, a group of men wearing olive-green uniforms, and some wearing cockades, entered the Drinjača cultural centre.[4615] This group of men ordered the detainees to put their heads down and asked for ten volunteers to step forward.[4616] When none of the detainees volunteered, ten people were selected and taken outside, which was followed by the sound of a burst of gunfire.[4617] This process was repeated every five minutes.[4618]

1336. The fifth group of detainees taken out. One of the detainees was shot at by the soldiers who were lined up in a row but; managed to escape.[4619] When he fled the scene, he saw a large group of people dead on the concrete.[4620] This detainee provided a list of 88 people from the villages of Kostijerevo, Drinjača, Sopotnik and Đevanje who were captured, detained at the Drinjača Cultural Centre and shot on the evening of 30 May 1992. He identified five other people who were killed

4614 KDZ072, P425 (Transcript from *Prosecutor v. Šešelj*), T. 8708–8709.

4615 KDZ072, P425 (Transcript from *Prosecutor v. Šešelj*), T. 8710–8711, 8717, 8736–8740.

4616 KDZ072, P425 (Transcript from *Prosecutor v. Šešelj*), T. 8711 (under seal).

4617 [REDACTED].

4618 [REDACTED].

4619 [REDACTED].

4620 [REDACTED]. The Accused acknowledged that 83 Bosnian Muslim men were executed in this incident but that the police were afraid of the paramilitaries who were responsible and no official reports were made about this incident. Defence Final Brief, confidential, para. 1451. The Accused also cites to the evidence of Panić to suggest that it was impossible to reach Drinjača because the tunnels were laid with explosives. Petko Panić, T. 19182–19183 (20 September 2011). The Chamber does not consider that this evidence supports a conclusion that it was impossible to reach Drinjača.

while trying to escape arrest during the course of the day.[4621] The Chamber took judicial notice that White Eagles took out groups of ten detainees from the Drinjača cultural centre and shot and killed 88 people.[4622]

1337. On the morning of 31 May 1992, members of the Zvornik Public Utility Service were ordered to pick up bodies at Drinjača; they saw that the women and children had boarded three buses.[4623] At the Drinjača School playground, which was 50 metres away from the Drinjača cultural centre, there were "dead bodies and blood everywhere".[4624] The men had been shot in the back of the head and the bodies which were of Bosnian Muslim civilians were scattered at the location.[4625] Given the volume of blood, those who were transporting the bodies had to return twice to the Drinjača playground to wash the location.[4626] The bodies were loaded onto a truck, covered with a tarpaulin and taken towards Gero's slaughterhouse; the bodies were then moved from this location and buried at Ramin Grob Muslim cemetery.[4627] Of the 155 bodies exhumed from this mass grave KDZ610 was able to recognise some people who he had seen killed in Drinjača.[4628]

1338. The Chamber therefore finds that approximately 88 men were killed by Serb Forces at Drinjača on or about 30 May 1992.

4621 P95 (List of persons captured or killed on 30 May 1992) (under seal); [REDACTED]. The witness also participated in the identification process and identified his father and brothers following the exhumation of the bodies in September 1998. P101 (Exhumation report from "Ramin Grob" – Glumina) (under seal). Of the 88 individuals named by [REDACTED], 73 were exhumed from mass graves. P4853 (Updated Table 2 to the Report of Amor Mašović), pp. 98–107. In addition 52 of the 88 individuals named by KDZ072 were listed in P101 (Exhumation report from "Ramin Grob" – Glumina) (under seal).

4622 *See* Adjudicated Fact 2762. The Chamber finds that Vasilić was informed about the execution of detainees in this incident by a TO unit commanded by Lieutenant Matić. Marinko Vasilić, T. 39930–39933 (13 June 2013). Vasilić testified however, that the reserve police could not prevent this incident. The Chamber notes that Vasilić, when confronted with his prior statement, testified that the police would most probably have seen what happened. Vasilić was also confronted with his prior statement that he spoke to leading politicians and members of the TO Staff about this incident and nothing was done which was contrary to his testimony that he discussed the issue with TO Staff Chief Marko Pavlović who promised to investigate the case. Marinko Vasilić, T. 39933–39938 (13 June 2013); P6405 (Excerpt from Marinko Vasilić's interview with OTP, 21 October 2002), pp. 6–7. In light of these contradictions, the Chamber does not consider Vasilić's assessment that the reserve police could not to prevent this incident to be reliable. The Chamber also refers to its credibility assessment in fn. 4259 in reaching that conclusion.

4623 [REDACTED].

4624 [REDACTED] (stating that he saw that approximately 83 Bosnian Muslim men were killed, with some as young as 17); P99 (Photograph showing Dom Kulture Drinjača).

4625 [REDACTED].

4626 [REDACTED].

4627 [REDACTED].

4628 [REDACTED]; P101 (Exhumation report from "Ramin Grob" – Glumina) (under seal).

(6) Scheduled Detention Facility C.27.6

1339. The Indictment refers to the use of the Ekonomija farm as a detention facility between April and December 1992.[4629]

(a) Arrival of detainees and control of facility

1340. Ekonomija farm is located four kilometres from Zvornik in the industrial area of Karakaj.[4630] Detainees were held in a building in the centre of the farm.[4631] The detainees at this facility included Bosnian Muslims from the villages of Divič and Đulići.[4632] On or about 11 May 1992, eight men detained at Karakaj were transported to this facility by Bosnian Serb police.[4633] Other detainees were taken to the facility from their apartments by soldiers, including a group from Loznica in Serbia and men with White Eagle patches and bearing MP inscriptions. These detainees were hit and searched before their transportation to the Ekonomija farm.[4634] A unit of the Zvornik TO commanded by Miladin Mijatović was stationed at the Ekonomija farm.[4635]

(b) Treatment of detainees

1341. 15 men were detained in a room previously used for the storage of fertiliser and were beaten.[4636] An old man who was detained at the Ekonomija farm died after a series of beatings.[4637]

4629 The Prosecution submits that the evidence led demonstrates that it operated as a detention facility during May 1992. Prosecution Final Brief, Appendix B, fn. 927.

4630 P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), p. 11; P3187 (Map of Zvornik municipality); P4847 (Map of Karakaj marked by KDZ610) (showing the location of Ekonomija Farm with number 2); P4837 (Witness statement of KDZ610 dated 27 March 2012), para. 80 (under seal).

4631 P4837 (Witness statement of KDZ610 dated 27 March 2012), para. 51 (under seal); P4843 (Photograph of Ekonomija Farm marked by KDZ610). *See also* Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2897, 3057–3058.

4632 KW317, T. 39366 (6 June 2013).

4633 P62 (Witness statement of Nedžad Hadžiefendić dated 3 October 1997), pp. 7, 9–10; *see* P75 (Sketches made by Nedžad Hadžiefendić). *See also* Adjudicated Fact 2763.

4634 P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), pp. 10–11.

4635 Petko Panić, T. 19136 (19 September 2011); P3386 (List of men working at the Ekonomija Farm, 15 May 1992), pp. 1–4. The members of the Zvornik TO being paid for their work at the Ekonomija Farm included Branko Mićić, Pero Mićić, Petko Nikolić, Branko Đokić, Dobrinko Đokić, Mirko Jokić, Mile Mićić, Slobodan Stevanović, Milan Filipović, and Zdravko Simić.

4636 P62 (Witness statement of Nedžad Hadžiefendić dated 3 October 1997), p. 8.

4637 P62 (Witness statement of Nedžad Hadžiefendić dated 3 October 1997), pp. 9–10; P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), p. 12 (who identified the old man as the father of Fehim Dautović). *See also* Adjudicated Fact 2765. The Accused acknowledged that detainees were beaten by soldiers wearing White Eagle and Kobra insignia and that an old man died as a result of injuries sustained during beatings but that the death was not reported to the Bosnian Serb authorities. Defence Final Brief, para. 1456.

A police inspector from Zvornik asked the detainees to give statements that the old man had died of natural causes.[4638] Bosnian Muslims were also taken from Ekonomija farm and forced to work.[4639]

1342. The belongings of detainees were taken away and soldiers threatened that they would all be killed if they did not provide statements about the location of weapons.[4640] At least ten detainees were severely beaten.[4641] Avdispahić for example was told that his statement did not match the statement of another detainee; five or six soldiers then came into the room, beat him for almost half an hour, made him stand against the wall and make the three fingered Serbian sign.[4642] As they beat Avidspahić the soldiers swore at him.[4643] After one or two hours, a group of four or five soldiers arrived, threatened Avdispahić and beat him for two hours with a stake, a thick electric cable, and a rubber hose.[4644] Approximately every two hours this group of soldiers would enter and beat the detainees for as long as they could and this lasted the whole day.[4645]

1343. On 12 or 13 May 1992, Bego Bukvić was taken outside, beaten, and when he was brought back inside he was "half dead".[4646] The arms of some detainees were broken during these beatings.[4647] That same night, another group of soldiers, entered and told all men who did not vote for a sovereign BiH to sit down.[4648] When Avdispahić did not sit as his legs were too swollen, he was ordered to turn towards the wall and was beaten.[4649] Avdispahić then hit the wall and fainted before waking up "on the floor in blood and water".[4650]

1344. On the morning of 13 May 1992, a man in JNA uniform, with a Serbian accent, by the name of Učo, questioned the detainees, and beat one of them who he accused of smuggling weapons.[4651] After Učo left, another group of soldiers came in and immediately started beating the detainees.[4652] Two men were ordered to get down on all fours after which a pointed stake was pushed into their

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4638 P62 (Witness statement of Nedžad Hadžiefendić dated 3 October 1997), pp. 9–10. Avdispahić also testified that he was ordered to sit on an old man and he could not tell if he was already dead. P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), p. 11. It is not clear to the Chamber if this refers to the same man.

4639 P4837 (Witness statement of KDZ610 dated 27 March 2012), para. 49 (under seal). The Chamber notes that only forced labour at the frontlines is charged in the Indictment.

4640 P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), pp. 11–12.

4641 P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), pp. 12–13

4642 P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), pp. 12–13.

4643 P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), p. 13.

4644 P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), p. 13.

4645 P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), p. 13.

4646 P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), pp. 13–14.

4647 P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), p. 14.

4648 P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), p. 14.

4649 P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), p. 14.

4650 P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), p. 14.

4651 P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), p. 15.

4652 P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), p. 15.

anuses up to 30 centimetres during which the detainees screamed and howled.[4653] Once the beating and abuse ended the detainees were ordered to wipe the blood with their clothes.[4654]

1345. During this incident the soldiers shouted at the detainees.[4655] Zoran Jovanović came in and was told by Brko "here are your birds from Glinica"; Jovanović laughed and left.[4656] After Jovanović left, Brko hit Avdispahić on the head and the other detainees were ordered to beat each other, remove their underwear and bite each others penises while the soldiers stood by and laughed.[4657]

(c) Conclusion on conditions of detention and treatment of detainees

1346. Based on the above, the Chamber finds that Bosnian Muslims were transferred to and detained at Ekonomija by Serb Forces in May 1992. The detainees were subjected to severe beatings and sexual violence. The Chamber finds that one detainee died following a severe beating.[4658]

(d) Scheduled Incident B.20.4

1347. The Prosecution alleges that one man was killed at Ekonomija Farm between April and May 1992.[4659]

1348. A soldier ordered Bego Bukvić to come out of the room where he was detained and after he left there was the sound of two short machine gun bursts.[4660] Avdispahić was also ordered out and told to put Bukvić's body into a bag and noticed that there were gun shots in the shape of a cross on Bukvić's back.[4661] After one or two hours another group entered the room, beat everyone, and took Sead Omerović out.[4662] Once Sead was taken out, detainees could hear screaming and blows

4653 P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), p. 15.

4654 P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), p. 15.

4655 P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), p. 15. The Chamber refers to para. 1240 as to Jovanović's position.

4656 P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), p. 15.

4657 P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), pp. 15–16.

4658 This finding does not include the persons alleged to have been killed in Scheduled Incident B.20.4, which is discussed below.

4659 While the Indictment refers to the killing of one man, the Prosecution Final Brief lists five individuals linked to this incident. The Chamber notes that the death of one of these individuals is addressed in para. 1341, which addresses the death of a detainee after he was beaten. The Prosecution also limits the period of the killings to May 1992. Prosecution Final Brief, Appendix B.

4660 P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), p. 16.

4661 P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), p. 16.

4662 P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), p. 16.

followed by the sound of two short machine gun bursts; they were then called out to put Sead's body in a body bag.[4663]

1349. The Chamber therefore finds that at least two men were killed at Ekonomija Farm by Serb Forces in May 1992.[4664]

(7) Scheduled Detention Facility C.27.7

1350. The Indictment refers to the use of the Standard Factory as a detention facility at least between April and the end of June 1992.[4665]

1351. The Standard Factory was located in Karakaj on the road from Zvornik to Bijeljina.[4666] It was a building constructed for the Standard Company and was then used as a barracks.[4667] It was used to detain Bosnian Muslim men from April 1992 and was guarded by local Bosnian Serbs.[4668] The facility was also used by the TO, the Zvornik Brigade, the MUP, the police, and by the Interim Government.[4669] On or about 3 or 4 May 1992, following interrogations at the SUP in Zvornik, groups of Bosnian Muslim men were transported by policemen to the Standard Factory.[4670] The guards at the Standard Factory wore JNA uniforms and were men from Čelopek.[4671] While the Bosnian Muslim men were detained at the facility, separate groups of men wearing camouflage uniforms with cockades would arrive and ask them questions.[4672]

4663 P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), pp. 16–17.

4664 The Chamber also received evidence about the disappearance of a detainee but has insufficient evidence to make a finding in this regard or to link it to this scheduled incident. P4837 (Witness statement of KDZ610 dated 27 March 2012), para. 50 (under seal).

4665 The Prosecution submits that the evidence presented shows that the facility was operational in April and May 1992. Prosecution Final Brief, Appendix B, fn. 936.

4666 P62 (Witness statement of Nedžad Hadžiefendić dated 3 October 1997), pp. 4–5; Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2883; P3187 (Map of Zvornik municipality); P3166 (Map of Karakaj industrial area).

4667 Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2883.

4668 *See* Adjudicated Fact 2766.

4669 KDZ555, T. 17235–17236 (16 August 2011) (private session); P4837 (Witness statement of KDZ610 dated 27 March 2012), paras. 42, 69 (under seal); KDZ610, T. 27175 (29 March 2012); P3165 (Witness statement of KDZ340 undated), pp. 9–10 (under seal). The Accused submits that with respect to this scheduled detention facility, the "presence of several armed soldiers" indicated that there was no cohesion or co-operation and that there was an unclear chain of command. Defence Final Brief, para. 1459. The Chamber will address the Accused's submissions in this regard in Section IV.A.3.a.iii: Authority over military and police forces acting in BiH.

4670 P62 (Witness statement of Nedžad Hadžiefendić dated 3 October 1997), pp. 4–5; P75 (Sketches made by Nedžad Hadžiefendić), Sketch D.

4671 P62 (Witness statement of Nedžad Hadžiefendić dated 3 October 1997), p. 5.

4672 P62 (Witness statement of Nedžad Hadžiefendić dated 3 October 1997), p. 6.

1352. Armed groups, including paramilitaries from Serbia, frequently visited the detention facility and "severely mistreated the detainees".[4673] One of these groups from Loznica, entered and started punching and kicking the detainees and beating them with sticks, bent cables, and wires.[4674]

1353. Based on the above, the Chamber finds that Bosnian Muslim men were transported to and detained at Standard Factory by Serb Forces in April and May 1992. The detainees were subjected to severe beatings during their detention at this facility.[4675]

(G) Scheduled Incident D.22

1354. The Indictment refers to the destruction of at least 28 mosques in Zvornik between April and November 1992.[4676]

1355. By the morning of 9 April 1992, a Serbian flag was flying "over the main Mosque at the market place in Zvornik" and Serbian music was played through the loudspeakers on the minarets.[4677] The minarets from two other mosques were destroyed in the shelling of the previous day.[4678] In April 1992, Serb Forces also entered Kamenica and destroyed four mosques.[4679]

1356. On or about 18 July 1992, some of the mosques in the surrounding area of Zvornik and the mosque in the centre of Zvornik were demolished by a group of men described as "saboteurs" from Pančevo; they loaded the copper from the demolished mosques and took it in vehicles to Serbia under the escort of army commandos.[4680]

4673 *See* Adjudicated Fact 2767.

4674 P62 (Witness statement of Nedžad Hadžiefendić dated 3 October 1997), pp. 6–7.

4675 The Chamber also received evidence about the killing of Bosnian Muslims at the Standard Factory and their burial but there are no killing incidents charged in Schedule B of the Indictment with respect to this facility. KDZ555, T. 17310–17311 (17 August 2011) (private session); Petko Panić, P3380 (Transcript from *Prosecutor v. Stanišić & Župljanin*), T. 2940; Petko Panić, T. 19178–19179 (20 September 2011); P4837 (Witness statement of KDZ610 dated 27 March 2012), para. 69 (under seal).

4676 Indictment, Schedule D.22. The Indictment refers to the destruction of at lease 28 mosques but only names 16 mosques.

4677 P96 (Witness statement of KDZ059 dated 5 December 1998), p. 7 (under seal); P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), p. 5; P3165 (Witness statement of KDZ340 undated), pp. 2–3 (under seal); P4837 (Witness statement of KDZ610 dated 27 March 2012), para. 11 (under seal).

4678 P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), p. 5.

4679 KDZ064, T. 1316 (21 April 2010). *See also* P4070 (Attachment to the expert report of András J. Riedlmayer, entitled "Destruction of Cultural Heritage in BiH" prepared for the Karadžić case, formatted records), pp. 352–354, 378–380 (identifying the damage to the Donja Kamenica mosque, Gornja Kamenica mosque, Donja Kamenica –Redžići mosque).

4680 P3173 (Statement of Nenad Simić to Bijeljina SJB, 6 August 1992), pp. 4–5 (under seal); KDZ340, T. 17496, 17532 (19 August 2011) (private session); P3181 (Statement of KDZ340 to Bijeljina SJB, 6 August 1992), p. 6 (under seal). Grujić testified that the Bosnian Muslim monuments were damaged by the paramilitaries. However, on cross-examination Grujić was challenged about this evidence and referred to his prior interview where he had stated that the mosques in Zvornik had been destroyed by a military unit since they were in possession of the explosives and materials necessary to carry this out and he acknolwedged that he could not be

1357. According to Riedlmayer's report, a total of 29 mosques and two Muslim shrines were damaged in Zvornik during the course of the war.[4681] The Chamber notes that with respect to three of these mosques, Riedlmayer describes them as "lightly damaged".[4682] The Chamber therefore finds that at least 26 mosques in Zvornik were heavily damaged, almost destroyed, or completely destroyed. Riedlmayer identified a number of mosques in Zvornik municipality which have now been razed and used as dumping sites for garbage or other constructions.[4683] With respect to the Divič mosque, a Serbian Orthodox church was built on the site of the destroyed mosque.[4684]

1358. The Chamber has considered the evidence it has received which identified Serb Forces as responsible for the destruction of specific mosques in Zvornik town and surrounding villages.[4685] It

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sure whether it was the regular army or the volunteers who had done this. D3724 (Witness statement of Branko Grujić dated 22 June 2013), para. 71; Branko Grujić, T. 40392–40393 (25 June 2013). *See also* KDZ555, T. 17319–17320 (17 August 2011) (testifying that all mosques were destroyed after Zvornik was taken over by Bosnian Serbs and this did not happen during the war operations). KDZ555 also testified that [REDACTED]. KDZ555, T. 17359, 17361 (17 August 2011) (private session). However, the Chamber does not consider KDZ555's evidence to be reliable in this regard. In reaching that conclusion the Chamber noted that KDZ555's evidence was marked by indicators of extreme evasiveness, bias and contradictions.

4681 P4070 (Attachment to the expert report of András J. Riedlmayer, entitled "Destruction of Cultural Heritage in BiH" prepared for the Karadžić case, formatted records), pp. 328-400. Riedlmayer identifies the level of damage with respect to each of the mosques listed by name in the Indictment: Đulići mosque (completely destroyed), Kula Grad mosque (completely destroyed), Kozluk mosque (completely destroyed), Divič mosque (completely destroyed), Snagovo mosque (heavily damaged), Novo Selo mosque (almost destroyed), Skočić mosque (almost destroyed), Svrake mosque (lightly damaged), Drinjača mosque (heavily damaged), Glumina mosque (completely destroyed), Donja Kamenica mosque (almost destroyed), Gornja Kamenica mosque (heavily damaged), Klisa mosque (heavily damaged), Kovačevići mosque (heavily damaged), Rijeka mosque (completely destroyed), Selimovići mosque (heavily damaged); P4071 (Slide images of damaged religious sites in BiH), pp. 1, 10, 13-15, 18, 20-23. Riedlmayer identified that the buildings adjacent to the Divič mosque, Drinjača mosque, Kozluk mosque, Rijeka mosque were in good condition, while the buildings adjacent to the Kovačevići mosque, Kula Grad mosque were also heavily damaged. In addition to these 16 mosques, Riedlmayer identified the level of damage with respect to another 13 mosques as follows: Beksuja mosque (completely destroyed), Zamlaz mosque (completely destroyed), Kušlat mosque (almost destroyed), Donja Kamenica –Redžići mosque (heavily damaged), Gornja Sapna mosque (heavily damaged), Jošanica mosque (completely destroyed), Hasići mosque (completely destroyed), Vitinica mosque (lightly damaged), Gornji Šepak mosque (completely destroyed), Donji Križevići mosque (lightly damaged), Glodi mosque (heavily damaged), Seferovići mosque (almost destroyed), Avdo Tucić mosque – Kula Grad (completely destroyed). Riedlmayer also refers to the damage to two other Islamic sites (Turbe of Hasan Kaimija – Kula Grad, Dervish lodge and shrine – Divič), which are not mosques and thus not charged in the Indictment. *See also* P4518 (Excerpts from Robert Đurđević's diary, 7–25 September 1993), p. 2. *See also* P4068 (András Riedlmayer's expert report on Destruction of Cultural Heritage in Bosnia and Herzegovina during 1992-1995, 7 May 2009), paras. 15–16, 24; András Riedlmayer, T. 22530–22531, 22536–22537 (8 December 2011), 22541–22547 (9 December 2011); P4069 (Cultural destruction database), records 337, 339, 340, 345, 346, 359, 360, 362, 363, 366, 369, 370, 372, 374, 378, 380; Adjudicated Fact 2768.

4682 Svrake mosque, Vitinica mosque, and Donji Križevići mosque. *See also* P4068 (András Riedlmayer's expert report on Destruction of Cultural Heritage in Bosnia and Herzegovina during 1992-1995, 7 May 2009), paras. 24–25 (stating that of the 30 mosques which were in the part of Zvornik municipality controlled by Serb Forces during the war only one survived without significant damage).

4683 P4068 (András Riedlmayer's expert report on Destruction of Cultural Heritage in Bosnia and Herzegovina during 1992-1995, 7 May 2009), paras. 42–43.

4684 P4068 (András Riedlmayer's expert report on Destruction of Cultural Heritage in Bosnia and Herzegovina during 1992-1995, 7 May 2009), para. 43.

4685 *See* P70 (Witness statement of Jusuf Avdispahić dated 22 October 1997), p. 5; KDZ064, T. 1316 (21 April 2010); P3173 (Statement of Nenad Simić to Bijeljina SJB, 6 August 1992), pp. 4–5 (under seal); KDZ340,

has also had regard to the fact that with very few exceptions, almost all mosques in the municipality sustained serious damage or were completely destroyed after Serb Forces took over power. Finally, the Chamber has assessed the evidence received with respect to the surrounding circumstances in Zvornik, including the attacks on and take-over of multiple Bosnian Muslim villages by Serb Forces in the relevant time frame. Having weighed these factors, the Chamber is satisfied beyond reasonable doubt that Serb Forces were responsible for the attacks on and destruction of mosques in Zvornik.

1359. Therefore, the Chamber finds that at least 26 mosques were heavily damaged, almost destroyed or completely destroyed by Serb Forces from April 1992.

(H) Movement of the population from Zvornik

1360. As discussed above[4686] following the attack on Zvornik approximately 10,000 people, the majority of whom were Bosnian Muslims, left Zvornik with most crossing to Mali Zvornik.[4687] Other people took shelter in the municipality of Kalesija,[4688] the town of Snagovo,[4689] and Kula Grad.[4690] Bosnian Muslims who headed in the direction of Tuzla tried to cross into Bosnian Muslim controlled territory and those who managed to cross into Serbia travelled to third countries from there.[4691]

1361. Bosnian Muslim women who had been separated from men were verbally abused by the soldiers who identified themselves as "Šešelj's men".[4692] After being addressed by Arkan, these

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T. 17496, 17532 (19 August 2011) (private session); P3181 (Statement of KDZ340 to Bijeljina SJB, 6 August 1992), p. 6 (under seal).

4686 *See* para. 1250.

4687 P96 (Witness statement of KDZ059 dated 5 December 1998), p. 7 (under seal); KDZ059, P67 (Transcript from *Prosecutor v. S. Milošević*), T. 29113–29114; *see* Adjudicated Fact 2730; KDZ240, P2935 (Transcript from *Prosecutor v. Krajišnik*), T. 6760 (under seal); KDZ240, T. 15967 (4 July 2011) (closed session), T. 16078–16079 (5 July 2011) (closed session); KDZ446, P28 (Transcript from *Prosecutor v. S. Milošević*), T. 21019 (under seal). *See also* P62 (Witness statement of Nedžad Hadžiefendić dated 3 October 1997), p. 3; Martin Bell, T. 9783, 9803 (14 December 2010); P1996 (Witness statement of Martin Bell dated 8 March 2010), paras. 23–24; Colm Doyle, T. 2932–2933 (28 May 2010); Colm Doyle, P918 (Transcript from *Prosecutor v. S. Milošević*), T. 25275; D1694 (Intercept of conversation between Ješirić and Čedo Kljajić, 16 April 1992), p. 3 (which suggests that the figure was between 15,000 to 25,000 people). *But see* Čedomir Kljajić, T. 42208–42210 (30 July 2013) (testifying that the figure of 15,000 was blown out of proportion).

4688 P84 (Witness statement of Mirsad Kuralić dated 27 June 1996), p. 2; Mirsad Kuralić, P63 (Transcript from *Prosecutor v. Krajišnik*), T. 12560.

4689 P64 (Witness statement of Osman Krupinac dated 29 May 2000), pp. 1–2.

4690 *See* Adjudicated Fact 2732; P4837 (Witness statement of KDZ610 dated 27 March 2012), paras. 7–8 (under seal). *See also* KDZ059, P67 (Transcript from *Prosecutor v. S. Milošević*), T. 29115–29116.

4691 P4837 (Witness statement of KDZ610 dated 27 March 2012), para. 82 (under seal); P4849 (Excerpt from video entitled "The Death of Yugoslavia"), 02:47-03:02.

4692 P89 (Witness statement of KDZ023 dated 29 September 1996), pp. 4–5 (under seal); KDZ023, P65 (Transcript from *Prosecutor v. S. Milošević*), T. 26136; P92 (Addendum to witness statement of KDZ023), pp. 1–2, 4 (under seal).

women were put on buses and taken to Serbia, and "saw many more dead bodies lying in the gardens of houses" as they were driven through Zvornik.[4693]

1362. On 10 April 1992, the Interim Government instructed residents to return to Zvornik and lay claim to their properties by 15 May 1992 or face loss of title.[4694] On 20 April 1992, the Interim Government appointed a commission to negotiate with the SDA. Items to negotiate included the situation of a large group of Bosnian Muslims who wanted to move.[4695] Mićo Stanišić reported that "inhabitants of the Muslim villages around Zvornik are being evacuated".[4696] The SUP issued permits for Bosnian Muslims to cross into Serbia[4697] and Grujić was involved in transporting Bosnian Muslims from Zvornik to Serbia.[4698] Peja instructed Bošković to take all the women, children and men over the age of 50 and allow them to cross to Mali Zvornik.[4699] Bošković then took groups of 200 to 300 people across the bridge on several occasions, but men of combat age were not allowed to cross.[4700] The money and gold of Bosnian Muslims were taken away before they crossed the bridge to Serbia.[4701]

1363. In late May 1992, Bosnian Muslim representatives met with local Serbs, including a member of the Interim Government to discuss the removal of Bosnian Muslims from the municipality.[4702] On or about 28 May 1992, the commander of the VRS 1st Birač Brigade, Svetozar Andrić, ordered the Zvornik TO to organise and co-ordinate the movement out of the Bosnian Muslim population, with only women and children to be moved out and men fit for military service placed in camps for exchange.[4703]

1364. Having considered the totality of the evidence and assessed the circumstances in which departures occurred, the Chamber finds that Bosnian Muslims were forced to leave Zvornik.

4693 P89 (Witness statement of KDZ023 dated 29 September 1996), p. 4 (under seal).

4694 *See* Adjudicated Fact 2769.

4695 P2883 (Conclusions of Zvornik Municipality's Interim Government, 20 April 1992); Milorad Davidović, T. 15525–15526 (28 June 2011).

4696 P2749 (SerBiH MUP daily report, 25 April 1992), p. 4.

4697 Petko Panić, T. 19166 (20 September 2011).

4698 P3173 (Statement of Nenad Simić to Bijeljina SJB, 6 August 1992), p. 5 (under seal).

4699 P133 (Witness statement of Matija Bošković dated 20 November 2003), para. 21.

4700 P133 (Witness statement of Matija Bošković dated 20 November 2003), para. 21.

4701 P4849 (Excerpt from video entitled "The Death of Yugoslavia"), 00:00-00:22; P4837 (Witness statement of KDZ610 dated 27 March 2012), para. 82 (under seal). Members of the Zvornik MUP were identified as being involved in this search process.

4702 *See* Adjudicated Fact 2751. *But see* KW317, T. 39405–39406 (6 June 2013).

4703 P3055 (Order of Birač Brigade, 28 May 1992), p. 1; *see* Adjudicated Fact 2772. *But see* D3886 (Witness statement of Svetozar Andrić dated 16 July 2013), para. 5; Svetozar Andrić, T. 41666–41667 (22 July 2013). The Chamber does not consider that Andrić's evidence as to the reason why the Bosnian Muslim population was moved out and that their departure was voluntary to be reliable. In reaching that conclusion the Chamber noted that during his testimony he had an interest in minimising his own involvement in events in Zvornik and that his evidence was marked by contradictions and evasiveness and indicators of lack of sincerity in this regard.

1365. The Drina Corps Command reported that with "the arrival of paramilitary organisations to the Zvornik municipality, particularly the arrival of Arkan and his people, this territory was liberated from the Turks. Turks made up 60% of the municipality's population and it has now been cleansed and replaced with an ethnically pure Serb population".[4704] The ECMM also reported that "people were being forcibly removed" from where they lived in Zvornik.[4705] Towards the end of June 1992 very few Bosnian Muslims remained in the town.[4706]

[4704] P2955 (Report of the Drina Corps, 17 December 1992), p. 1. *See also* KDZ240, T. 16224–16225 (6 July 2011) (closed session). *But see* P2886 (Interview with Marko Pavlović, 30 June 1992), p.1 (stating that the movement of populations was a voluntary and temporary measure). The Chamber does not consider this interview where Pavlović had a clear interest in presenting the actions of the Bosnian Serb authorities in a positive light to be reliable. Davidović also testified that Pavlović in this interview was simply stating what the Zvornik Crisis Staff and politicians expected him to say. Milorad Davidović, T. 15536 (28 June 2011).

[4705] Colm Doyle, T. 2932 (28 May 2010). *See also* P1029 (Witness statement of John Wilson dated 4 November 2008), paras. 36, 94, 99. *See also* Milan Babić, P741 (Transcript from *Prosecutor v. S. Milošević)*, T. 13081.

[4706] Petko Panić, T. 19139 (19 September 2011); P4837 (Witness statement of KDZ610 dated 27 March 2012), para. 79 (under seal). Pašalić challenged the evidence on the change in the Bosnian Muslim population in Zvornik. D3125 (Stevo Pašalić's expert report entitled "Ethnic Composition, Displaced Persons and Refugees from 27 Municipalities in the Territory of BiH, 1991-1997", August 2012), p. 35; Stevo Pašalić, T. 35379–35380 (13 March 2013). However, the Chamber does not consider Pašalić's evidence to be reliable in this regard. In reaching this conclusion the Chamber noted that his evidence was marked by extreme evasiveness and indicators of partiality and bias which undermined the credibility of his evidence in this regard. *But see* Branko Grujić, T. 40453 (26 June 2013) (testifying that after the war there was a general call for all citizens of Zvornik, both Muslim and Serb, who had left their homes to return to the municipality and that these people returned and were treated fairly by all organs of the municipality). The Chamber refers to its credibility assessment in fn. 4237 as to why it does not find Grujić's evidence about the return of citizens to Zvornik to be reliable. The Chamber does find, however, that in Kozluk, one or two years after the end of the war most of the Bosnian Muslims returned and moved back into their homes with the co-operation of Banjanović. Petko Panić, T. 19170 (20 September 2011); KDZ555, T. 17410 (18 August 2011); Dragan Vidović, T. 17771 (23 August 2011).